

August 2010

RECOVERY ACT

Further Opportunities Exist to Strengthen Oversight of Broadband Stimulus Programs



GAO

Accountability * Integrity * Reliability



Highlights of [GAO-10-823](#), a report to congressional committees

Why GAO Did This Study

Access to affordable broadband service is seen as vital to economic growth and improved quality of life. To extend broadband access and adoption, the American Recovery and Reinvestment Act (Recovery Act) provided \$7.2 billion to the Department of Commerce's National Telecommunications and Information Administration (NTIA) and the Department of Agriculture's Rural Utilities Service (RUS) for grants or loans to a variety of program applicants. **The agencies are awarding funds in two rounds and must obligate all funds by September 30, 2010.**

This report addresses the results of the first broadband stimulus funding round, the extent to which NTIA's and RUS's application reviews substantiated application information, the challenges facing NTIA and RUS in awarding the remaining funds, and actions taken to oversee grant and loan recipients. GAO analyzed program documentation, reviewed a judgmentally-selected sample of applications from first round award recipients, and interviewed agency officials and industry stakeholders.

What GAO Recommends

The Secretaries of Agriculture and Commerce should incorporate into their risk-based monitoring plans, steps to address variability in funding levels for postaward oversight beyond September 30, 2010. Both agencies took no position on GAO's recommendation and noted steps being taken to complete their respective programs.

View [GAO-10-823](#) or [key components](#). For more information, contact Mark L. Goldstein at (202) 512-2834 or goldsteinm@gao.gov.

RECOVERY ACT

Further Opportunities Exist to Strengthen Oversight of Broadband Stimulus Programs

What GAO Found

In the first round of broadband stimulus funding that began in July 2009 and ended in April 2010, NTIA and RUS received over 2,200 applications and awarded 150 grants, loans, and loan/grant combinations totaling \$2.2 billion to a variety of entities in nearly every state and U.S. territory. This funding includes \$1.2 billion for 82 projects awarded by NTIA and more than \$1 billion for 68 projects awarded by RUS. NTIA primarily awarded grants to public entities, such as states and municipalities, whereas RUS made grants, loans, and loan/grant combinations primarily to private-sector entities, such as for-profit companies and cooperatives.

NTIA and RUS consistently substantiated information in first round award recipients' applications. The agencies and their contractors reviewed financial, technical, environmental, and other documents and determined the feasibility and reasonableness of each project. GAO's review of 32 award recipient applications found that the agencies consistently reviewed the applications and substantiated the information as specified in the first funding notice. In each of the files, GAO observed written documentation that the agencies and their contractors reviewed and verified pertinent application materials, and requested additional documentation where necessary.

To meet the Recovery Act's September 30, 2010, deadline for obligating broadband funds, NTIA and RUS must award approximately \$4.8 billion—or more than twice the amount they awarded during the first round—in less time than they had for the first round. As the end of the Recovery Act's obligation deadline draws near, the agencies may face increased pressure to approve awards. NTIA and RUS also lack detailed data on the availability of broadband service throughout the country, making it difficult to determine whether a proposed service area is unserved or underserved, as defined in the program funding notices. **To address these challenges, NTIA and RUS have streamlined their application review processes by, for example, eliminating joint reviews and reducing the number of steps in the due-diligence review process, and NTIA began using Census tract data to verify the presence of service.**

NTIA and RUS are putting oversight plans in place to monitor compliance and progress for broadband stimulus funding recipients, but some risks remain. The agencies will need to oversee far more projects than in the past and these projects are likely to be much larger and more diverse than projects funded under the agencies' prior broadband-related programs. Additionally, NTIA and RUS must ensure that the recipients construct the infrastructure projects in the entire project area, not simply the area where it may be most profitable for the company to provide service. **Both NTIA and RUS face the risk of having insufficient resources to actively monitor Recovery Act funded broadband projects.** Because of this, planning for a possible lack of resources for program oversight after September 30, 2010, can help the agencies mitigate the effect of limited resources on postaward oversight.

Contents

Letter		1
	Background	4
	NTIA and RUS Funded 150 Projects Totaling \$2.2 Billion in the First Funding Round	11
	NTIA's and RUS's Due-Diligence Reviews Consistently Substantiated Information in the Awardees' Applications	16
	NTIA and RUS Face Challenges in Awarding Funds on Time and Have Taken Actions to Streamline Application Reviews	20
	Agencies Are Developing Postaward Oversight Plans, but Some Risks to the Success of the Broadband Stimulus Programs Remain	25
	Conclusion	30
	Recommendation for Executive Action	31
	Agency Comments	31
Appendix I	Objectives, Scope, and Methodology	33
Appendix II	Broadband Projects with Multistate Service Areas, First Funding Round	36
Appendix III	Comments from the Department of Agriculture	37
Appendix IV	Comments from the Department of Commerce	44
Appendix V	GAO Contact and Staff Acknowledgments	46
Tables		
	Table 1: Recovery Act Broadband Funding Timeline and Key Program Milestones	5
	Table 2: Summary of Broadband Project Funding Categories, First Funding Round	7
	Table 3: Summary of Broadband Project Funding Categories, Second Funding Round	9

Table 4: Comparison of NTIA’s and RUS’s Application Review Processes, First Funding Round	10
Table 5: BTOP Funding by Entity Type, First Funding Round (Dollars in millions)	13
Table 6: Number of BTOP Projects Awarded to Entities, by Project Category, First Funding Round	14
Table 7: BIP Funding by Entity Type, First Funding Round (Dollars in millions)	15
Table 8: Number of BIP Projects Awarded to Entities, by Project Category, First Funding Round	15
Table 9: BTOP and BIP Projects with Multistate Service Areas, First Funding Round	36

Figure

Figure 1: Location and Types of Projects Awarded Broadband Stimulus Funds, First Funding Round	12
--	----

Abbreviations

BIP	Broadband Initiatives Program
BTOP	Broadband Technology Opportunities Program
CRS	Congressional Research Service
FCC	Federal Communications Commission
IG	Inspector General
kbps	kilobits per second
mbps	megabits per second
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NTIA	National Telecommunications and Information Administration
OMB	Office of Management and Budget
RUS	Rural Utilities Service

This is a work of the U.S. government and is not subject to copyright protection in the United States. The published product may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.



United States Government Accountability Office
Washington, DC 20548

August 4, 2010

The Honorable John D. Rockefeller, IV
Chairman
The Honorable Kay Bailey Hutchison
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Henry A. Waxman
Chairman
The Honorable Joe Barton
Ranking Member
Committee on Energy and Commerce
House of Representatives

Access to affordable broadband telecommunications¹ is increasingly viewed as vital to long-term economic growth and improved quality of life, just as electricity, telephone, and the interstate highway system filled similar roles in previous generations. According to the Federal Communications Commission (FCC), broadband technology is a key driver of economic growth. The ability to share large amounts of information at ever-greater speeds increases productivity, facilitates commerce, and drives innovation. Furthermore, broadband can improve citizens' quality of life. For example, broadband technology makes it possible for a patient to visit a local clinic and receive medical attention from specialists hundreds of miles away, for a student to access information not available from the local library, and for a firefighter to download blueprints of a burning building. Broadband is particularly critical in rural areas, where advanced communications can reduce the distances that isolate remote communities and individuals. One of the goals of FCC's National Broadband Plan is to provide all Americans with affordable access to robust broadband service, and the means and skills to

¹According to the Federal Communications Commission, "broadband" refers to advanced communications systems capable of transmitting data, voice, and video services at high speeds over the Internet and other networks. However, the Departments of Agriculture and Commerce originally defined broadband as two-way data transmission with an advertised speed of at least 768 kilobits per second (kbps) downstream and at least 200 kbps upstream from end users. Notice of Funds Availability and Solicitation of Applications, 74 Fed. Reg. 33104 (July 9, 2009).

subscribe if they choose.² While the number of Americans who have broadband at home has grown from 8 million in 2000 to nearly 200 million in 2009, millions of Americans do not yet have access to, or do not use, broadband.

To extend access to broadband throughout the United States, as well as to stimulate the economy and create jobs, Congress appropriated \$7.2 billion for broadband programs under the American Recovery and Reinvestment Act³ (Recovery Act), enacted on February 17, 2009. This \$7.2 billion included \$4.7 billion for the Department of Commerce's National Telecommunications and Information Administration (NTIA) and \$2.5 billion for the Department of Agriculture's Rural Utilities Service (RUS). Specifically, the Recovery Act authorized NTIA, in consultation with FCC, to create the Broadband Technology Opportunities Program (BTOP) to manage competitive grants to a variety of entities for broadband infrastructure, public computer centers, and innovative projects to stimulate demand for, and adoption of, broadband. Up to \$350 million of the \$4.7 billion was available pursuant to the Broadband Data Improvement Act and for the purposes of developing and maintaining a nationwide map featuring the availability of broadband service, with some funds available for transfer to FCC for the development of the national broadband plan.⁴ The Recovery Act also authorized RUS to establish the Broadband Initiatives Program (BIP) to make loans and award grants and loan/grant combinations for broadband infrastructure projects primarily in rural areas. Both NTIA and RUS have established their newly authorized broadband programs and put procedures in place for implementing them. For example, the agencies instituted two rounds of funding and each developed a multistep application review process that includes due-

²FCC, *Connecting America: The National Broadband Plan* (Washington, D.C.: Mar. 16, 2010).

³American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009).

⁴On July 8, 2009, NTIA published a notice of funds availability and solicited applications for the State Broadband Data and Development Grant Program pursuant to authority provided in the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009), and the Broadband Data Improvement Act, Title I, Pub. L. No. 110-385, 122 Stat. 4096 (2008). 74 Fed. Reg. 32545 (2009). Section 6001 (1) of the Recovery Act requires NTIA to develop and maintain a comprehensive, interactive, and searchable nationwide inventory map of existing broadband service availability in the United States. The statute further requires that the National Broadband Map be accessible to the public on an NTIA Web site no later than February 17, 2011.

diligence reviews⁵ to substantiate information provided by applicants. The first funding round began in July 2009 and ended in April 2010, and the second funding round began in January 2010 and will end September 30, 2010.

This report is part of GAO's ongoing efforts to monitor Recovery Act programs and follows-up on our November 2009 report on NTIA's and RUS's broadband stimulus programs.⁶ In that report, we examined the challenges and risks facing NTIA and RUS in evaluating applications and awarding funds, and the challenges and risks facing the agencies in overseeing funded projects. We recommended that the agencies take several actions, such as providing time to review applications in the second funding round and establishing quantifiable, outcome-based performance goals by which to measure program effectiveness. NTIA and RUS agreed with our recommendations and have taken some actions to address them. In this report, we examine the first funding round and what remains to implement the agencies' broadband programs. Specifically, this report addresses four questions: (1) What are the results of the first broadband stimulus funding round? (2) To what extent did NTIA's and RUS's due-diligence reviews substantiate information in the awardees' applications? (3) What challenges, if any, do NTIA and RUS face in awarding the remaining broadband stimulus funds? (4) What actions, if any, are NTIA and RUS taking to oversee grant and loan recipients?

To address these questions, we reviewed NTIA and RUS program documentation and interviewed relevant officials about the agencies' efforts to implement the broadband stimulus programs. To determine the results of the first funding round, we obtained program and funding data directly from the agencies, and from the agencies' Web sites and press releases. We are reporting publicly available data that NTIA and RUS provided on the first round broadband stimulus awards with the intent to describe the number of awards, the entities receiving first round funding, and the types of projects. This information is presented for descriptive purposes. To determine the extent to which NTIA's and RUS's due-

⁵These due-diligence reviews include the verification of additional financial and technical information to further substantiate the representations made by applicants in their applications.

⁶GAO, *Recovery Act: Agencies Are Addressing Broadband Program Challenges, but Actions Are Needed to Improve Implementation*, [GAO-10-80](#) (Washington, D.C.: Nov. 16, 2009).

diligence reviews substantiated information in awardees' applications, we reviewed a judgmental sample of application files for first-round grant and loan recipients. In choosing our sample, we considered the award amount, type of applicant, geographic location of the project, and type of project. We then reviewed the selected application files electronically and compared the information in those files to the requirements of the first-round funding notice.⁷ We did not evaluate the agencies' decisions to award or deny applications or the potential for success of any project. Rather, we assessed the extent to which NTIA and RUS developed and implemented a due-diligence review process. To determine the challenges, if any, that NTIA and RUS face in awarding the remaining broadband stimulus funds, we studied the requirements set forth in the Recovery Act, evaluated changes between the first- and second-round funding notices, and interviewed agency officials and representatives of five telecommunications associations. Finally, to determine the actions NTIA and RUS are taking to oversee grant and loan recipients, we interviewed agency officials and reviewed agency plans and guidance, and compared those plans to best practices identified by our prior work and by the Office of Management and Budget (OMB).

We conducted our work from February through August 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

NTIA and RUS have until September 30, 2010, to obligate the Recovery Act funding for broadband projects. While the completion time will vary depending on the complexity of the project, recipients of BTOP grants and BIP awards must substantially complete projects supported by these programs no later than 2 years, and projects must be fully completed no later than 3 years, following the date of issuance of the award. As we reported in November 2009, NTIA and RUS faced a number of challenges in evaluating applications and awarding broadband stimulus funds during the first funding round.⁸ For example, although both agencies had

⁷74 Fed. Reg. 33104 (July 9, 2009).

⁸GAO-10-80.

previously administered small telecommunications grant or loan programs, they had to review more applications and award far more funds with fewer staff to carry out their Recovery Act programs. In addition, the agencies faced tight time frames for awarding funds. To address these challenges, NTIA and RUS awarded contracts to Booz Allen Hamilton and ICF International, respectively, to help the agencies implement the programs within the required time frames. The contractors have supported the development and implementation of application review processes, helped with the review of technical and financial materials, and assisted in the development of postaward monitoring and reporting requirements.

To meet the September 30, 2010, deadline to award Recovery Act funds, NTIA and RUS have established project categories for directing funds to meet the act's requirements; released two funding notices; conducted public outreach to increase participation among all eligible entities; developed processes to accept, evaluate, advance, and award applications; and advanced efforts to oversee recipients to ensure proper use of Recovery Act funds. For the first funding round, NTIA and RUS coordinated their efforts and issued one joint funding notice detailing the requirements, rules, and procedures for applying for funding. The first 18 broadband stimulus awards were announced on December 17, 2009. NTIA and RUS completed the first round of awards on April 26 and March 30, 2010, respectively. Table 1 shows the funding timeline for NTIA's and RUS's broadband stimulus programs.

Table 1: Recovery Act Broadband Funding Timeline and Key Program Milestones

Date	Schedule	Round
2009		
February 17:	Recovery Act signed	
March 12:	NTIA and RUS announced joint request for information seeking public comment to inform the first funding round	1
July 7-24:	NTIA and RUS held free public workshops about the first round application process	1
July 9:	First joint funding notice published in the Federal Register by NTIA and RUS	1
July 31:	RUS awarded a contract to ICF International for program development and administrative services	
August 3:	NTIA awarded a contract to Booz Allen Hamilton for BTOP program development and administrative services	
August 20:	Deadline for applying for first round funding	1

Date	Schedule	Round
September - December:	NTIA and RUS conducted eligibility and due-diligence reviews and selected projects for awards	1
November 16:	NTIA and RUS announced joint request for information seeking public comment to inform the second funding round	2
December 17:	NTIA announced first 10 BTOP awards RUS announced first 8 BIP awards	1
2010		
January:	NTIA announced 4 BTOP awards RUS announced 14 BIP awards	1
January 22:	Second separate funding notices published by NTIA and RUS	2
January 26 - February 12:	NTIA and RUS held free public workshops about the second round application process	2
February:	NTIA announced 18 BTOP awards RUS announced 11 BIP awards	1
February 16:	Second round BIP/BTOP online application portal opens	2
March:	NTIA announced 38 BTOP awards RUS announced 31 BIP awards	1
March 15:	Second round Public Computer Center and Sustainable Broadband Adoption project applications due (BTOP)	2
March 26:	Second round Comprehensive Community Infrastructure project applications due (BTOP)	2
March 29:	Second round BIP project applications due	2
March 30:	RUS completed first round funding	1
April:	NTIA announced 12 BTOP awards	1
April 26:	NTIA completed first round funding	1
May 19:	NTIA announced a limited reopening of its Comprehensive Community Infrastructure application window for entities authorized by FCC to use the 700 MHz public safety spectrum	2
June 1:	700 MHz public safety broadband applications accepted	2
June 7:	Applications for BIP Satellite, Rural Library Broadband, and Technical Assistance projects due ^a	2
July 1:	700 MHz public safety broadband applications due	2
September 30:	Deadline for all BTOP/BIP funds to be obligated	
2011		
January - December:	Ongoing monitoring of project implementation to occur	

Date	Schedule	Round
2012		
September 30:	BTOP/BIP projects to be “substantially complete” ^b	
2013		
September 30:	Deadline for completing BTOP/BIP projects ^c	

Source: GAO analysis of NTIA and RUS data.

^aOn May 7, 2010, RUS issued a notice of funding availability outlining the specific requirements with respect to Satellite, Rural Library Broadband, and Technical Assistance projects. Applications were accepted for these projects from May 7, 2010, until June 7, 2010. 75 Fed. Reg. 25185 (2010).

^bFor RUS loans or loan/grant combinations, this date is based on when the award closed. Therefore, some awards may be substantially complete before or after September 30, 2012.

^cFor RUS loans or loan/grant combinations, this date is based on when the award closed. Therefore, some BIP projects will be due for completion before September 30, 2013, and some after that date.

Table 2 summarizes the categories of projects eligible for funding during the first round for both BTOP and BIP.

Table 2: Summary of Broadband Project Funding Categories, First Funding Round

Agency/program	Project category	Description
NTIA BTOP	<i>Broadband Infrastructure</i>	Up to \$1.2 billion was available for broadband infrastructure projects. This category includes Last Mile and Middle Mile projects (see below) designed to deliver access to “unserved” and “underserved” areas. An “unserved” area is defined as 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 at the minimum broadband transmission speed. ^a An “underserved” area is defined as one or more contiguous census blocks where (1) no more than 50 percent of the households have access to facilities-based, terrestrial broadband service; (2) no service provider advertises broadband speeds of at least 3 megabits per second (mbps); or (3) the rate of broadband adoption is 40 percent of households or less. For Middle Mile projects, a proposed funded service area may qualify as underserved if one interconnection point terminates in a proposed funded service area that qualifies as unserved or underserved.
	<i>Public Computer Centers</i>	Up to \$50 million was available for projects that would expand public access to broadband service and enhance broadband capacity at entities such as community colleges and public libraries that permit the public to use these computer centers.
	<i>Sustainable Broadband Adoption</i>	Up to \$150 million was available for innovative projects that would promote demand, including projects focused on providing education, awareness, training, access, equipment, or support, particularly among vulnerable groups that traditionally have underused broadband technology.
RUS BIP	<i>Last Mile</i>	Up to \$1.2 billion was available for Last Mile infrastructure projects in remote and nonremote areas. ^b A Last Mile project is defined as any broadband infrastructure project that provides service to end users or end-user devices. A remote area is an unserved, rural area 50 miles from the limits of a nonrural area.

Agency/program	Project category	Description
	<i>Middle Mile</i>	Up to \$800 million was available for Middle Mile projects. A Middle Mile project is defined as 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, ^c Internet connectivity, or special access. ^d

Source: GAO analysis of NTIA and RUS data.

^aThe broadband service can be either fixed or mobile, but must provide a minimum two-way data transmission speed of at least 768 kbps downstream and at least 200 kbps upstream to end users.

^bBecause of provisions in the Federal Credit Reform Act of 1990, RUS can award grants and loans that exceed its budgetary authority.

^cIn a telecommunications network, backhaul refers to the transmission of information—or data—from any of the company's aggregation points to an Internet backbone provider that will then transmit the data to any point on the Internet.

^dSpecial access is a generic term describing point-to-point communications circuits that are carried over the public telephone network. Special access circuits continuously connect two or more points, and for that reason they are sometimes called dedicated circuits.

Based on the agencies' experiences with the first round, and drawing on public comments, both NTIA and RUS made changes to how the second-round funding for BTOP and BIP will be structured and conducted. Unlike the first round, NTIA and RUS issued separate funding notices and applicants had the option of applying to either BTOP or BIP, but not to both.⁹ In the second round, NTIA will again award grants for three categories of eligible projects, however the infrastructure program has been reoriented toward Comprehensive Community Infrastructure grants, which will support Middle Mile projects serving anchor institutions such as community colleges, libraries, hospitals, universities, and public safety institutions. RUS has prioritized Last Mile projects and added 3 new grant programs: Satellite, Rural Library, and Technical Assistance projects. Table 3 provides information on the second-round project categories.

⁹For applications that NTIA determines it will not fund, but that may be consistent with RUS's BIP requirements and priorities, NTIA will transfer the application to BIP for consideration of funding. RUS will handle such applications, if timely received from NTIA, under its Second Review process.

Table 3: Summary of Broadband Project Funding Categories, Second Funding Round

Agency/program	Project category	Description
NTIA BTOP	<i>Comprehensive Community Infrastructure</i>	Up to \$2.35 billion is available for broadband infrastructure projects that emphasize Middle Mile broadband capabilities and new or substantially upgraded connections to community anchor institutions, especially community colleges. Under the second funding notice, a Middle Mile project is defined as any component of a comprehensive community infrastructure project that provides broadband service from one or more centralized facilities (i.e., the central office, the cable headend, ^a the wireless switching station, or other equivalent centralized facility) to an Internet point of presence. NTIA eliminated the unserved and underserved requirement.
	<i>Public Computer Centers</i>	At least \$150 million is available to provide broadband access to the general public or a specific vulnerable population, and the project must either create or expand a public computer center or improve broadband service or connections at a public computer center, including those at community colleges, that meets a specific public need for broadband service.
	<i>Sustainable Broadband Adoption</i>	At least \$100 million is available to fund innovative projects that promote broadband demand, including projects focused on providing broadband education, awareness, training, access, equipment, or support, particularly among vulnerable groups that traditionally have underused broadband technology.
RUS BIP	<i>Last Mile</i>	Up to \$1.7 billion is available for loans or loan/grant combinations. ^b RUS eliminated the remote and underserved requirement; however, RUS still encourages projects in the most remote and rural areas. Eligible areas are those in which at least 50 percent of the premises in the area do not have access to broadband service at the rate of 5 mbps (upstream and downstream combined). These projects must cover an area that is at least 75 percent rural.
	<i>Middle Mile</i>	Up to \$300 million is available for loans or loan/grant combinations.
	<i>Satellite, rural library broadband, and technical assistance projects</i>	Up to \$100 million is available in grants for satellite projects, as well as any and all funds not obligated for Last Mile and Middle Mile projects, and up to \$5 million is available in grants for connecting rural libraries to the Internet and developing regional broadband development strategies in rural areas.

Source: GAO analysis of NTIA and RUS data.

^aIn a cable system, video signals transmitted by satellites and broadcast towers are received at a cable company facility known as a headend. This facility originates and distributes cable service in a geographic area. Depending on the size of the geographic area the cable company serves, the company could have several headend facilities within a cable system.

^bBecause of provisions in the Federal Credit Reform Act of 1990, RUS can award grants and loans that exceed its budgetary authority.

The first funding notice, published July 9, 2009, set forth the processes for reviewing applications that NTIA and RUS followed during the first funding round. Both agencies developed a multistep application review process designed to balance the applicants' need for time to prepare their applications with the agencies' need for time to review them, as well as to minimize the burden on the applicants that did not ultimately qualify for

program funding. Generally, both agencies initially screened applications to determine whether they were complete and eligible and then submitted the qualifying applications to a due-diligence review. For this review, the applicants were asked to submit additional documentation to further substantiate their financial, technical, and other project information. Table 4 compares the agencies' first-round application review processes.

Table 4: Comparison of NTIA's and RUS's Application Review Processes, First Funding Round

Step in process	NTIA/BTOP	RUS/BIP
Initial screening	NTIA staff and the contractor screen applications for eligibility and completeness.	RUS staff and the contractor screen applications for eligibility and completeness.
First step	Three independent reviewers with demonstrated subject-matter expertise review and score applications. Scores are averaged and ranked, and all applications above a designated threshold advance to step two.	Contractor performs due-diligence review covering financial and technological feasibility. Contractor recommends applications to RUS staff for further consideration for BIP awards.
Second step	NTIA staff and contractor perform due-diligence review. NTIA staff and contractor summarize findings of due-diligence review and make recommendations for further consideration for BTOP awards. State governors' offices have an opportunity to make recommendations for qualifying projects in or affecting their states. 565 Federally recognized tribal entities and 12 Alaska Regional Tribal Corporations also have an opportunity to comment upon applications that propose to serve tribal communities.	Contractor reviews additional documentation to substantiate application information and the required environmental review. Contractor recommends applications to RUS staff for consideration for BIP awards.

Source: GAO analysis of NTIA and RUS documents.

In addition to implementing the BTOP program, NTIA is implementing the broadband mapping provisions referenced in the Recovery Act. Up to \$350 million of the \$4.7 billion was available to NTIA pursuant to the Broadband Data Improvement Act and for the purpose of developing and maintaining a nationwide map of broadband service availability. NTIA explained that this program would fund projects that collect comprehensive and accurate state-level broadband mapping data, develop state-level broadband maps, aid in the development and maintenance of a national broadband map, and fund statewide initiatives directed at broadband planning. NTIA accepted applications for the State Broadband Data and Development Grant program until August 14, 2009. NTIA originally funded state data collection efforts for a 2-year period, allowing the agency to assess initial state activities before awarding funding for the remainder of this 5-year initiative. On May 28, 2010, NTIA announced that state governments and other existing awardees had until July 1, 2010, to submit amended and supplemental applications for 3 additional years of mapping and data

collection activities and to support all other eligible purposes under the Broadband Data Improvement Act.

NTIA and RUS Funded 150 Projects Totaling \$2.2 Billion in the First Funding Round

In the first round of broadband stimulus funding, NTIA and RUS received almost 2,200 applications and awarded 150 grants, loans, and loan/grant combinations totaling over \$2.2 billion in federal funds to a variety of entities for projects in nearly every state and U.S. territory.¹⁰ This funding includes over \$1.2 billion for 82 BTOP projects and more than \$1 billion for 68 BIP projects. More than 70 percent of these projects were awarded to non-governmental entities, such as for-profit corporations, nonprofit organizations, and cooperative associations. Ten BTOP and 3 BIP grants were awarded to applicants with multistate projects. For example, RUS awarded a grant to Peetz Cooperative Telephone Company for a Last Mile Remote project covering parts of Colorado and Nebraska and NTIA awarded a grant to One Economy Corporation for a Sustainable Broadband Adoption project covering parts of 32 states. Figure 1 illustrates the locations of the broadband stimulus projects and the total project funding per state awarded in the first round.

¹⁰These totals do not include an additional 54 grants totaling approximately \$102 million that NTIA awarded as of March 5, 2010, under the State Broadband Data and Development Grant program.

Figure 1: Location and Types of Projects Awarded Broadband Stimulus Funds, First Funding Round

State/territory	Middle Mile	Last Mile	Public computer center	Sustainable broadband adoption	Total projects	Total funding
Alabama		●			●	\$3,892,920
Alaska	●●	●●			●●●●	117,144,273
American Samoa		●			●	91,034,763
Arizona	●●		●		●●●	40,600,395
Arkansas ^a						0
California	●	●●	●●●	●●	●●●●●●●●	39,954,655
Colorado		●●			●●	5,842,281
Connecticut ^a						0
Delaware						0
District of Columbia				●	●	28,519,482
Florida	●●			●	●●●●	35,682,424
Georgia	●●●	●			●●●●	56,592,677
Guam	●				●	8,039,792
Hawaii		●			●	106,503
Idaho	●	●●●●			●●●●●	18,886,365
Illinois	●●●			●	●●●●	64,241,908
Indiana	●●	●●			●●●●	88,515,852
Iowa		●●●●			●●●●	8,969,531
Kansas	●	●●●●			●●●●●	121,089,268
Kentucky		●●			●●	78,659,887
Louisiana	●	●●●	●●		●●●●●●	143,741,951
Maine	●				●	25,402,904
Maryland			●		●	932,116
Massachusetts	●		●●	●	●●●●	35,460,550
Michigan	●	●●	●		●●●●	51,121,663
Minnesota	●	●●●	●	●	●●●●●●	71,599,574
Mississippi		●			●	8,440,189
Missouri		●●			●●	29,378,733
Montana ^a						0
Nebraska ^a						0
Nevada			●		●	4,680,963
New Hampshire		●			●	985,000
New Jersey ^a						0
New Mexico	●	●●●●	●	●	●●●●●●●●	38,493,350
New York	●	●	●	●	●●●●	76,737,231
North Carolina	●		●●		●●●	29,477,115
North Dakota		●●●●●			●●●●●	32,703,494
Ohio	●	●●●		●	●●●●●	30,950,174
Oklahoma		●●●●●●			●●●●●●	73,153,765
Oregon	●	●●●			●●●●	10,447,611
Pennsylvania	●●●				●●●	134,581,596
Puerto Rico	●●				●●	38,760,352
Rhode Island			●		●	1,245,500
South Carolina			●		●	5,903,040
South Dakota	●				●	20,572,242
Tennessee	●●	●			●●●	60,360,899
Texas	●	●●●●●			●●●●●●	183,812,101
Utah	●				●	13,401,096
Vermont				●	●	2,525,675
Virginia	●●●●	●●			●●●●●●	60,167,701
Washington	●	●	●	●	●●●●	113,870,067
West Virginia	●●	●	●	●	●●●●●	138,781,586
Wisconsin	●●				●●	28,084,740
Wyoming						0
Total	47	70	20	13	150	\$2,273,545,954

Source: GAO presentation of NTIA and RUS data.

^aBroadband stimulus funding projects are occurring in these states. In the first round, 13 of the 150 projects involve a service area covering more than one state. For this table, we have categorized the project in the state where the organization receiving funding is headquartered. See appendix II for a list of projects with service areas covering multiple states.

BTOP. During the first funding round, NTIA awarded more than \$1 billion in BTOP funds for 49 broadband infrastructure projects to deploy Middle Mile and Last Mile broadband technology to unserved and underserved areas of the United States; \$57 million for 20 Public Computer Center projects to provide access to broadband, computer equipment, computer training, job training, and educational resources to the general public and specific vulnerable populations; and \$110 million for 13 Sustainable Broadband Adoption projects to promote broadband demand through innovation, especially among vulnerable population groups that have traditionally underused broadband technology.

NTIA awarded grants to a variety of entities in the first funding round, including public entities, for-profits, nonprofits, cooperative associations, and tribal entities. Our analysis of NTIA’s data shows that public entities, such as states, municipalities, or other local governments, received the largest number of BTOP grants and largest percentage of the funding. This funding supports BTOP projects in 45 states and territories. Table 5 shows the entity types and the amounts of funding per entity type during the first round.

Table 5: BTOP Funding by Entity Type, First Funding Round

(Dollars in millions)

Entity type	Number of grants	Funding amount	Percentage of total first round funding
Public ^a	34	\$474	39.3
Nonprofit	21	384	31.8
For-profit	21	233	19.3
Cooperative ^b	5	83	6.9
Tribal entity	1	32	2.7
Total	82	\$1,206	100

Source: GAO presentation of NTIA data.

^a“Public” refers to states, local governments, or any government agency, including a territory or possession of the United States.

^b“Cooperative” refers to any independent, member-owned telecommunications business.

Of the 82 grants awarded, over half were for infrastructure projects, and NTIA awarded over 40 percent of these grants to for-profit entities in the first round. NTIA awarded Public Computer Center and Sustainable Broadband Adoption projects to public entities and nonprofit organizations. Table 6 shows the types of entities awarded funds for each BTOP funding category.

Table 6: Number of BTOP Projects Awarded to Entities, by Project Category, First Funding Round

Entity type	Project category			Total
	Broadband infrastructure	Public computer center	Sustainable broadband adoption	
Public ^a	15	14	5	34
Nonprofit	7	6	8	21
For-profit	21	0	0	21
Cooperative ^b	5	0	0	5
Tribal entity	1	0	0	1
Total	49	20	13	82

Source: GAO presentation of NTIA data.

^a“Public” refers to states, local governments, or any government agency, including a territory or possession of the United States.

^b“Cooperative” refers to any independent, member-owned telecommunications business.

BIP. During the first funding round, RUS announced 49 broadband infrastructure awards totaling nearly \$740 million in program funding for Last-Mile nonremote projects,¹¹ 13 awards totaling \$161 million for Last Mile remote projects,¹² and 6 awards totaling \$167 million for Middle Mile broadband infrastructure projects. The majority of funding was awarded in the form of loan/grant combinations. Of the nearly \$1.1 billion in first round funding, RUS awarded 53 loan/grant combinations totaling over \$957 million in program funds, 12 grants totaling about \$69 million, and 3 loans totaling over \$41 million.

RUS awarded grants, loans, and loan/grant combinations to a variety of entities. Eighty-five percent of BIP recipients are for-profit companies or cooperative associations. Four tribal entities also received BIP funding. In addition, 43 of the 68 BIP recipients are Title II borrowers and have previously received rural electrification and telephone loans from RUS.¹³

¹¹Last Mile nonremote projects are defined as any broadband infrastructure project that is not exclusively a Last Mile remote area project and that provides broadband service to the end user or end-user devices in a service area eligible for BIP funding.

¹²Last Mile remote projects are defined as any project that provides broadband service to the end user or to end-user devices only in a remote area(s) eligible for broadband funding.

¹³Title II of the Rural Electrification Act of 1936 authorized the Secretary of Agriculture to make loans for furnishing and improving rural telephone service and specifies eligible borrowers, terms, and conditions. 7 U.S.C. §§ 921-928.

These represent the incumbent local telecommunications providers in the funding area. Table 7 shows the entity types and amount of funding received during the first round.

Table 7: BIP Funding by Entity Type, First Funding Round

(Dollars in millions)

Entity type	Number of awards (loans, grants, and loan/grant combinations)	Funding amount	Percentage of total first round funding
Public ^a	3	\$105	9.8
Nonprofit	2	11	1.1
For-profit	34	416	39.0
Cooperative ^b	25	489	45.8
Tribal entity	4	46	4.3
Total	68	\$1,067	100

Source: GAO presentation of RUS data.

^a“Public” refers to states, local governments, or any government agency, including a territory or possession of the United States.

^b“Cooperative” refers to any independent, member-owned telecommunications business.

RUS made nearly three-quarters of its awards for Last Mile non-remote projects and the majority of these awards went to for-profit and cooperative associations. Table 8 shows the types of entities that received awards and the number of projects awarded in each BIP funding category.

Table 8: Number of BIP Projects Awarded to Entities, by Project Category, First Funding Round

Entity type	Project category			Total
	Last Mile nonremote	Last Mile remote	Middle Mile	
Public ^a	2	1	0	3
Nonprofit	2	0	0	2
For-profit	24	8	2	34
Cooperative ^b	19	3	3	25
Tribal entity	2	1	1	4
Total	49	13	6	68

Source: GAO presentation of RUS data.

^a“Public” refers to states, local governments, or any government agency, including a territory or possession of the United States.

^b“Cooperative” refers to any independent, member-owned telecommunications business.

As of June 29, 2010, RUS had provided \$899.6 million in program funds for 61 of these 68 projects, representing approximately 85 percent of the awards announced in the first round. This amount represents about \$485 million charged against RUS's Recovery Act budget authority.¹⁴ Of the remaining projects, 4 are still in the contract award process and 3 awards were declined by the recipients.¹⁵

NTIA's and RUS's Due-Diligence Reviews Consistently Substantiated Information in the Awardees' Applications

To substantiate information in the applications, NTIA, RUS, and their contractors reviewed financial, technical, environmental, and other documents and determined the feasibility and reasonableness of each project. The agencies reviewed application materials for evidence that the applicants satisfied the criteria established in the first funding notice. The first funding notice identified several types of information that would be subject to due-diligence review, including details related to the following items:

- Proposed budget, capital requirements and the source of these funds, and operational sustainability.
- Technology strategy and construction schedule, including a map of the proposed service area and a diagram showing how technology will be deployed throughout the project area (for infrastructure projects) and a timeline demonstrating project completion.
- Completed environmental questionnaire and historic preservation documentation.

¹⁴RUS received \$2.5 billion for both grants and loan underwriting. RUS stated that it would allocate \$2 billion for grants and \$500 million for supporting loans. Because loans, unlike grants, must be repaid to the government with interest, RUS uses a complex formula to calculate charges against its budget authority. For grants, the face amount of each grant is charged against RUS budget authority. However, the Federal Credit Reform Act of 1990 requires RUS to account for the budgetary impact of loans by estimating the expected net loss (or gain) of loans. This net amount, which is estimated by calculating the net present value of all cash flows to and from RUS over the lifetime of the loans, is referred to as the subsidy cost of the loans. RUS must charge the subsidy cost of loans to its budget authority. RUS initially expected that the \$500 million in budget authority allocated to support loans would support a principal amount of approximately \$7 billion.

¹⁵According to RUS, the three awards were made for projects in Illinois, Kansas, and New Mexico. The entities responsible for submitting those applications found that the loans and grants from Department of Agriculture were incompatible with other agreements the companies already made with existing lenders or were in the process of making.

-
- Evidence of current subscriber and service levels in the project area to support an “unserved” or “underserved” designation.¹⁶
 - Recipient’s eligibility to receive a federal award.¹⁷
 - Any other underlying documentation referenced in the application, including outstanding and contingent obligations (debt), working capital requirements and sources of these funds, the proposed technology, and the construction build-out schedule.

To implement the due-diligence review, the agencies with their contractors reviewed the application materials for adherence to the first-round funding notice’s guidelines. The contractors formed teams with specific financial or technical expertise¹⁸ to perform the due-diligence evaluation of applications. Generally, the agencies followed similar due-diligence review processes, but there were some differences. For example, NTIA teams analyzed and discussed the application materials and assigned scores to applications based on the criteria established in the first-round funding notice: (1) project purpose, (2) project benefits, (3) project viability, and (4) project budget and sustainability. Also, NTIA teams contacted applicants when necessary to obtain additional materials or clarify information in the application. Both NTIA and RUS officials reviewed environmental questionnaires addressing National Environmental Policy Act (NEPA) concerns and other documents addressing National Historic Preservation Act (NHPA) concerns.¹⁹ Agency officials requested that applicants provide full environmental and historical impact reports for their projects unless the projects received an exclusion. At the time we reviewed our sample of application files, these reports were pending for NTIA applications; all RUS applications we

¹⁶Projects had to adhere to either the definition of “unserved” or one of the three definitions of “underserved” established in the first funding notice to qualify for funding.

¹⁷Information establishing the recipient’s eligibility to receive a federal award includes Dun & Bradstreet reports, Central Contractor Registration database, the General Service Administration’s Excluded Party List System, FCC’s debarment list, Federal Audit Clearing House for prior A-133 audit findings, and credit scores.

¹⁸At both agencies, officials said that they had access to information about the expertise of the reviewers employed by the contractors and were satisfied with the reviewers’ qualifications.

¹⁹The National Environmental Policy Act of 1969, as amended (42 U.S.C. § 4321 *et seq.*) and the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470 *et seq.*).

reviewed received categorical exclusions.²⁰ During the due-diligence review, agency officials said that the contractor teams had frequent contact with NTIA and RUS to discuss issues that arose during the review.

The review teams produced detailed briefing reports describing the information contained in each file and used professional judgment to make recommendations as to each project's viability and sustainability, and the applicant's apparent capacity to implement and maintain the project. Agency officials used these reports and other information in making award decisions. The review teams also recommended follow-up actions the agencies might consider to gather more information on unresolved issues. Both agencies' officials reported that they were satisfied with the quality of their contractors' work.

Based on our analysis of the files of 32 awarded applications, we found that the agencies consistently reviewed the applications and substantiated the information as specified in the first-round funding notice, a finding consistent with the Department of Commerce Inspector General's April 2010 report.²¹ In each of the files we reviewed, we observed written documentation that the agencies and their contractors had reviewed and verified pertinent application materials, or made notes to request additional documentation where necessary. In general, we saw evidence that the agencies and the contractors verified the following information:

- basic fit with the programs (project descriptions);
- financial reasonableness (capital and operating budgets, financial statements);

²⁰In accordance with NEPA, federal agencies must consider and evaluate the potential environmental impacts or effects of their actions before those actions are taken. In the case of NTIA and RUS, the approval of loans and grants are actions that require the consideration of environmental factors in their decision making process. NTIA and RUS have established categorically excluded projects that do not require an environmental review. These are projects that do not have a significant effect on the human environment and therefore neither an environmental assessment nor an environmental impact statement is required.

²¹The Inspector General found that NTIA had established a rigorous due-diligence review process that met the requirements of the first funding notice. Department of Commerce, Office of the Inspector General, *NTIA Must Continue to Improve Its Program Management and Pre-Award Process for Its Broadband Grants Program, Final Report No. ARR-19842-1* (Washington, D.C.: Apr. 8, 2010).

-
- technological viability (maps of the proposed coverage area, a description of the technology to be used and how it would be employed);
 - environmental and historic preservation/remediation;
 - project planning (construction schedules, project milestones);
 - organizational capacity (resumes or biographies of the principals involved in the project, matching funds, support from both the affected communities and other governmental entities); and
 - congressional districts affected.

The two agencies developed different processes to investigate the merits of public comments on whether proposed projects met the definition of “unserved” or “underserved” published in the first funding notice. This investigation is known as an “overbuild analysis” and is needed because of the continued lack of national broadband data.²² In general, the public comments were submitted by companies that claimed they were already providing service in the proposed service areas and that the applicant’s project would thus lead to overbuilding. NTIA’s contractor researched the commenting companies’ claims of provided service via industry databases, the companies’ Web sites and advertisements, and then produced an overbuild analysis for review by agency officials that described the research results and the contractor’s level of confidence in the accuracy of the analysis. For RUS, field staff personally contacted the entities that submitted the comments to verify their claims that they provided service in the affected areas. According to RUS, field staff reconciled any difference between the application and commenter, and where necessary, conducted an actual field visit to the proposed service territory. In all cases in our sample, we observed that agencies and their contractors found that the projects met the definitions of “unserved” and “underserved” set forth in the first funding notice.²³ In at least one case, public comments were retracted following a request for additional

²²Under the Recovery Act, up to \$350 million was available pursuant to the Broadband Data Improvement Act to fund the development and maintenance of a nationwide broadband map for use by policymakers and consumers. February 2011 is the deadline for NTIA to post on its Web site “a comprehensive nationwide inventory map of existing broadband service capability and availability.” Pub. L. No. 111-5, div. A, tit. II, 123 Stat. at 516 (2009).

²³This does not imply that NTIA or RUS did not fund a project in an area where another company already provides some level of broadband service. Rather, NTIA and RUS funded projects consistent with the definitions of “unserved” and “underserved.”

information; in other cases, the additional information provided did not support claims of overbuilding.

Finally, we interviewed representatives of five industry associations and two companies that received funding during the first round to learn their perspectives on the thoroughness of the due-diligence reviews. Generally, the industry association representatives confirmed that their constituents who had applied for and received broadband funding had undergone due-diligence reviews, but they were not familiar with the extent to which NTIA and RUS had verified applicant information. According to representatives of two companies that received funding during the first round, the agencies' due-diligence process was thorough and rigorous.

NTIA and RUS Face Challenges in Awarding Funds on Time and Have Taken Actions to Streamline Application Reviews

NTIA and RUS Must Award a Significant Amount of Funds in a Short Time

During the second funding round, NTIA and RUS have more funds to award and less time to award these funds than they had for the first round, and although the agencies received fewer applications for the second round, they are conducting more due-diligence reviews than they did for the first round. NTIA and RUS have until September 30, 2010, to obligate approximately \$4.8 billion in remaining broadband stimulus funds, or more than twice the \$2.2 billion they awarded during the first funding round. More specifically, in the second funding round, NTIA must award \$2.6 billion in BTOP grants and RUS must award \$2.1 billion in BIP loans and loan/grant combinations.²⁴ Moreover, NTIA has 2 fewer months in the second funding round to perform due-diligence reviews and obligate funds for selected BTOP projects than in the first funding round, and RUS has 3

²⁴RUS can award loans and grants in the second round of funding that, in the aggregate, substantially exceed \$2.1 billion because the current loan subsidy rate is 7.24 percent.

months less for BIP.²⁵ Whereas NTIA took 8 months for these tasks during the first funding round from the August 20, 2009, application deadline through April 26, 2010, it has 6 months for the second round, from the March 26, 2010, application deadline to the program's September 30, 2010, obligation deadline. Similarly, RUS took at least 9 months for the first funding round and has 6 months for the second round. (As of July 1, 2010, RUS had not obligated funds for four first-round awards.)

For the second funding round, NTIA and RUS received 1,662 applications, compared with 2,174 for the first round. For the first round, NTIA reviewed 940 applications for BTOP, RUS reviewed 401 applications for BIP, and the agencies concurrently reviewed 833 joint applications for both programs.²⁶ For the second funding round, NTIA received 886 applications for BTOP and RUS received 776 for BIP. No joint applications were solicited for the second round as the agencies published separate funding notices. As of July 2, 2010, NTIA and RUS have awarded a total of 66 second round broadband stimulus projects totaling \$795 million.

While NTIA and RUS have fewer applications to review for the second round, they expect their due-diligence workload to increase. According to agency officials, the quality of the second-round applications is substantially better and more applications will be eligible for due-diligence reviews.²⁷ Agency officials believe that their staffs' increased experience, together with some process changes implemented in response to lessons learned during the first funding round (discussed later in this report) will enable their staffs to manage the increased workload and maintain the same high standards in the time allotted. However, as the Recovery Act's obligation deadline draws near, the agencies may face increased pressure to approve awards. Agency officials state that their programs' goals remain to fund as many projects as possible that meet the requirements of the act and to select the projects that will have the most economic impact; simply awarding funds is not the goal.

²⁵The first round application period ended in August 2009. NTIA completed due diligence, award, and obligation tasks for BTOP by April 2010; as of July 1, 2010, four RUS awards had not yet been obligated for BIP.

²⁶During the first round, NTIA and RUS reviewed joint applications concurrently due to tight deadlines and NTIA did not fund a joint project until after RUS had decided not to fund it.

²⁷Both NTIA and RUS officials expected applicants to be better prepared for the process during the second round and to submit a cohort of higher-quality applications.

Agencies Must Award Remaining Funds with Still-Incomplete Broadband Mapping Data, Slowing the Review Process

The continued lack of national broadband data complicates NTIA and RUS efforts to award broadband stimulus funding in remote, rural areas where it may be needed the most. Although NTIA recently issued grants to states and territories to map broadband services, the National Broadband Map showing the availability of broadband service will not be completed until 2011. The most recent FCC report on currently available Internet access nationwide relies on December 2008 data.²⁸ Because of the lack of current data, NTIA and RUS are using a cumbersome process to verify the status of broadband services in particular geographic locations. The agencies must collect and assess statements by applicants as well as the aforementioned public comments submitted by existing broadband providers delineating their service areas and speeds available. NTIA and RUS are investing time and resources to review these filings, and in some cases due-diligence reviews have found information in the filings to be inaccurate. During our review of 32 judgmentally selected applications, we found several instances noted by RUS in which companies provided inaccurate information when claiming they were already providing service in a proposed service area. For example, when an RUS field representative asked one company to provide supporting information to verify its number of subscribers in its service area during the due-diligence review process, the company admitted the information in its filing was incorrect and withdrew the comment. In addition, for a number of applications we reviewed, NTIA's contractor had a low or medium level of confidence in the accuracy of the overbuild analysis because data were inconclusive. Because the National Broadband Map will not be completed until 2011, NTIA and RUS will have to complete awards for round two based on existing data.²⁹

²⁸*Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act; A National Broadband Plan for Our Future*, Sixth Broadband Deployment Report, FCC 10-129, 2010 FCC LEXIS 4356 (rel. July 20, 2010).

²⁹RUS does not solely rely upon existing data to verify service territory eligibility. For example, RUS uses field staff to verify information and visit the proposed service areas.

Agencies Have Taken
Actions to Streamline
Their Application Review
Process, but It Is Not Clear
If They Can Obligate All
Remaining Funds by
September 30, 2010

Both agencies have taken steps to streamline their application review processes in an effort to obligate the remaining funds by September 30, 2010. First, the agencies agreed to generally target different types of infrastructure projects and issued separate funding notices for the second round to save time during the eligibility screening phase.³⁰ Second, the agencies reduced the number of steps in the application review process from two to one, adding some time to the application window and agency review process. NTIA also reduced the basic eligibility factors for BTOP from five to three, moved from a largely unpaid to a paid reviewer model to ensure that reviews were conducted in a timely fashion, and decreased the number of reviewers per application from three to two. These steps allowed the agency to complete the initial portion of its review ahead of schedule, according to BTOP officials. NTIA also split the second round applications into four groups for due-diligence reviews, allowing staff to concentrate on one group at a time. Due-diligence reviews for the first group were completed in June; awards for this group will be announced in July. Reviews for the second group will be completed in July, with awards to be announced in August; reviews for the third and fourth group will be complete in August, with final awards to be announced in September. Third, NTIA began to use Census tract data, which companies already compile and report to FCC, to verify applicants' claims and simplified the process to allow existing broadband providers to supply information about their services. RUS is relying on its mapping tool, which does show Census block data, but not Census tract data, to determine whether the service area is eligible. According to RUS officials, the tool has been upgraded several times to make it easier for applicants to submit information about existing service providers to the agency. Finally, RUS eliminated funding for the Last-Mile Remote project designation, reducing the number of project types to screen for award, and also stopped accepting paper applications.

Notwithstanding these efficiencies, a few second round changes may lengthen the time required to complete due-diligence reviews and obligate funds. For example, on May 28, 2010, after the application deadline was closed for round two, NTIA notified State Broadband Data and Development Grant program recipients that they were able to submit amended and supplemental applications for eligible mapping activities in

³⁰Unlike in the first round, NTIA and RUS published separate funding notices on January 22, 2010. See 75 Fed. Reg. 3792 (Jan. 22, 2010) for the BTOP program funding notice and 75 Fed. Reg. 3820 (Jan. 22, 2010) for the BIP funding notice.

those states. With regards to BTOP, NTIA also solicited applications for public safety broadband infrastructure projects nationwide through July 1, 2010, which adds additional burden on the agency.³¹ The time remaining for due diligence to be performed on these applications is a month shorter than for the first group of round two applications. RUS increased the opportunity for more applications to obtain funding by instituting a “second-chance review” process to allow an applicant to adjust an application that may not have contained sufficient documentation to fully support an award. During the second-chance review, BIP application reviewers will work with applicants to assist them in providing the documentation needed to complete their applications.³² Adding these activities to the BIP application reviewers’ duties may lengthen the time required to complete due-diligence reviews and obligate funds by September 30, 2010.

Both agencies have renegotiated with their contractors for greater staffing flexibility. RUS has extended its contract with ICF International to provide BIP program support through 2012. In addition, RUS also indicated that its previously established broadband support program³³ made no awards in 2010, freeing staff time for BIP activities. Despite this, NTIA and RUS officials told us that existing staff are overworked and there has been some turnover with contractor support. With the completion of second round funding and the beginning of the postaward phase, it will be critical for NTIA and RUS to ensure that they have enough staff dedicated to project oversight.

³¹On May 11, 2010, FCC adopted an Order granting, with conditions, a waiver filed by a number of public safety entities seeking early deployment of statewide or local public safety broadband networks in the 700 MHz public safety broadband spectrum (763-768 MHz and 793-798 MHz). *Request for Waivers of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks*, Order, 25 FCC Rcd 5145 (2010). These governments may have previously been discouraged from filing BTOP applications because they did not have the legal authority to use the spectrum. As a result of this significant development, and given the national priority of improving public safety communications, NTIA accepted applications for infrastructure projects from the affected parties from June 1, 2010, to July 1, 2010. (NTIA press release, May 13, 2010).

³²NTIA will transfer to BIP for consideration of funding applications that NTIA determines it will not fund, but that may be consistent with RUS’s BIP requirements and priorities. RUS will handle such applications, if timely received from NTIA, under its Second Review process.

³³The Department of Agriculture’s Rural Broadband Access Loan and Loan Guarantee program, officiated by Rural Development.

Agencies Are Developing Postaward Oversight Plans, but Some Risks to the Success of the Broadband Stimulus Programs Remain

The Recovery Act, Specific Program Requirements, and Leading Practices Identify Components of Effective Oversight

Under Section 1512 of the Recovery Act and related OMB guidance, all nonfederal recipients of Recovery Act funds must submit quarterly reports that are to include a list of each project or activity for which Recovery Act funds were expended or obligated and information concerning the amount and use of funds and jobs created or retained by these projects and activities.³⁴ Under OMB guidance, awarding agencies are responsible for ensuring that funding recipients report to a central, online portal no later than 10 calendar days after each calendar quarter in which the recipient received assistance.³⁵ Awarding agencies must also perform their own data-quality review and request further information or corrections by funding recipients, if necessary. No later than 30 days following the end of the quarter, OMB requires that detailed recipient reports be made available to the public on the Recovery.gov Web site.

In addition to governmentwide reporting, BTOP and BIP funding recipients must also submit program-level reports.

- **BTOP-specific reports.** The Recovery Act requires BTOP funding recipients to report quarterly on their use of funds and NTIA to make these reports available to the public.³⁶ Specifically, NTIA requires that funding recipients submit quarterly reports with respect to Recovery Act reporting, as well as BTOP quarterly and annual financial and performance progress reports. BTOP financial reports include budget and cost information on

³⁴Pub. L. No. 111-5, div. A, tit. XV, § 1512(c),(d), 123 Stat. 287-288 (2009).

³⁵See OMB memorandum, M-09-21, *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009* (June 22, 2009).

³⁶Pub. L. No. 111-5, div. B, tit. VI, § 6001(i)(1) (2009).

each quarter's expenses and are used to assess the overall financial management and health of each award and ensure that BTOP expenditures are consistent with the recipient's anticipated progress. BTOP performance reporting includes project data, key milestones, and project indicator information, such as the number of new network miles deployed, the number of new public computer centers, or the number of broadband awareness campaigns conducted.

- **BIP-specific reports.** RUS requires BIP funding recipients to submit quarterly balance sheets, income and cash-flow statements, and data on how many households are subscribing to broadband service in each community, among other information. In addition, RUS requires funding recipients to specifically state in the applicable quarter when they have received 67 percent of the award funds, which is RUS's measure for "substantially complete." BIP funding recipients must also report annually on the number of households; businesses; and education, library, health care, and public safety providers subscribing to new or more accessible broadband services.

A final source of guidance is the Domestic Working Group, which has highlighted leading practices in grants management.³⁷ Effective grants management calls for establishing adequate internal control systems, including efficient and effective information systems, training, policies, and oversight procedures, to ensure grant funds are properly used and achieve intended results. Some agencies have developed risk-based monitoring criteria to assess where there is a need for heightened monitoring or technical assistance. These criteria can include total funding, prior experience with government grants or loans, independent audit findings, budget, and expenditures. Given the large number of BTOP and BIP grant and loan recipients, including many first-time recipients of federal funding, it is important that NTIA and RUS identify, prioritize, and manage potential at-risk recipients.

³⁷Chaired by the Comptroller General and initiated by the Domestic Working Group, the Grant Accountability Project brought together 19 federal, state, and local audit organizations for the purpose of identifying current and emerging challenges of mutual interest within the intergovernmental audit community. Domestic Working Group, Grant Accountability Project, *Guide to Opportunities for Improving Grant Accountability* (October 2005).

NTIA Is Finalizing a New Postaward Framework; RUS Plans to Rely on Existing Oversight Mechanisms

NTIA. NTIA has developed and is beginning to implement a postaward framework to ensure the successful execution of BTOP. This framework includes three main elements: (1) monitoring and reporting, (2) compliance, and (3) technical assistance. NTIA will use desk reviews and on-site visits to monitor the implementation of BTOP awards and ensure compliance with award conditions by recipients. NTIA plans to provide technical assistance in the form of training, webinars, conference calls, workshops, and outreach for all recipients of BTOP funding to address any problems or issues recipients may have implementing the projects, as well as to assist in adhering to award guidelines and regulatory requirements. NTIA has provided training to recipients in grant compliance and reporting, and has also developed a recipient handbook with a number of checklists to assist recipients with performance and compliance under their federal awards. In addition, NTIA has developed training, handbooks, and other guidance for program staff and grant recipients throughout the entire postaward process and through the completion of BTOP projects in 2013. According to NTIA officials, the agency is preparing a risk-based model for postaward project monitoring and designating three levels of monitoring for grant recipients: routine, intermediate, and advanced. Under this model, program staff will reassess the risk level of each recipient on an annual basis and conduct site visits accordingly.

NTIA has recently reorganized several senior positions to distribute grants management and grants administration responsibilities more evenly among a larger group of personnel, and to more effectively balance workloads. As a result, more NTIA employees will share postaward responsibilities up to September 30, 2010. For fiscal year 2011, the President's budget request includes nearly \$24 million to continue oversight activities, yet even if this amount is appropriated, agency officials said that there is some risk that NTIA will have insufficient resources to implement this comprehensive postaward framework.

RUS. RUS is also putting into place a multifaceted oversight framework to monitor compliance and progress for recipients of BIP funding. Unlike NTIA, which is developing a new oversight framework, RUS plans to replicate the oversight framework it uses for its existing Community Connect, Broadband Access and Loan, Distance Learning and Telemedicine, and Rural Electrification Infrastructure Loan programs. However, RUS still has several open recommendations from a Department of Agriculture Inspector General's report pertaining to oversight of its

grant and loan programs.³⁸ The main components of RUS's oversight framework are (1) financial and program reporting and (2) desk and field monitoring. According to RUS officials, no later than 30 days after the end of each calendar-year quarter, BIP recipients will be required to submit several types of information to RUS through its Broadband Collection and Analysis System, including balance sheets, income statements, statements of cash flow, summaries of rate packages, the number of broadband subscribers in each community, and each project's completion status. BIP funding recipients will also be required to submit detailed data on the numbers of households and businesses subscribing to or receiving improved broadband service and the numbers of schools, libraries, health care facilities, and public safety organizations obtaining either new or improved access to broadband service. In addition, RUS will conduct desk and site reviews using 52 permanent general field representatives and field accountants. RUS also has access to 15 additional temporary field staff who can assist with BIP oversight. Moreover, RUS extended its contract with ICF International through 2012, giving the agency additional resources in conducting program oversight. The President's budget request does not include additional resources to continue BIP oversight activities in fiscal year 2011, but RUS officials believe they have sufficient resources to oversee BIP-funded recipients.

Despite Steps Taken, Some Risks to Projects' Success Remain

Overall, both NTIA and RUS have taken steps to address the concerns we noted in our November 2009 report. For example, the agencies are developing plans to monitor BTOP- and BIP-funded recipients and are working to develop objective, quantifiable, and measurable goals to assess the effectiveness of the broadband stimulus programs. Finally, NTIA now has audit requirements in place for annual audits of commercial entities receiving BTOP grants. Despite this progress, some risks to projects' success remain.

Scale and Number of Projects. NTIA and RUS will need to oversee a far greater number of projects than in the past. As we reported in 2009, the agencies face the challenge of monitoring these projects with fewer staff than were available for their legacy grant and loan programs. Although the exact number of funded projects is still unknown, based on the first funding round's results and the amount of funding remaining to be

³⁸Department of Agriculture, Office of Inspector General, "Existing Risk to Rural Development's Economic Recovery Program" (Apr. 3, 2009).

awarded, the agencies could fund several hundred projects each before September 30, 2010. In addition, BTOP- and BIP-funded projects are likely to be much larger and more diverse than projects funded under the agencies' prior broadband-related programs. For example, NTIA and RUS expect to fund several types of broadband projects, and these projects will be dispersed nationwide, with at least one project in every state. NTIA is funding several different types of broadband projects, including Last Mile and Middle Mile broadband infrastructure projects for unserved and underserved areas, public computer centers, and sustainable broadband adoption projects. RUS can fund Last Mile and Middle Mile infrastructure projects in rural areas across the country.

Adding to these challenges, NTIA and RUS must ensure that the recipient constructs the infrastructure project in the entire project area, not just the area where it may be most profitable for the company to provide service. For example, the Recovery Act mandates that RUS fund projects where at least 75 percent of the funded area is in a rural area that lacks sufficient access to high-speed broadband service to facilitate rural economic development; these are often rural areas with limited demand, and the high cost of providing service to these areas make them less profitable for broadband providers. The rest of the project can be located in an area that may already have service from an existing provider. Companies may have an incentive to build first where they have the most opportunity for profit and leave the unserved parts of their projects for last in order to achieve the highest number of subscribers as possible. In addition, funding projects in low-density areas where there may already be existing providers could potentially discourage further private investment in the area and undermine the viability of both the incumbents' investment and the broadband stimulus project. During our review of BIP applications, we found several instances in which RUS awarded projects that would simultaneously cover unserved areas and areas with service from an existing provider.³⁹ To ensure that Recovery Act funds reach hard-to-serve areas, recipients must deploy their infrastructure projects throughout the proposed area on which their award was based. NTIA and RUS oversight and monitoring procedures will help ensure that the unserved areas are in fact built out.

³⁹ According to RUS, under both BTOP and BIP, applicants could elect to provide service in areas that were both unserved and underserved. Further, RUS noted that in many cases, it is impractical or unfeasible for an applicant to serve a totally unserved area.

Lack of Sufficient Resources. Both NTIA and RUS face the risk of having insufficient staff and resources to actively monitor BTOP- and BIP-funded projects after September 30, 2010. BTOP and BIP projects must be substantially complete within 2 years of the award date and fully complete within 3 years of the award date. As a result, some projects are not expected to be complete until 2013. However, the Recovery Act does not provide budget authority or funding for the administration and oversight of BTOP- and BIP-funded projects beyond September 30, 2010. Effective monitoring and oversight of over \$7 billion in Recovery Act broadband stimulus funding will require significant resources, including staffing, to ensure that recipients fulfill their obligations. NTIA and RUS officials believe that site visits, in particular, are essential to monitoring progress and ensuring compliance; yet, it is not clear if they will have the resources to implement their oversight plans. As discussed earlier, NTIA requested fiscal year 2011 funding for oversight, but the agency does not know whether it will receive the requested funding and whether the amount would be sufficient. RUS intends to rely on existing staff and believes it has sufficient resources; however, RUS field staff members have other duties in addition to oversight of BIP projects. Because of this, it is critical that the oversight plans the agencies are developing recognize the challenges that could arise from a possible lack of resources for program oversight after September 30, 2010. For example, the agencies' staff will need to conduct site visits in remote locations to monitor project development, but a lack of resources will pose challenges to this type of oversight. Planning for these various contingencies can help the agencies mitigate the effect that limited resource levels may have on postaward oversight.

Conclusion

The Recovery Act broadband stimulus programs are intended to promote the availability and use of broadband throughout the country, as well as create jobs and stimulate economic development. In the first round, NTIA and RUS funded a wide variety of projects in most states and territories to meet these goals. In doing so, the agencies developed and implemented an extensive and consistent process for evaluating project applications. In addition, the agencies made efforts to gather and apply lessons learned from the first funding round to the second round in order to streamline the application review process, making it easier for applicants to submit and officials to review applications. However, the agencies must also oversee funded projects to ensure that they meet the objectives of the Recovery Act. To date, NTIA and RUS have begun to develop and implement oversight plans to support such efforts and have developed preliminary risk-based frameworks to monitor the progress and results of broadband

stimulus projects. However, the Recovery Act does not provide funding beyond September 30, 2010. As the agencies continue to develop their oversight plans, it is critical that they anticipate possible contingencies that may arise because of the limited funding and target their oversight resources to ensure that recipients of Recovery Act broadband funding complete their projects in a manner consistent with their applications and awards.

Recommendation for Executive Action

To ensure effective monitoring and oversight of the BTOP and BIP programs, we recommend that the Secretaries of Agriculture and Commerce incorporate into their risk-based monitoring plans, steps to address the variability in funding levels for postaward oversight beyond September 30, 2010.

Agency Comments

We provided a draft of this report to the Departments of Agriculture and Commerce for review and comment. In its written comments, RUS agreed that awarding and obligating the remaining funds under the BIP program will be challenging and noted that the loan obligation process for the second funding round will be expedited because financial documents have been crafted and are now in place. In addition, RUS agreed that there is a lack of data on broadband availability throughout the country and stated that the agency is using field representatives and other Rural Development field staff to support the BIP program as needed. RUS also noted that it is developing contingency plans to retain the majority of its temporary Recovery Act staff beyond September 30, 2010. RUS took no position on our recommendation. In its comments, NTIA stated that it is on schedule to award all of its Recovery Act funds by September 30, 2010. In addition, NTIA noted that the President's fiscal year 2011 budget request, which includes authority and funding for NTIA to administer and monitor project implementation, is vital to ensuring that BTOP projects are successful and that recipients fulfill their obligations. NTIA took no position on our recommendation. Finally, the agencies provided technical comments that we incorporated, as appropriate. RUS's and NTIA's full comments appear in appendixes III and IV, respectively.

We are sending copies of this report to the Secretary of Agriculture and the Secretary of Commerce, and interested congressional committees. This report is available at no charge on the GAO Web site at <http://www.gao.gov>.

If you have any further questions about this report, please contact me at (202) 512-2834 or goldsteinm@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix V.

A handwritten signature in black ink, appearing to read 'M. Goldstein', with a long horizontal flourish extending to the right.

Mark L. Goldstein
Director, Physical Infrastructure

Appendix I: Objectives, Scope, and Methodology

The objectives of this report were to examine (1) the results of the first broadband stimulus funding round; (2) the extent to which the National Telecommunications and Information Administration's (NTIA) and the Rural Utilities Service's (RUS) due-diligence review substantiated information in the awardees' applications; (3) the challenges, if any, facing NTIA and RUS in awarding the remaining broadband stimulus funds; and (4) the actions, if any, NTIA and RUS are taking to oversee grant and loan recipients.

To describe the results of the first funding round, we obtained and analyzed data from NTIA and RUS and the agencies' Web sites and press releases, interviewed agency officials, and reviewed agency program documentation. We are reporting publicly available data that NTIA and RUS provided on the first round broadband stimulus awards with the intent to describe the number of awards, the entities receiving first round funding, and the types of projects. This information is presented for descriptive purposes. The data are available online at BroadbandUSA.gov, the Web site through which NTIA and RUS publicly report Broadband Technology Opportunities Program (BTOP) and Broadband Initiatives Program (BIP) application and award data. In addition, we obtained and reviewed internal application information and award documentation from both agencies. We also interviewed NTIA and RUS officials who were involved in reviewing applications and awarding the broadband stimulus funds. During these interviews, we reviewed the progress NTIA and RUS were making to complete the first funding round and discussed the status of the awards, including the number of awards that had been obligated, and progress made during the second funding round. To familiarize ourselves with the programs and track their ongoing status, we reviewed NTIA and RUS program documentation, both publicly available online and internal documents provided by the agencies; reviewed a November 2009 GAO report on NTIA's and RUS's broadband stimulus programs; and reviewed April 2010 reports by the Congressional Research Service (CRS) and the Department of Commerce Inspector General (Commerce IG) covering first funding round applications, awards, and program management.

To determine the extent to which NTIA's and RUS's due-diligence reviews substantiated information in awardees' applications, we reviewed a judgmental sample of 32 awarded application files, including 15 from BTOP and 17 from BIP. In choosing our sample, we considered individual award amounts, aggregate amounts of awards per state or territory (state), type of project, type of applicant, and geographic location of the state. To determine our sample criteria, we analyzed descriptive statistics for all

awards and grouped states into three categories: “below \$50 million” (low); “between \$50 million and \$100 million” (middle); and “above \$100 million” (high). Because BIP’s aggregate award amounts to the states to which it awarded funds were slightly higher than those for BTOP overall, we chose to review a slightly larger number of BIP application files than BTOP files. We chose states from among the three award categories so that the representation of low-, middle-, and high-award states approximated that in the overall population. After choosing our sample, we met with agency officials to discuss the contents of the application files and clarify the requirements of the due-diligence review process. Then, we arranged to inspect the agency files: RUS provided electronic access to its due-diligence materials for each application via an online Web site and we performed our file review remotely; NTIA provided us with a CD-ROM containing the relevant project files and we reviewed these at the Department of Commerce. We reviewed the decision memos summarizing the total output of the due-diligence review, documentation of environmental reviews, project budgets, construction schedules, and assessment of public notice filings. We recorded our findings on a data collection instrument and verified the results by using two separate reviewers. We did not evaluate the agencies’ decisions to award or deny applications or the potential for success of any project. Rather, we assessed the extent to which NTIA and RUS developed and implemented a due-diligence review process. In addition to reviewing the sample, we interviewed agency officials and two award recipients.

To determine the challenges, if any, that NTIA and RUS face in awarding the remaining broadband stimulus funds, we studied the requirements set forth in the Recovery Act; evaluated changes between the first- and second-round funding notices; and interviewed agency officials, representatives of five telecommunications associations, and two award recipients. We also reviewed prior GAO, CRS, and Commerce IG reports to learn about issues affecting the broadband stimulus programs. We also monitored agency press releases and tracked notices published on the Broadbandusa.gov Web site.

Finally, to determine the actions NTIA and RUS are taking to oversee grant and loan recipients, we interviewed agency officials about plans to monitor and oversee awardees. During these meetings, we discussed Recovery Act reporting requirements, as well as specific BTOP and BIP requirements. We also reviewed agency plans and guidance provided to recipients. We compared those plans to requirements established in the Recovery Act and guidance from the Office of Management and Budget, the Domestic Working Group, and GAO.

We conducted this performance audit from February through August 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Broadband Projects with Multistate Service Areas, First Funding Round

Table 9 provides information on the 10 BTOP and 3 BIP projects covering areas in multiple states.

Table 9: BTOP and BIP Projects with Multistate Service Areas, First Funding Round

(Dollars in millions)

Recipient	Program	Project type	Award	States/territory
Allegiance Communications	BTOP	Infrastructure	\$28.6	Arkansas, Kansas, Oklahoma, Texas
Deaf Action Center of Louisiana	BTOP	Public Computer Center	1.4	Alabama, California, Louisiana, Texas
ENMR Telephone Cooperative	BTOP	Infrastructure	11.3	New Mexico, Texas
ION HoldCo, LLC	BTOP	Infrastructure	39.7	New York, Pennsylvania, Vermont
Island Telephone and Engineering	BTOP	Infrastructure	8.0	Territory of Guam, Commonwealth of the Northern Mariana Islands
Mission Economic Development Agency	BTOP	Public Computer Center	3.7	Arizona, California, Colorado, Idaho, Kansas, Maryland, Minnesota, Missouri, New Mexico, Pennsylvania, Texas
Navajo Tribal Utility Authority	BTOP	Infrastructure	32.2	Arizona, New Mexico, Utah
OneCommunity	BTOP	Sustainable Broadband Adoption	18.7	Florida, Kentucky, Michigan, Minnesota, Mississippi, Ohio, South Dakota
One Economy Corporation	BTOP	Sustainable Broadband Adoption	28.5	Alabama, Arizona, California, Connecticut, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Massachusetts, Maryland, Michigan, Minnesota, Mississippi, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, Wisconsin
Peez Cooperative Telephone Co.	BIP	Last Mile Remote	1.5	Colorado, Nebraska
Reservation Telephone Cooperative	BIP	Last Mile Nonremote	21.9	North Dakota, Montana
Totah Communications, Inc.	BIP	Last Mile Nonremote	8.5	Kansas, Oklahoma
Zito Media Communications	BTOP	Infrastructure	6.1	Ohio, Pennsylvania

Source: NTIA and RUS data.

Appendix III: Comments from the Department of Agriculture



JUL 26 2010

Mr. Mark L. Goldstein
Director, Physical Infrastructure Issues
United States Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

Dear Mr. Goldstein:

Thank you for providing the Department of Agriculture (USDA) Rural Development and the Rural Utilities Service (RUS) your Government Accountability Office (GAO) Draft Report entitled, "Recovery Act: Further Opportunities Exist to Strengthen Oversight of Broadband Stimulus Programs" Report Number GAO-10-823 (Report). Rural Development offers the following comments to the Report and requests that a copy of these comments be included in your final report. Rural Development's response is limited to a discussion primarily of the Broadband Initiatives Program (BIP) administered by RUS.

We commend GAO for providing this report and recommendations and most importantly, for sharing in our mutual interest of making the BIP program a success. USDA considers this unprecedented \$2.5 billion investment in rural broadband infrastructure an integral part of the economic recovery and future of rural America.

Broadband erodes the barriers of time and distance that traditionally have hindered rural communities from receiving state-of-the-art health care, educational opportunities and access to timely financial and commodity market data. If we are going to effectively compete in the global economy, our rural economies must be sustainable and attractive for new businesses and ongoing investment. USDA's objective is to turn rural areas into employment zones and centers for innovation. Universal access to broadband is needed to get the economy up and running. Broadband is necessary for rural businesses to survive and remain competitive. USDA intends to use budget authority to deliver up to \$3.5 billion in loans, grants and loan grant combinations to enhance rural broadband access.

1400 Independence Ave., S.W. • Washington, DC 20250-0700
Web: <http://www.rurdev.usda.gov>

Committed to the future of rural communities.

"USDA is an equal opportunity provider, employer and lender."

To file a complaint of discrimination write USDA, Director, Office of Civil Rights,
1400 Independence Avenue, S.W., Washington, DC 20250-9410 or call (800) 795-3272 (Voice) or (202) 720-6382 (TDD).

Mr. Mark L. Goldstein

2

Since 1935, beginning with the Rural Electrification Administration, we have been a premier lender for rural infrastructure investment. Our current infrastructure loan portfolio is nearly \$57 billion and includes financing for water and wastewater, telecommunications, broadband, electric, and renewable energy infrastructure projects.

We are now applying the technical skills and historical knowledge we have gained over the past 75 years to construct “next generation” broadband facilities in rural areas to serve as many customers as possible. Our goal is to recreate the successes we achieved in financing the rural electric grid in the task of building new broadband networks in the most rural and remote regions of the country.

In assessing our readiness to this task, it is important also to note that RUS is part of the Rural Development mission area which delivers over 40 major loan, loan guarantee, grant, technical assistance and payment programs providing financial resources for rural economic development. Programs are administered by over 6,100 Rural Development staff (which includes RUS) through 500 field offices. Our field staff works across program lines. The Secretary has placed a high priority on all of Recovery Act programs with particular emphasis on BIP. Recently, Rural Development staff held a national training and policy conference to brief field personnel about BIP. Also, Rural Development staff from across the country attended the 19 joint BIP and Broadband Technology Opportunities Program (BTOP) training and workshops. Our 47 State Directors attended many of these events.

Your recent report highlights several challenges to delivering the Recovery Act broadband programs. Broadly, these include:

1. Scheduling challenges
2. Staffing challenges
3. Data challenges

I'd like to address the findings in your report and highlight several areas that require clarification.

Scheduling Challenges: Rural Development concurs that awarding and obligating the remaining funds under the BIP program will be challenging. Rural Development received Recovery Act funding for seven major programs, including BIP. Many of the programs are or are almost completely obligated. For example, our Single Family Housing Guaranteed program is fully obligated, the Business and Industry loan program is over 90 percent obligated, the Rural Business Enterprise Grant program is 98 percent obligated and Water and Environmental programs are over 80 percent obligated. Because BIP required the establishment of a new program, its initial obligations did not occur until December 2009. To ensure that we would still meet our targets, Rural Development has taken several steps to streamline the BIP process. We are ahead of schedule on awarding funds under Notice of Funding Availability (NOFA) 2, thanks in part to previous GAO recommendations.

Mr. Mark L. Goldstein

3

Here are some notable accomplishments under BIP NOFA 2:

1. RUS has completed the due-diligence review of all 776 applications received under the BIP program.
2. RUS and its field staff have completed the Public Notice Response process for all applications that met NOFA requirements in the first review. This included site visits to proposed service territories where necessary. In addition, RUS has completed the environmental process for all first review applications.
3. RUS has nearly completed the second review process outlined in the NOFA. Detailed letters were sent to all applicants in second review along with an opportunity for a one-hour teleconference with RUS representatives. Those calls are now complete. The final deadline for submission of materials was July 23rd, 2010. RUS has already received and processed updated information from almost 75 percent of these applicants.
4. The President announced over \$390 million of NOFA 2 BIP projects on July 2nd, 2010. As of the date of this response, RUS has an additional \$1.4 billion in awards in the final stages of clearance. This will bring our total awards to over \$2.4 billion.
5. RUS appreciates GAO's concern over the delay in making loan obligations. As noted by GAO, BIP is a new program for RUS. As such, new loan, grant and security documents needed to be crafted before awards could be obligated, and such documents had to be developed for entities including tribes, municipalities, and cooperatives. In addition, some awardees were existing organizations with other financing arrangements in place, which required development of acceptable inter-creditor agreements. These documents have now been crafted and are in place for all NOFA 2 awardees. This will significantly expedite the obligation process; in fact, several awards announced on July 2nd have already been obligated.
6. RUS has detailed timelines for the award and obligation of projects in three major categories - first review applications, second review applications, and Requests for Proposals for (RFP) satellite, rural library connectivity, and technical assistance. Our timelines are as follows:
 - A. First review applications: Award and obligate by August 19
 - B. Second review applications: Award and obligate by September 7
 - C. RFP Applications: Award and obligate by September 15

USDA's experiences during NOFA 1 have been invaluable in expediting the award and obligation process under NOFA 2. RUS is ahead of schedule on these timelines.

Mr. Mark L. Goldstein

4

Staffing Challenges: Rural Development agrees that staffing is critical to the success of this program. RUS has 114 full-time staff dedicated solely to the telecommunications program that work collectively as a team. This team administers RUS' existing telecommunication programs including:

- Farm Bill Broadband Loan Program
- Rural Electrification Infrastructure Loan Program
- Distance Learning and Telemedicine Loan and Grant Program
- Community Connect Grant Program

As noted in your report, RUS' contract with ICF International includes option years extending to 2012, which include oversight and monitoring of BIP customers. RUS has also developed contingency plans to retain the majority of our Recovery Act temporary staff beyond September 30, 2010. The challenging economic times have afforded RUS an opportunity to hire extremely well qualified applicants for these positions.

To further ensure the success of awardees, RUS conducted two workshops for awardees under NOFA 1. These workshops reiterated the importance of the success of these projects to rural America and the economy as a whole. Detailed sessions on accounting, oversight and compliance with RUS security agreements were conducted. Also included was training on Recovery Act reporting, construction and monitoring oversight. BIP awardees were able to meet RUS General Field Representatives (GFRs) and Field Accountants that will be responsible for oversight of the projects. Finally, the workshops included panels with guest speakers from broadband companies and the economic development community on how to make broadband deployments not only successful, but an integral part of the economic future of the rural communities they serve.

Data Challenges: Rural Development agrees that there is a lack of data on broadband availability throughout the country. Congress recognized this shortfall and fully funded a State Broadband Mapping program in the Recovery Act, which will be of assistance in the future. Many of the state maps have been developed and are being used by RUS staff. Despite the lack of a complete data set, RUS has extensive experience in analyzing broadband availability to ensure that our existing non-Recovery Act broadband loans and grants were fully supported.

As in our existing broadband programs, RUS is using State maps, Federal Communications Commission data and other information to determine the current availability of broadband service. Rural Development also developed the internet mapping tool used by applicants to draw their proposed service territories. This same mapping tool was used by the public and incumbent service providers to provide comments on whether proposed service territories may already have broadband service. In addition, RUS will use GFRs, Field Accountants and Rural Development field staff as needed to ensure that proposed service territories meet the requirements of the statute and NOFA. These resources have been successfully used to support our existing

Mark L. Goldstein

5

broadband loan and grant programs and have not imposed a hardship to Rural Development in implementing BIP.

Rural Development also submits the following technical comments to your draft report:

1. At the bottom of page 4 and top of page 5, the report states that "In addition, the agencies face tight time frames for awarding funds, which we noted could limit their opportunities for applying lessons learned to the application review process during the second funding round. To address these challenges, National Telecommunications and Information Administration (NTIA) and RUS awarded contracts.... to implement the programs within the required time frames." We would like to point out that both NTIA and RUS recognized these tight time frames and began contracting process well before GAO began its review of our programs.

2. In the section entitled "RUS BIP *Last Mile*" the chart on page 10, states that "RUS eliminated the remote, unserved, and underserved requirement." We believe this statement should be amended. RUS eliminated a separate funding category for "remote" rural projects; however, we still incent projects in the most remote and rural areas through the point scoring process. The term "unserved" is still used in the program. And rather than a multi-faceted definition of "underserved," RUS defined these areas as those lacking 5 megabits of service in at least 50 percent of the proposed service territory.

3. Page 17, footnote 15 states that 3 BIP awardees declined their awards because the award was "... incompatible with other agreements the companies want to make." This should state that the award was "... incompatible with other agreements the companies already made with existing lenders or were in the process of making."

4. At the top of page 19, GAO describes the due diligence process. The process described by GAO is apparently the BTOP process. This was not the process followed by BIP. For example, BIP projects were not awarded points in four categories under NOFA 1. Also, RUS staff did not contact applicants to clarify information in their application. Please refer to NOFA 1 for the RUS BIP process.

5. At the top of page 21, the report states, "For RUS, field staff personally contacted the entities that submitted the comments to verify their claims that they provided service in the affected areas." While this statement is accurate, it does not fully reflect the RUS field validation process. We would recommend the following statement be added: "RUS field staff reconciled any difference between the applicant and commenter, and where necessary, conducted an actual field visit to the proposed service territory."

6. Page 23 of the report, states that "... NTIA and RUS are investing time and resources to review these filings, **but** in some cases due-diligence reviews have found information in the

Mr. Mark L. Goldstein

6

filings to be inaccurate." The report should state that "... NTIA and RUS are investing time and resources to review these filings, **and** in some cases due-diligence reviews have found information in the filings to be inaccurate."

7. Page 23 of the report states "... During our review of 32 judgmentally selected applications, we found several instances in which companies provided inaccurate information when claiming they were already providing service in a proposed service area." The report should state, "... During our review of 32 judgmentally selected applications, we found several instances **noted by RUS** in which companies provided inaccurate information when claiming they were already providing service in a proposed service area."

8. Page 24 of the report states that NTIA and RUS "... will have to complete awards for round two based on existing data." RUS does not solely rely upon existing data to verify service territory eligibility. RUS also employs the use of Rural Development field staff to actually verify information, and often visits the proposed service areas, to ensure compliance with the NOFA. RUS has successfully used this process throughout its 60 years of history of making telecommunications loans and grants.

9. Page 25 of the report, states that "RUS increased the opportunity for more applications to obtain funding by instituting a "second-chance review" of incomplete applications for what appeared to be promising projects." This statement is inaccurate. Similar to the process used in NOFA 1, incomplete applications were not considered for the program. The "second review" process allows an applicant "to adjust" an application which may not contain sufficient documentation to fully support an award. For example, a financial projection may include an invalid interest rate or loan term for RUS financing, or a build-out plan may not fully correlate to revenue projections. In all cases, the application was complete; however, the submission on its face did not fully document making of an award.

10. Footnote 29 on page 25 states, and "... a waiver **filed** by a number. ..." We believe this should state "... a waiver **filed** by a number..."

11. The first paragraph on Page 29 lists two RUS broadband programs. Please add our Distance Learning and Telemedicine loan and grant program, and our Rural Electrification Infrastructure loan program. The latter has successfully provided telecommunication and broadband loans in rural areas for over 60 years.

12. Page 31 of the report states that "During our review of BIP applications, we found several instances in which RUS awarded projects that would simultaneously cover unserved areas and areas with service from an existing provider." We believe this statement does not take into account that such consideration was incorporated into the eligibility requirements. Under both BIP and BTOP, applicants could elect to provide service in areas that were both "unserved" and "underserved." In many cases, it is impractical or unfeasible for an applicant to serve a totally unserved area. We appreciate GAO's concern that we ensure that applicants actually

Mr. Mark L. Goldstein

7

build out to both unserved and underserved areas within their awarded service areas. Through our construction and monitoring processes, both agencies intend to do so.

Thank you for this opportunity to comment on the report. If you have any questions, please contact John Purcell, Director, Financial Management Division, at (202) 692-0080.

Sincerely,

A handwritten signature in cursive script that reads "Dallas Tonsager". The signature is written in black ink and is enclosed within a thin, hand-drawn oval border.

DALLAS TONSAGER
Under Secretary

Appendix IV: Comments from the Department of Commerce



UNITED STATES DEPARTMENT OF COMMERCE
The Secretary of Commerce
Washington, D.C. 20230

July 21, 2010

Mr. Mark L. Goldstein
Director, Physical Infrastructure Issues
Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Goldstein:

Thank you for the opportunity to comment on the Government Accountability Office's (GAO) draft report, "Recovery Act: Further Opportunities Exist to Strengthen Oversight of Broadband Stimulus Programs" (GAO-10-823), which includes your evaluation of the Broadband Technology Opportunities Program (Program) first-round funding review, as well as challenges the agency faces both in awarding the remaining funds before the statutory deadline and in ongoing grant monitoring. The Department of Commerce (Department) and the National Telecommunications and Information Administration (NTIA) are committed to ensuring that funds from the American Recovery and Reinvestment Act of 2009 (Recovery Act) are made available and spent as efficiently, effectively, and responsibly as possible.

The Department appreciates GAO's thorough review of the Program to date. As your report confirms, NTIA has worked hard to consistently document its review of applications and to substantiate information provided by applicants to ensure the Program is fair and transparent. I also understand GAO's observations that NTIA faces several challenges in awarding the remaining Program funds in the time required by the Recovery Act. I am pleased to note that NTIA completed the first round of funding and subsequently streamlined its processes and improved its systems to prepare for the second funding round. NTIA has now awarded a significant number of second-round grants and is on schedule to award all of its Recovery Act funds by September 30, 2010.

As GAO's report highlights, NTIA faces the risk of having insufficient resources to actively monitor the Program awards. Specifically, the Recovery Act does not provide authority or funding for administration and oversight of Program-funded projects or maintenance of the national broadband map beyond September 30, 2010. For this reason, the President's fiscal year 2011 budget includes authority and funding for NTIA to administer and monitor the execution of grant projects and to protect taxpayer investment. These funds are vital to ensuring that Program projects are successful and that recipients fulfill their obligations. NTIA is committed to preventing waste, fraud, and abuse of Federal funds and ensuring the ability of Program projects to achieve the economic stimulus benefits intended by the Recovery Act. The Department is determined to obtain and provide the funding necessary to successfully monitor and oversee these grants.

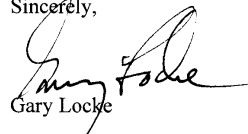
**Appendix IV: Comments from the Department
of Commerce**

Mr. Mark L. Goldstein
Page

Please be assured that NTIA will continue to administer and monitor the Program grants commensurate with available budget and staffing resources. Since the inception of the Program, NTIA has sought input from the Department's Office of Inspector General and relied on guidance from the Office of Management and Budget to design the Program in a manner that minimizes the risk of waste, fraud, and abuse. The Department and NTIA are committed to ensuring that taxpayers' money is well spent and have worked to develop comprehensive monitoring, reporting, and oversight systems to ensure that Program funds fulfill the purposes of the Recovery Act. NTIA will use all resources at its disposal to assist grant recipients in the successful completion of their projects, mitigate risks, and ensure accountability and transparency in the use of Program funds.

Thank you again for providing the Department an opportunity to comment on this draft report. I look forward to continuing to work with GAO to ensure that Program funding enhances broadband capabilities in the United States, creates jobs, and helps lay the groundwork for long-term, sustainable economic growth across America.

Sincerely,



Gary Locke

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

Mark L. Goldstein (202) 512-2834 or goldsteinm@gao.gov

Staff Acknowledgments

In addition to the contact named above, Michael Clements, Assistant Director; Jonathan Carver; Elizabeth Eisenstadt; Brandon Haller; Tom James; Elke Kolodinski; Kim McGatlin; Josh Ormond; and Mindi Weisenbloom made key contributions to this report.

GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's Web site (www.gao.gov). Each weekday afternoon, GAO posts on its Web site newly released reports, testimony, and correspondence. To have GAO e-mail you a list of newly posted products, go to www.gao.gov and select "E-mail Updates."

Order by Phone

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's Web site, <http://www.gao.gov/ordering.htm>.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Web site: www.gao.gov/fraudnet/fraudnet.htm

E-mail: fraudnet@gao.gov

Automated answering system: (800) 424-5454 or (202) 512-7470

Congressional Relations

Ralph Dawn, Managing Director, dawnr@gao.gov, (202) 512-4400
U.S. Government Accountability Office, 441 G Street NW, Room 7125
Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800
U.S. Government Accountability Office, 441 G Street NW, Room 7149
Washington, DC 20548

