



ReConnect Program Regulation

USDA RUS ReConnect Program



Rural Development

Agenda

- ReConnect Program Introduction
- FOA 1 & 2 Outcomes
- ReConnect Program Regulation Requirements
- Available Resources
- Q&A



ReConnect Program



2019
Consolidated
Appropriations
Act

\$550 million
in funding

\$555 million
in funding

2020 Further
Consolidated
Appropriations
Act

\$600 million
in funding

2018
Consolidated
Appropriations
Act

\$635 million
in funding

2021
Consolidated
Appropriations
Act

ReConnect Program
Pilot program that
provides loans and
grants to extend
broadband service to
rural areas.

Assist rural areas that do not have sufficient access (10/1) to broadband.
Minimum requirements:
25Mbps down/3Mbps up

FOA 1 & 2

Outcomes from the ReConnect Funding
Opportunity Announcements



FOA 1 Summary

Applications

- **100% Loan:** 15 applications; \$258 million
- **100% Grant:** 78 applications; \$522 million
- **50/50 Loan/Grant:** 53 applications; \$637 million
 - \$342 million for Grants
 - \$295 million for Loans
- **Total:** 146 applications; \$1.4 billion
 - 41 states

Awards

- **100% Loan:** 5 awarded projects; \$58,067,668
- **100% Grant:** 41 awarded projects; \$241,733,251
- **50/50 Loan/Grant:** 31 awarded projects; \$363,397,819
- **Total:** 77 awarded projects; \$663,198,738
 - 33 states

FOA 2 Summary

Applications

- **100% Loan:** 7 applications; \$63,505,379
- **100% Grant:** 123 applications; \$903,962,310
- **50/50 Loan/Grant:** 42 applications; \$602,897,398
 - \$313,084,610 for Grants
 - \$289,812,788 for Loans
- **Total:** 172 applications; \$1.57 billion
 - 41 states

Awards

- **100% Loan:** 4 awarded projects; \$20,227,155
- **100% Grant:** 63 awarded projects; \$388,461,380
- **50/50 Loan/Grant:** 21 awarded projects; \$266,018,344
- **Total:** 88 awarded projects; \$674,706,879
 - 35 states

ReConnect Program Regulation



Regulation Overview

- Codifies policies and procedures for the Rural eConnectivity Program (ReConnect Program)
- Issued as a Final Rule with comment on February 26, 2021
- **RUS is requesting public comment for a 60-day period**
 - Submit public comment by April 27, 2021
 - Docket Number RUS-20-Telecom-0023
 - Regulatory Information Number (RIN) number 0572-AC51
 - <https://www.regulations.gov>
- **Regulation becomes effective April 27, 2021**



Funding Parameters



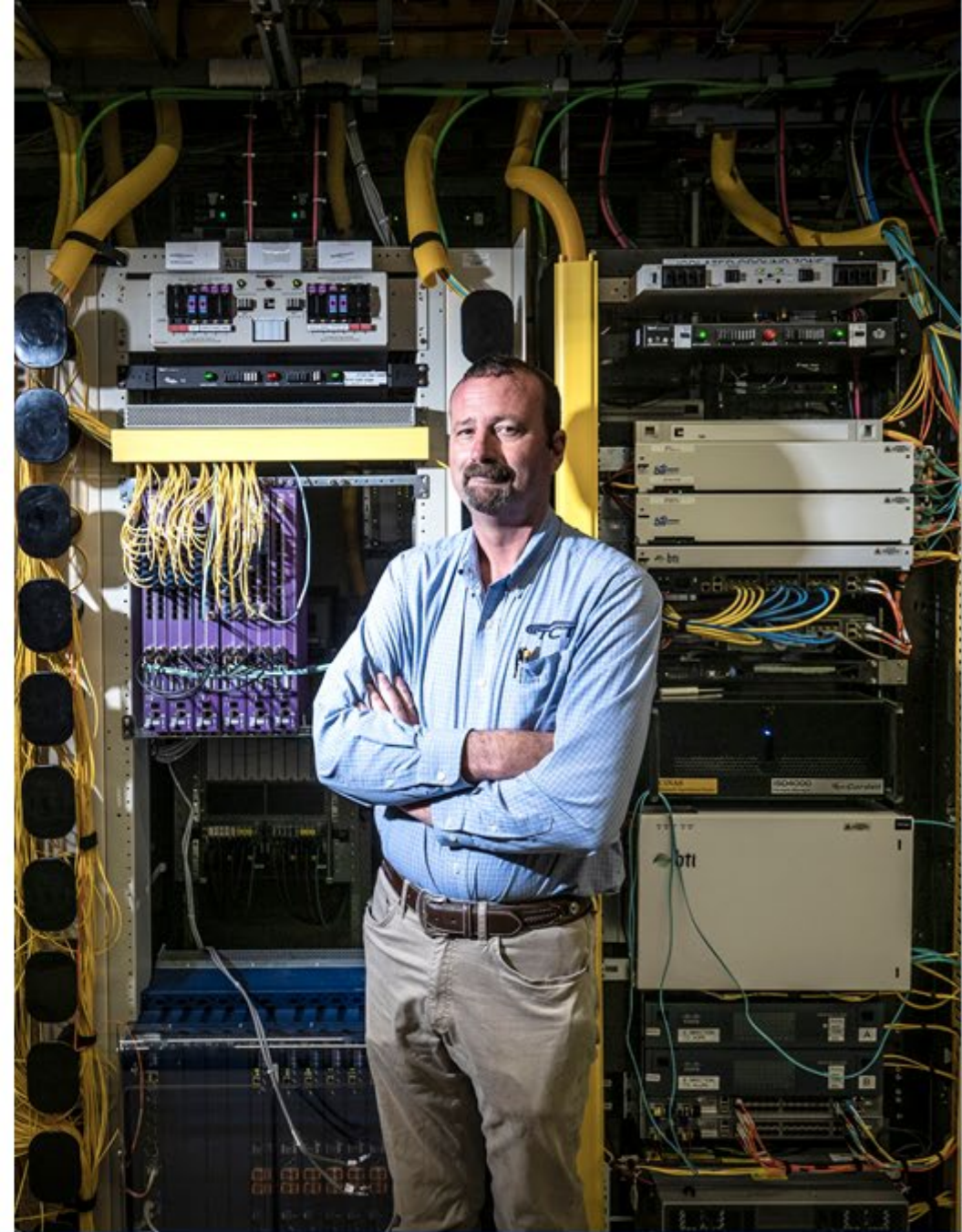
- 90% of the Proposed Funded Service Area (PFSA) must not have sufficient access to broadband service as defined in the FOA
- Applicants must propose a network that can provide broadband service to every premise within the PFSA at the speed defined in the FOA at the same time
- Funding categories (loans, loan/grant, grants) will be established in the FOA

Definitions

- **Fixed wireless service:** a wireless system between two fixed locations (e.g., fixed transmitting tower to fixed customer premise equipment)
- **Broadband service:** any fixed terrestrial technology, including fixed wireless, having the capacity to transmit data, voice, and video
- **Non-funded service area (NFSA):** any area in which the applicant is offering service but not requesting funding
- **Proposed funded service area (PFSA):** the area where the applicant is requesting funds to provide broadband service
- **Sufficient access to broadband:** a rural area in which households have broadband service at the minimum acceptable level of broadband, as set forth in the FOA

Eligibility Requirements: Eligible & Ineligible Entities

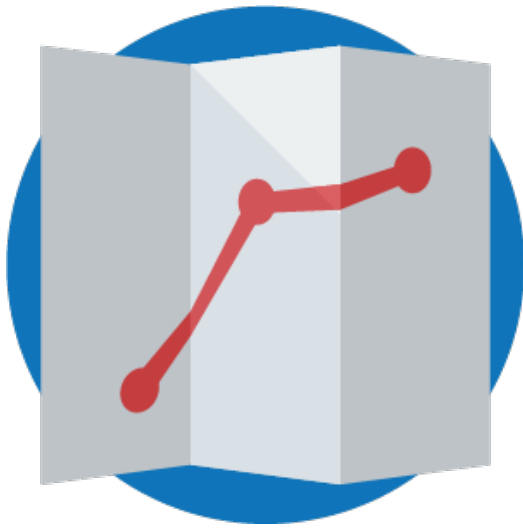
- **Eligible:**
 - ✓ Corporation
 - ✓ Limited Liability Company (LLC) and Limited Liability Partnership (LLP)
 - ✓ Cooperative or mutual organization
 - ✓ States or local governments, including any agency, subdivision, instrumentality, or political subdivision thereof
 - ✓ Territory or possession of the United States
 - ✓ Indian tribe, as defined in section 4 of the Indian Self-Determination and Education Assistance Act
- **Ineligible:**
 - ✗ Individuals
 - ✗ Legal partnerships formed with individuals
 - ✗ Co-applicants



High-Level Eligibility Requirements: Eligible Projects

- **Eligible projects must:**
 - Submit a complete application, including **unqualified, comparative, audited financial statements** for the previous year from the date the application is submitted
 - **Timely Buildout Completion** within **five years** from the date funds are first made available
 - Demonstrate **Technical Feasibility**
 - All project costs can be **fully funded** or accounted for
 - **Financially Feasible and Sustainable**
 - Facilities with grant funds must **provide broadband service for the composite economic life of the facilities**
 - Facilities with loan funds must **provide broadband service through the amortization period of the loan**

High-Level Eligibility Requirements: Eligible & Ineligible Service Areas



- **Eligible Service Areas:**
 - Provide broadband service directly to all premises in the PFSA
 - If any part of the PFSA is ineligible, RUS may request modification(s) or reject the application
- **Ineligible Service Areas:**
 - Overlapping proposed project service areas
 - Prior-funded service areas
 - RUS Broadband Loans including ReConnect Awards
 - RUS Community Connect Grants
 - RUS Broadband Initiatives Program (BIP) Grants

High-Level Eligibility Requirements: Eligible & Ineligible Service Areas (cont.)

- **Additional Considerations**

- Work with the Governor's office and tribal governments to submit information detailing where state funding has been provided
- Service areas that received federal grants or funds from the FCC to provide broadband service may be restricted from funding
- Additional service area restrictions may be identified in the FOA



Eligible Cost Purposes

- **Eligible costs must be:**
 - Incurred post award (except approved pre-application expenses)
 - Consistent with 2 CFR 200, Subpart E, Cost Principles
 - Reasonable, allocable, and necessary to the project
- **Award funds may be used to fund:**
 - Construction or improvement of facilities required to provide fixed terrestrial broadband service, and any other facilities required for providing other services over the same facilities
 - Reasonable pre-application expenses (not to exceed 5% of award)
 - 100% loans only: Acquisition of an existing system that does not currently provide sufficient access to broadband for upgrading that system to meet the requirements of this regulation (not to exceed 40% of award)

Ineligible Cost Purposes

- **Award funds may not be used to fund:**
 - Operating expenses
 - Costs incurred prior to application submission date
 - Acquisition of an affiliate
 - Purchase or acquisition of an affiliate's facilities or equipment
 - Acquisition of a system previously funded by RUS
 - Purchase or lease of a vehicle other than those used primarily in construction or system improvements
 - Broadband facilities leased under the terms of an operating lease or an IRU agreement
 - Merger or consolidation of entities
 - Costs in acquiring spectrum from an FCC auction or secondary market acquisition
 - Facilities that provide mobile services
 - Facilities that provide satellite service including satellite backbone services
 - Acquisition of a system providing sufficient access to broadband
 - Refinance outstanding debt

Award Considerations: SUTA

- **Substantially Underserved Trust Areas (SUTA)**
 - Applicants may request consideration under the SUTA provisions
 - The Administrator can designate a community as a SUTA if it has a high need for the benefits of the program
 - To receive consideration under SUTA, the applicant must submit a completed application that includes all information requested in 7 CFR part 1700, subpart D
 - Equity requirement for facilities cannot be waived
 - Nonduplication requirements cannot be waived



Award Considerations: Public Notice

- **Pre-Award Public Notice:**

- Posted to the mapping tool with the applicant identity, service areas, type of funding requested, application status, and number of households without sufficient access to broadband

- **Post-Award Public Notice:**

- Details about approved projects made available to the public

Public Notice Response (PNR)

- PFSAs of submitted applications are posted through the RUS mapping tool
- Existing service providers have 45 days to respond by submitting:
 - Number of customers purchasing sufficient broadband access, transmission rates, and service costs
 - Number of customers receiving voice and video services and the rates
 - Map showing where the existing service providers' services coincide with the applicant's service area
 - Test results demonstrating that sufficient broadband access is being provided
- RUS may contact the PNR respondents to validate their submission by:
 - Providing additional information
 - Having a technician on site during field validation by RUS staff
 - Run on-site tests with RUS staff present
 - Providing copies of test results and validating the information submitted in the PNR
- **RUS will notify respondents if their challenge was successful or not and allow for response**

Environmental Reviews

- **All Applicants must:**
 - Follow requirements outlined in 7 CFR part 1970
 - Complete an Environmental Questionnaire
 - Provide a description of program activities
 - Submit all required environmental documentation
 - Obtain all required federal, tribal, state, and local governmental permits and approvals
- **Applications must contain sufficient information to allow for NEPA analysis**
 - Funds may be withheld until the Awardee submits additional environmental compliance information to assess environmental impact

Civil Rights Procedures & Requirements

- **Equal Opportunity and Nondiscrimination**
 - Equal Credit Opportunity Act and 7 CFR part 15
- **Civil Rights Compliance**
 - Americans with Disabilities Act of 1990
 - Title VI of the Civil Rights Act of 1964
 - Section 504 of the Rehabilitation Act of 1973
- **Discrimination Complaints**
 - Discrimination complaints may be filed with the USDA, Director, Office of Adjudication
 - Must be filed no later than 180 days from the date of the alleged discrimination



Interest Rates and Terms & Conditions

- **Interest Rates**

- Interest rates will be included in the FOA
- Direct cost-of-money loans shall have an interest rate equal to the cost of borrowing to the Department of Treasury
- 100% loans may be offered at a reduced interest rate

- **Terms and Conditions**

- Loans must be repaid with interest within a period equal to the expected Composite Economic Life of the project assets, as determined by RUS, plus three years
- Interest begins accruing on the date of each loan advance
- All proposed construction and advance of funds must be completed no later than five years from the time funds are made available
- No funds will be disbursed until all other sources of funding have been obtained and any other pre-award conditions have been met

Security

- **Loans and Loan/Grant Combinations Security**

- Corporations and limited liability entities: the loan and loan/grant combinations must be secured by all assets
- Tribal entities and municipalities: RUS will develop appropriate security arrangements
- All property and facilities purchased with award funds must be owned by the Awardee

- **Grant Security**

- Government must be given an exclusive first lien on all grant funded assets
- Awardees must repay the grant if the project is sold or transferred without approval

Security (cont.)

- **Substitution of Collateral and Irrevocable Letter of Credit**

- Loans and loan/grant combinations: Applicants are required to pledge all assets and revenues as collateral; applicants may propose other forms of collateral if the amount is equal to the full amount of the loan
- Grants: Applicants may request that standard grant security arrangements be replaced with an Irrevocable Letter of Credit (ILOC)
 - Must be for the full amount of award
 - Must remain in place until project is completed
 - Financial projections not required
 - No financial ratio requirements
 - NFSA maps not required

Advance of Funds and Buy American

- **Advance of Funds**

- Advances are made at the request of the Awardee according to the procedures in the Award Documents
- All non-RUS funds, including matching funds and cash provided in lieu of RUS loan funds, must be expended first, followed by loan funds and then grant funds (except RUS approved pre-application expenses)
- Grant funds may be used for eligible pre-application expenses only on the first advance request

- **Buy American Requirement**

- Awardees must adhere to the Buy American regulations
- Requests for waiver must be submitted (pursuant to 7 CFR 1787)

Application Submission & Evaluation

- Applications must be submitted through the online application system
- Applicants can only submit one application under any funding window
- **All applicants are required to:**
 - Register for a Dun and Bradstreet Universal Numbering System (DUNS) Number or other Government non-proprietary identifier
 - Register in System for Award Management (SAM)
 - Submit Commercial and Government Entity (CAGE) Code (obtainable through SAM)

Contents of Application

- **A complete application will include the following:**
 - Description of the project, including network design, a map of the PFSA(s), and any NFSAs
 - Estimated dollar amount of the funding request with itemized budgets of the proposed project costs
 - Executive summary of the project and applicant
 - Description of the PFSA including premises passed
 - Subscriber projections
 - A map of the PFSAs and NFSAs in the Agency mapping tool
 - Description of advertised competitor service offerings in the same area
 - A network design
 - Resumes of Key Management
 - A legal opinion

Contents of Application (cont.)

- Cost estimates for the proposed project
- Description of working capital
- Audited financial statements
- Historical and projected financial information, including an audit and sources of funds
- Scoring sheet, analyzing any scoring criteria set forth in current FOA
- List of outstanding and contingent obligations
- All required environmental information
- Certification from tribal official in support of the project (as needed)
- Any additional requirements as outlined in the Federal Register

Financial & Technical Feasibility

- **Financial Feasibility**

- Generate sufficient revenues to cover expenses
- Have sufficient cash flow to service all debts and obligations
- Have a positive ending cash balance for each year of the forecast period
- By the end of the forecast period, meet at least two of the following:
 - Minimum TIER requirement of 1.2
 - Minimum DSCR requirement of 1.2
 - Minimum current ratio of 1.2
- Demonstrate positive cash flow from operations at end of forecast period
- Evaluation criteria for grant funds will be included in the FOA

- **Technical Feasibility**

- Determined by evaluating network design and other relevant information

Financial Information

- **The following financial information is required for all applications:**
 - Unqualified, comparative, audited financial statements for the previous year from the submission date the application is submitted
 - Can use the consolidated audit of a parent if the parent fully guarantees the award
 - Detailed information for all outstanding and contingent obligations
 - Evidence of all other funding necessary to support the project
 - Historical financial statements for the last four years
 - Pro forma financial analysis prepared in conformity with GAAP and RUS guidance
- **Note:** Publicly traded companies that have an investment grade bond rating from Moody's, Standard and Poor's, or Fitch at the time of application submission do not need to complete the pro forma financial projects or submit NFSAs

Network Design

- **Network Design must include:**
 - Description of the proposed technology
 - Network diagram
 - Buildout timeline and milestones
 - Capital investment schedule
- **Network Design must be certified by a Professional Engineer (PE)**
 - PE must be certified in at least one of the states where there is project construction
 - Certification must clearly state that the proposed network can deliver the broadband service to all premises in the PFSA at the minimum required service level
- **Additional Considerations**
 - Must list all required licenses and regulatory approvals needed for the proposed project and how much the applicant will rely on contractors or vendors to deploy the network facilities

Closing, Servicing, & Reporting: Offer, Closing, and Construction

- **Offer and Closing**

- Successful applicants will receive an offer letter and award documents from RUS following award notification

- **Construction**

- All project assets must comply with 7 CFR part 1788, 7 CFR part 1970, Program Construction Procedures, any successor regulations, and any other guidance from RUS
- Build-out must be completed within five years from when funds are made available
- Build-out is considered complete when:
 - Network design is fully implemented
 - Service operations and management systems infrastructure is operational
 - Awardee is ready to support the activation and commissioning of individual customers to the new system

Closing, Servicing, & Reporting: Servicing

- **Servicing of Grants, Loans, and Loan/Grant Combinations**

- Awardees must make payments on the loan as required in the note and Award Documents
- Awardees must comply with all terms, conditions, affirmative covenants, and negative covenants contained in the Award Documents
- The sale or lease of any portion of the Awardee's facilities must be approved by RUS

Closing, Servicing, & Reporting: Reporting Requirements

- **Accounting, Monitoring, and Reporting Requirements**
 - System of accounts for maintaining financial records
 - Annual comparable audited financial statements, report on compliance and internal control over financial reporting, and management letter
 - Balance sheets, income statements, statements of cash flow, rate package summaries, and the number of customers (submitted 30 days after end of each quarter)
 - Annually updated service area maps
 - Compliance with RUS monitoring requests
 - Retain records in accordance with 7 CFR part 1770, subpart A
 - Annual reports for 3 years after completion of the project

Closing, Servicing, & Reporting: Default and De-Obligation

- RUS reserves the right to de-obligate awards that demonstrate:
 - Insufficient level of performance
 - Wasteful or fraudulent spending
 - Noncompliance with environmental and historic preservation requirements
- RUS may complete a Management Analysis Profile (MAP) of the entire operation
 - RUS reserves the right not to advance funds until the MAP is completed and any issues are addressed
 - Funds may be rescinded if following a MAP, RUS determines the Awardee is unable to meet the award requirements

Available Resources

- **Submit Comments**
 - Docket Number RUS-20-Telecom-0023
 - Regulatory Information Number (RIN) number 0572-AC51
 - <https://www.regulations.gov>
- **ReConnect Website**
 - <https://reconnect.usda.gov>
- **For general inquiries, contact:**
 - Laurel Leverrier
Assistant Administrator, Telecommunications Program
Rural Utilities Service
U.S. Department of Agriculture
laurel.leverrier@usda.gov
(202) 720-9556







United States
Department of
Agriculture

Rural Development