



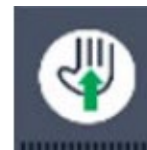
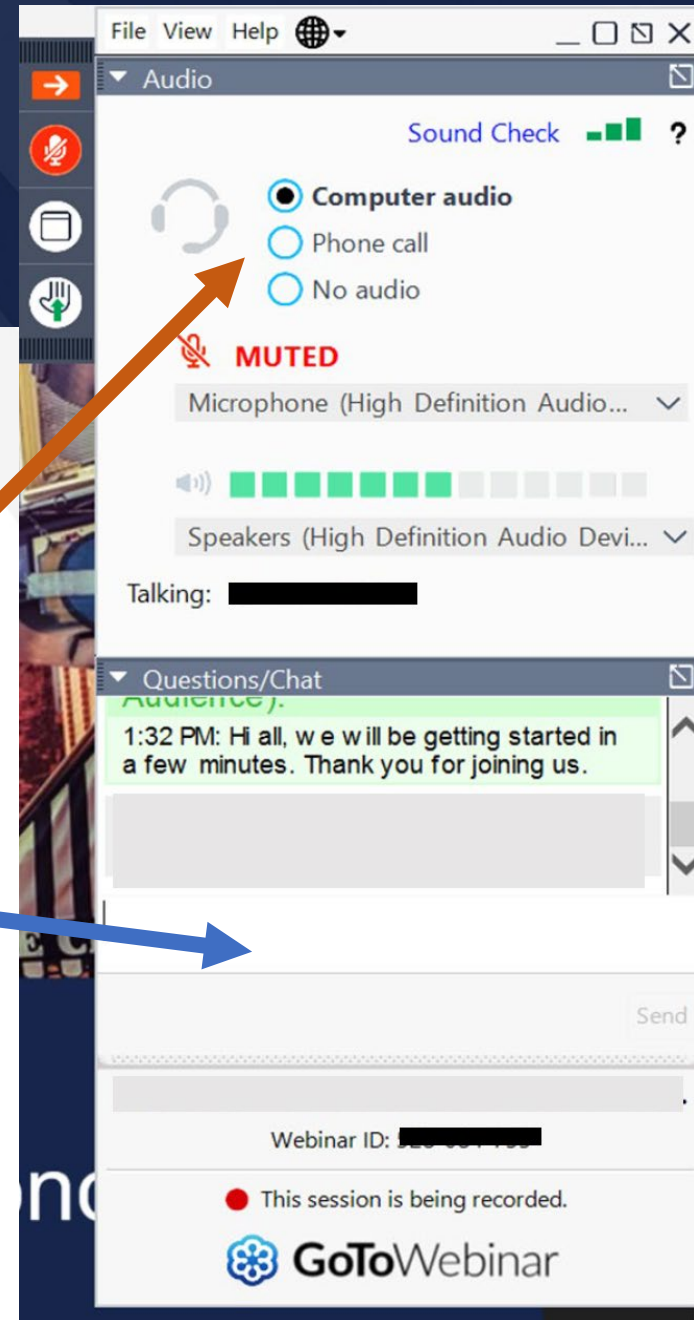
ReConnect Program Regulation

USDA RUS ReConnect Program

Chat Box and Q&A

Attendees:

- You are joined with computer Audio by default
- **You can change to Phone if needed: Check this button**
- **You can submit comments via the Questions/Chat section**



Agenda

- ReConnect Program Introduction
- ReConnect Program Regulation Overview
- ReConnect Program Regulation Requirements
- Available Resources
- Q&A



ReConnect Program Introduction



ReConnect Program

Provides loans, grants, and loan-grant combinations to extend high-speed broadband service to rural areas lacking sufficient access.

Established as a pilot program in 2018



Codified in 7 CFR 1740 in 2021



Announced by Funding Opportunity Announcement (FOA) in the Federal Register

Funding Opportunity Announcement (FOA) 1 & 2 Summary

Applications

- **100% Loan:** 22 applications; \$321 million
- **100% Grant:** 201 applications; \$1.42 billion
- **50/50 Loan/Grant:** 95 applications; \$1.24 billion
 - \$655 million for Grants
 - \$584 million for Loans
- **Total:** 318 applications; \$2.97 billion
 - Round 1: 41 states
 - Round 2: 41 states

Awards

- **100% Loan:** 7 awarded projects; \$69,518,071
- **100% Grant:** 120 awarded projects; \$788,127,916
- **50/50 Loan/Grant:** 54 awarded projects; \$656,354,968
- **Total:** 181 awarded projects; \$1.51 billion
 - Round 1: 33 states
 - Round 2: 37 states

ReConnect Program Regulation Overview



Regulation Overview

- Codifies policies and procedures for the Rural eConnectivity Program (ReConnect)
- Issued as a Final Rule on February 26, 2021
- You can find the ReConnect Regulation here:
<https://www.govinfo.gov/content/pkg/FR-2021-02-26/pdf/2021-03443.pdf>



Funding Parameters



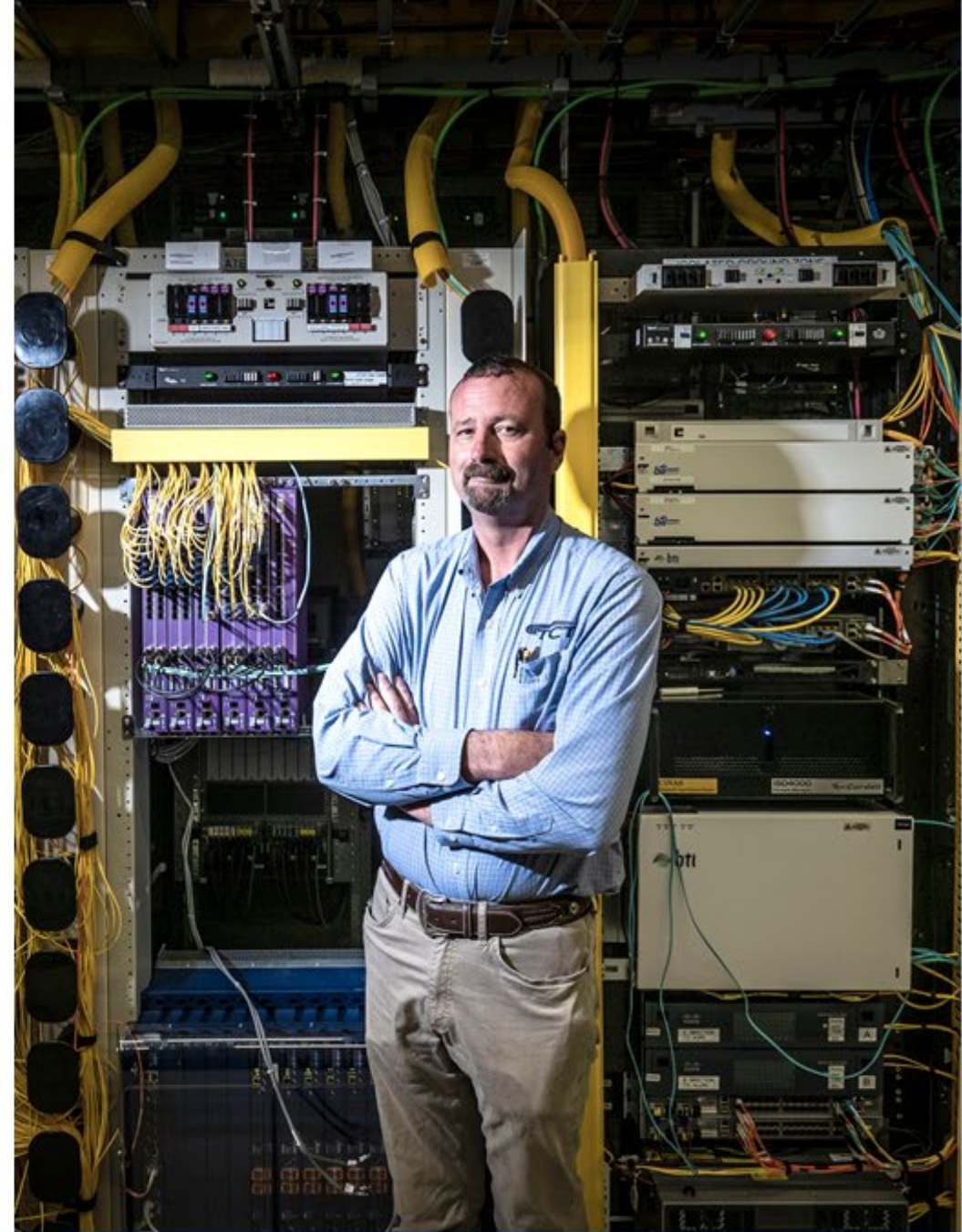
- 90% of households in Proposed Funded Service Area (PFSA) must lack sufficient access to broadband service as defined in current FOA
- Proposed network that can provide broadband service to every premises within the PFSA at the speed defined in current FOA at the same time
- Funding categories (loans, loan/grant, grants) established in current 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 as set forth in the current FOA
- **Non-funded service area (NFSA):** any area in which the applicant offers or intends to offer 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 current 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



ReConnect Program Eligible Projects

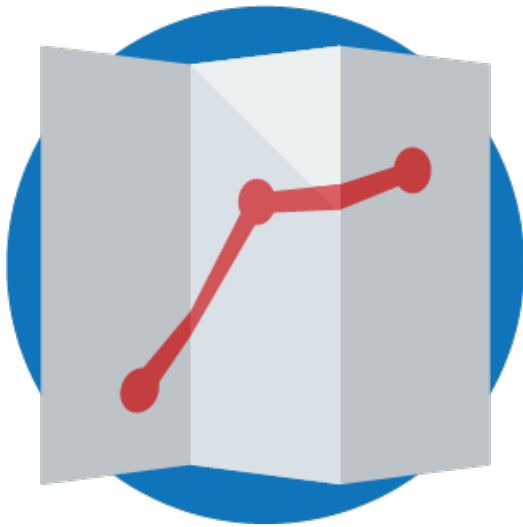


High-Level Eligibility Requirements: Eligible Projects

- **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 access directly to all premises in PFSA
- If any part of PFSA is ineligible, RUS may request modification(s) or reject the application
- Service areas of existing RUS borrowers without sufficient access to broadband, as defined in the current FOA, are eligible for ReConnect funding

- **Ineligible Service Areas:**

- Overlapping proposed project service areas
- Prior-funded service areas providing sufficient access to broadband as defined in the current FOA
 - 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 Governors' offices and Tribal governments to submit information detailing where state funding has been provided
- A certification from the appropriate tribal official is required if service is being proposed over or on tribal lands. Any application that does not provide a certification to provide service on the tribal lands identified in the PFSA will not be considered for funding.
- Service areas that received federal broadband service grants or funds from the FCC may be restricted from funding. Please review the FOA for more details.
- Additional service area restrictions may be identified in the current FOA



ReConnect Program Eligible/Ineligible Costs



Eligible Cost Purposes

- **Eligible costs must be:**

- Reasonable, allocable, and necessary to the project
- Incurred post award (except approved pre-application expenses)
- Consistent with 2 CFR 200, Subpart E, Cost Principles

- **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 with the exception of reasonable pre-application expenses, as determined by RUS
- 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

Ineligible Cost Purposes (continued)

- **Award funds may not be used to fund:**
 - 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
 - Refinancing of outstanding debt

ReConnect Program Award Considerations



Substantially Underserved Trust Areas (SUTA)

- Applicants may request consideration under SUTA provisions
- Administrator can designate a community as a SUTA if it has high need for the program's benefits
- To receive consideration under SUTA, the applicant must submit a completed application including all information requested in 7 CFR 1700, subpart D
- Equity and matching fund requirements for facilities cannot be waived
- Nonduplication requirements cannot be waived



ReConnect Program Public Notice Requirements



Public Notice

- **Pre-Award Public Notice:**

- RUS will post the following information to the mapping tool for each submitted application:
 - applicant identity
 - service areas
 - type of funding requested
 - application status
 - number of households without sufficient access to broadband

- **Post-Award Public Notice:**

- For approved projects the information in the pre-award public notice as well as each required annual report (7 CFR 1740.80 (g)) will be made available to the public.

Public Notice Filings (PNFs)

- USDA will publish a PNF for each application, which will include the following information:
 - Applicant name
 - The areas to be served, including identification of the associated census blocks
 - Amount and type of funding requested
 - Status of the application
 - Number of households without sufficient access to broadband
 - Description of the proposed broadband project
 - Map of each proposed funded service area
 - The estimated number and proportion of service points in the proposed service territory without fixed broadband service, whether terrestrial or wireless, and
 - Any other information required of the applicant in a funding notice

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

Public Notice Response (continued)

- RUS will 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**
- Conclusive evidence as to the existence of sufficient access to broadband will be taken only through the public notice process.

ReConnect Program Environmental Reviews



Environmental Reviews

- **All Applicants must:**
 - Follow requirements outlined in 7 CFR part 1970
 - Complete site, route, and project Environmental Questionnaires
 - 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

Section 106 Process

- If proposed projects have the potential to impact historic properties, a Section 106 review will take place.
- USDA will gather information to determine if any properties in the project area may be affected by the project are listed, or are eligible for listing, in the National Register of Historic Places
- If it is determined there may be potential adverse effects on historic properties, the USDA will explore ways to avoid, minimize, or mitigate adverse effects to the historical properties. One of these measures may include monitoring of construction.
- Monitoring may require that tribal or other monitors be present during the project construction

Monitoring Expenses

- If monitoring costs are considered part of the construction costs and are capitalized, the costs of the monitors are considered professional costs and are eligible to be funded with a ReConnect award.
- Up to 3 percent of the award can be requested to cover tribal monitoring costs. Costs above this amount must be covered by the awardee and are not eligible for reimbursement.
- The 3 percent for monitoring expenses is in addition to environmental review costs included in Pre-Award expenses.
- Awardees will be required to submit a copy of the agreement with the Tribal/State Historic Preservation Officer (THPO/SHPO) and the associated invoices when requesting funds

ReConnect Program Other Considerations



Interest Rates

- **Interest Rates**

- Interest rates will be included in the current FOA
- Direct cost-of-money loans: interest rate equal to cost of borrowing to the Department of Treasury
- 100% loans may provide a reduced interest rate

Terms & Conditions

- **Terms and Conditions**

- Principal and interest payments: three-year deferral
- Loan repayment period: expected Composite Economic Life of the project assets plus three years
- Interest begins accruing on date of each loan advance
- All construction and advance of funds must be complete 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 (continued)

- **Substitution of Collateral**

- 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

- **Irrevocable Letter of Credit**

- 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, financial ratios, and NFSAs 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 (7 CFR 1740.46)
 - This section also provides a link to 7 CFR part 1787, which contains the Buy American requirements implemented by RUS.

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



7 Guiding Principles: Federal Infrastructure Funding On Tribal Lands And In Indigenous Communities

These principles are designed to aid federal agencies in designing and improving programs that fund infrastructure projects involving Tribal Nations, Tribal Lands, and indigenous peoples.

1. **Allow Tribal Self-certification Of “Served.”**

- Tribal Governments are the official authority on whether tribal lands are served, unserved, or underserved by providers of a specific infrastructure sector. Federal agencies should consult with Tribal Governments to determine whether tribal land is adequately served. **The USDA is currently taking actions to implement this principle.**

2. **Require Tribal Resolutions Of Support.**

- Require any applicant seeking funds to build infrastructure on Tribal Lands to have a Resolution of Support from the appropriate Tribal Government in order to be eligible to receive those funds.

3. **Require Compliance With Tribal Law.**

- Include language requiring compliance with tribal laws and regulations in loan and grant agreements with all borrowers, including non-Tribal. Enforce the terms of loan and grant agreements that fail to comply with tribal laws and regulatory bodies.

7 Guiding Principles: Federal Infrastructure Funding On Tribal Lands And In Indigenous Communities (continued)

4. **Do Not Limit Tribal Self-government.**

- Infrastructure program requirements cannot require sovereign Tribal Nations to abrogate their self-government powers, such as the power to regulate and govern.

5. **Allow Flexibility.**

- Read ambiguous statutory requirements as flexibly as possible and in favor of Tribal Nations

6. **Narrow “Duplication” Definitions.**

- Read statutory limitations on “duplication” of funding and services as narrowly and as flexibly as possible when working with Tribal Nations to ensure their eligibility to apply for funding and provide infrastructure services in their own lands.

7. **Directly Fund Tribal Governments.**

- Where statutory language allows flexibility, do not require Tribal Nations to apply for funding through state governments. Allocate funds directly to Tribal Governments or create a federally administered fund for Tribal Nations.

ReConnect Program Application Contents



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)
 - Entities creating new registrations in SAM and existing entities completing their annual registration renewals, will be required to review and complete financial assistance representations and certifications before their registration can be activated.
 - 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

Contents of Application (continued)

- Description of advertised competitor service offerings in the same area
- A network design
- Resumes of Key Management
- A legal opinion
- Cost estimates for the proposed project
- Description of working capital
- Audited financial statements

Contents of Application (cont.)

- 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

Contents of Application - Exceptions

- **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 submit NFSAs
- **Grant-only applicants** offering an Irrevocable Letter of Credit (ILOC) as security do not need to submit NFSAs

Financial 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

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

Technical Feasibility

- Determined by evaluating network design and other relevant information
- Pursuant to the FOA, facilities proposed to be constructed with award funds must be capable of delivering the buildout speed defined in the current FOA.

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

- **Construction**

- All projects 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

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

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)
 - The Reporting & Compliance (R&C) system will generate the necessary reports at the end of each quarter.
 - Awardees will also complete and submit these reports in R&C.

Accounting, Monitoring, and Reporting Requirements (continued)

- 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

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 for Application Help

- **Technical Assistance**

- Register for upcoming workshops/webinars <https://www.usda.gov/reconnect/events>
- Subscribe to receive updates about upcoming events on the ReConnect website

- **Resources**

- ReConnect website <https://www.usda.gov/reconnect>
- FOA: <https://www.federalregister.gov/documents/2021/10/25/2021-23128/rural-econnectivity-program>
- Regulation: <https://www.govinfo.gov/content/pkg/FR-2021-02-26/pdf/2021-03443.pdf>
- Fact Sheets & FAQs

- **Contact Us**

- <https://www.usda.gov/reconnect/contact-us>





United States
Department of
Agriculture

Rural Development