

QUESTIONS FROM MARCH 26, 2009 WEBINAR
“THE STIMULUS PACKAGE: BROADBAND AND TECHNOLOGY OPPORTUNITIES”

Program Basics

1. What do NTIA, RUS, FCC, NEC and OMB stand for?

NTIA is the National Telecommunications and Information Administration, which operates under the Department of Commerce. In the American Recovery and Reinvestment Act (ARRA) Congress appropriated NTIA \$4.7 billion for broadband activities, including \$4.35 billion for the new Broadband Technology Opportunities Program (BTOP) grants.

RUS is the Rural Utilities Service, which operates under the Department of Agriculture (USDA). In ARRA, Congress appropriated RUS \$2.5 billion for broadband grants, loans, and loan guarantees.

FCC is the Federal Communications Commission, with whom both NTIA and RUS must coordinate their broadband efforts, as ARRA charges the FCC with creating a national broadband plan.

NEC is the national Economic Council, a part of the Executive Office of the President. Former Treasury Secretary Larry Summers is NEC Chair.

OMB is the Office of Management and Budget, a part of the Executive Office of the President. In part, OMB must approve new rules and regulations published by the departments and agencies of the federal government.

2. How does RUS define “rural”?

For its previous broadband grant and loan programs, RUS defined “rural area” as any area outside the boundaries of any incorporated city or town with 20,000 or more residents. RUS used a more restrictive definition for its prior telecommunications programs, however, limiting “rural area” to any area outside the boundaries of any incorporated city or town with 5,000 or more residents. RUS may elect to use either of these definitions, or design a new one via administrative rulemaking.

3. Are NTIA funds for grants only, or for loans as well?

NTIA broadband funds (for BTOP) can be distributed via competitive matching grants only. RUS broadband funds may be distributed via grants, loans, and/or loan guarantees.

4. How do NTIA and RUS define “broadband”? Does the definition include specific speed thresholds that would cause wireless to not be considered broadband?

Under previous programs, RUS defined “broadband transmission service” as a data transmission service providing connections of at least 200 Kbps both upstream and downstream. RUS may elect to update this definition via administrative rulemaking.

NTIA has not defined “broadband” for the purpose of BTOP. Congress requires NTIA to distribute the funds in a manner that provides the fastest connection to the most people, so NTIA must consider the speed of a proposed project. Congress declined to set specific speed thresholds in ARRA, stating that it hopes to keep eligibility as broad as possible. Consequently, at this time, it is unclear what, if any, specific speed threshold NTIA may adopt for grant-eligible wireline or wireless broadband projects.

ARRA requires NTIA and RUS to collaborate with the FCC to define the meaning of “broadband” and certain other terms, and the FCC is in the process of providing its analysis to NTIA and RUS.

5. Do you have any information on what constitutes an innovative broadband program?

Unfortunately, at this time, NTIA and Congress have not provided formal guidance on what types of applications and projects NTIA will consider “innovative” for the purposes of BTOP grants. Under a previous NTIA grant program aimed at greater utilization of broadband technology, the Technology Opportunities Program (TOP), NTIA defined “innovative” broadly, including new applications of proven technologies and creative strategies for overcoming traditional barriers to access. This definition, however, was adopted in 2000; NTIA will likely choose to adopt new language to reflect both technology advancement in the intervening decade and BTOP’s focus on expanding both access and utilization. Public statements from some NTIA officials have suggested that they believe these programs should focus on stimulating demand for broadband services.

Application Process

1. Will the grant applications have to be filed through grants.gov?

Yes. You must be registered with grants.gov before you may apply for a grant. ***We strongly encourage potential applicants to begin the registration process now on <http://www.grants.gov> even if you have not made a final decision to file an application.*** There is a huge interest in funding not only for broadband but for other grant programs as well. As a consequence, it is taking much longer than usual to register with the site. We therefore encourage organizations to begin as soon as possible.

2. Will the timeline for grant applications be the same for RUS and NTIA, if applying for grants from both?

RUS and NTIA have placed a high priority on interagency coordination. As a result, it appears that the two agencies are attempting to synchronize their funding announcements. There are no guarantees, however, as RUS has yet to announce its disbursement timeline. NTIA plans to conduct three rounds of grants – the first in the second quarter of 2009, the second in the fourth quarter of 2009, and the third in the second quarter of 2010 – though this timeline also may change.

3. If they contract out for reviewers, what types of people will receive those jobs? Will NTIA likely use the same grant officers assigned to the PTFP program?

NTIA will likely hire outside field readers to review grant applications. With its other grant programs, field readers generally have been selected from the ranks of operational and technical experts in the specific technology and service area supported by the grant program as well as some NTIA and other federal government employees. We expect that NTIA will likely follow that approach for the BTOP program. The field readers in the past scored each application on the basis of guidelines provided by NTIA. The NTIA Program Officers for the grant program assembled a list for the Director of Telecommunications and Information Applications (Bernadette McGuire-Rivera) who prepared a proposed grantee slate for the Assistant Secretary of NTIA to finalize. We do not know for certain at this time whether NTIA intends to hire Program Officers specifically for BTOP but expect that to be the case.

4. What are the “collateral requirements” required to qualify for RUS loans?

Under the prior RUS loan program, the borrower must provide credit support in an amount equal to 20 percent of the requested loan. The credit support requirement could be met using any one or combination of four means: (1) cash; (2) net tangible assets, so long as such assets would normally be funded by RUS as part of the loan; (3) licenses; or (4) letters of credit (but only with significant term restrictions). The credit support requirement was never waived. As with other rules from its prior loan program, RUS can either adopt this requirement for the new loan program or enact new requirements via administrative rulemaking.

5. Can the 20% non-federal funding required for NTIA grants be a match of services and materials or must it be cash?

The stimulus act does not specify, and NTIA has yet to address, whether in-kind services and materials can be used to meet the 20 percent non-federal funding requirement. We anticipate, however, that NTIA will allow such in-kind contributions to count towards the requirement as it has in its other grant programs.

6. Will NTIA require bids for cost of services?

The stimulus act does not specify, nor has NTIA addressed, whether bids will be required. However, competitive bidding has been typical for other NTIA grant programs.

Project Eligibility and Acceptable Use of Funds

- 1. Has the RUS definition of broadcast equipment changed from prior years? In the past, equipment items that were acceptable by NTIA and broadcast engineers were not the same as RUS.**

RUS updates the list of materials acceptable for use in RUS-funded systems annually. The restrictions on what types of items may be approved, however, have not changed substantively in recent years. One major obstacle is the “Buy American” requirement, which requires that absent insufficient domestic production or significant price differential, borrowers must use (and certify such use) of domestic materials. Given that Congress appropriated the emergency funds for RUS broadband development within a broader economic stimulus act, it is unlikely that RUS would consider relaxing this requirement.

For more information on what materials are acceptable for RUS projects, see the official RUS Materials List, found at http://www.usda.gov/rus/telecom/materials/index_listomat.htm.

- 2. Will the grant cover any operational costs for the network, say for 3-5 years?**

NTIA grant funds must be used within two years of the award of the grant to the recipient with no exceptions. As such, grant recipients could not use grant funds for operational expenses (or any other expenses) beyond that two year horizon.

Even within the two year window, NTIA may not allow grantees to use funds for operational expenses. ARRA limits the purposes for which NTIA can issue the grants to: (1) purchase and installation of infrastructure equipment; (2) facilitation of broadband access for community institutions and “vulnerable” subscriber populations; (3) construction of public safety systems; and (4) “other projects and activities ... consistent with the purposes for which the program is established.” An argument can be made that operational expenses could facilitate broadband access if used to subsidize end user or in ways otherwise “consistent with the purposes” of the BTOP. Similarly, operational expenses could be inherent in some “innovative” projects. However, NTIA has not indicated to this point whether operational expenses would qualify for funding.

- 3. Are very small private colleges in rural areas eligible for any of these grants/loans through NTIA and/or RUS?**

Such institutions would be eligible for NTIA grants if operated on a not-for-profit basis. If operated on a for-profit basis, an institution still may qualify if NTIA finds that extending eligibility to such institutions is “in the public interest.” NTIA will define what for-profit entities qualify for this “public interest” eligibility exception when it makes its funding announcement. Finally, a college also could be eligible as part of a collaborative project.

The institutions also would be eligible for RUS funds if the proposed service area for their project is at least 75 percent “rural”, as defined above.

4. Can innovative applications for Internet2 be considered? Or is basic broadband the goal?

At this point, evidence suggests that NTIA would consider applications for Internet2 projects and other projects that center on either innovative or next-generation broadband technology. The legislation explicitly requires NTIA to issue \$250 million in grants for innovative projects. Further, in issuing all of its grants, NTIA must consider whether projects provide the highest connection speed to the most people. While any grant application must address the other criteria as well, both of these statutory factors suggest that NTIA would at least consider Internet2 projects.

5. How much is too much to ask for?

For RUS, it depends on whether you plan to request a loan or a grant. From 2003-2006, RUS loans and loan guarantees averaged around \$20 million, with an average in 2006 of nearly \$45 million per loan. RUS grants are substantially smaller, however; from 2005-2008, RUS grants averaged around \$500,000 per funded project, with the largest grant worth just over \$1 million.

It is unclear whether NTIA will set a maximum funding level for its grant program. In 2004, the last year that NTIA issued TOP grants, NTIA announced that it expected awards to range between \$350,000 and \$750,000 with an average of approximately \$500,000. BTOP is a much larger program than TOP, however, and NTIA must disburse all of the \$4.7 billion appropriated by the stimulus act by September 2010. Therefore NTIA likely will decide against a cap on grant amounts to ensure that it can to disburse all of the available funds. NTIA will release more information about this in the first round funding availability announcement later this spring.

6. Will applying under both RUS and NTIA mean completing the same proposal and identifying multiple projects, or applying with separate proposals for each project? What about multiple applications to NTIA (for example, one for infrastructure, one for computer labs, and another for innovative application of broadband)?

RUS and NTIA award funds for specific projects, not for the entity that will undertake the project(s). As a result, you likely will need to complete separate proposals / applications for each project you wish to receive funds, even if you plan to apply for funding from only one agency.

7. As long as the application is balanced between hardware that is not yet available in an area and the collaborative process to provide education that will become available through the hardware, can an applicant request funds for the hardware?

In all likelihood, yes, though it depends somewhat on the hardware in question. NTIA must consider grant proposals for infrastructure development, so any network infrastructure equipment, such as cables (whether long-line, middle mile, or last mile), wireless transmitters, switches, or routers, would be eligible expenses for a proposal. It is unclear at this point whether NTIA will allow grantees to use funds for user hardware (*e.g.*, computers and peripherals), although it appears likely to do so for the community computing program.

Miscellaneous

1. With the number of applicants and timing, what is the best way to establish relationships with NTIA to increase the chances of our application being approved?

Given the short time frame and the large number of interested applicants, we recommend focusing less on direct relationships with NTIA, and more on developing the partnerships and relationships central to your project. Identifying the unmet or under served needs to be addressed by the project, how the target audience will benefit, how you will sustain the project, and developing and demonstrating support for the project from leaders of the community and the target audiences should be the central focus at this point.

2. How important is political support?

Political support will be very important, given the short time frame and the (expected) large number of applicants. Some actions we recommend to use political leverage to improve your application's chances for approval: (1) obtaining endorsements from the community's representative in Congress, which should be requested as soon as the proposed project is narrowly defined; (2) seeking similar endorsements from, or (where appropriate for your interests) partnership with, the community's local government; and (3) collaborating with local schools and/or health care centers to demonstrate how your project would serve those institutions.

3. Are there any mailing lists we can sign up to receive updates on the opening of the application process?

Dow Lohnes and Dow Lohnes Government Strategies will promptly post notices of important developments for both programs on the Stimulus Update pages on our web sites:

- Dow Lohnes – <http://www.dowlohnesc.com/stimulus/dl/>
- Dow Lohnes Government Strategies – <http://www.dowlohnesc.com/News/Detail.aspx?newsid=151>

You also can check our home pages at www.dowlohnesc.com and www.dowlohnescgov.com.

To receive updates on NTIA's efforts, contact Barbara Brown at NTIA via email at bbrown@ntia.doc.gov.

RUS does not maintain a mailing list; instead, RUS recommends interested parties regularly check their telecommunications website at <http://www.usda.gov/rus/telecom/index.htm>.