



ReConnect Post-Award Workshop

Orlando, FL— April 24, 2024



United States
Department of
Agriculture

Rural Development

Please Scan the Code Below to Sign-In

Welcome to the ReConnect Post-
Award Workshop! Wednesday,
April 24, 2024



ReConnect Post-Award Workshop – Day 2

9:00-5:00 p.m.	Office Hours – Register in Beaufort Room
8:30-8:45 a.m.	Housekeeping/Opening Remarks
8:45-9:45 a.m.	Build American, Buy America (BABA) Act & Buy American
9:45-10:00 a.m.	Break
10:00-11:00 a.m.	Section 106 & Environmental Clearance Process
11:00-12:00 p.m.	Project Changes
12:00-1:30 p.m.	Lunch
1:30-2:30 p.m.	General Compliance Requirements
2:30-3:30 p.m.	Accounting Compliance
3:30-3:45 p.m.	Break
3:45-4:45 p.m.	Sale of Assets, Lien Releases, and Additional Indebtedness
4:45- 5:00 p.m.	Open Q&A
5:00- 5:05 p.m.	Day 2 Closing Remarks



Christopher Adamchak

Post-Loan Servicing - Financial Operations
Branch Chief

Portfolio Management & Risk Assessment
Division



RUS Buy American Requirements 7 CFR 1787 or IIJA Build America Buy America Act USDA RUS ReConnect Program



Aylene Mafnas

Engineering Branch Chief

RUS Buy American Requirements

7 CFR 1787



RUS “Buy American”: Origin of the Preference

- Rural Electrification Act of 1936:
- “...to the extent practicable and the cost of which is not unreasonable, that RUS awardees use loan funds only for such manufactured articles, materials, and supplies as have been manufactured in the United States or in any eligible country, substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States or any eligible country.”
- Codification in 7 CFR 1787 (2018)

7 CFR 1787 Domestic Preference Requirements:

- Funding allowed only for unmanufactured articles, materials, and supplies mined or produced in the US or an eligible country, and
- Funding allowed only for “domestic” sourced manufactured products: those assembled in the US or an eligible country with 50% or more of value of the component parts manufactured in an eligible country.
- Eligible countries are determined by the US Trade Representative.

7 CFR 1787 RUS Buy American Requirements — Eligible Countries

What is an “Eligible Country”? (7 CFR 1787.5)

- Those countries that have specific trade agreements with the U.S. and are designated by the U.S. Trade Representative.
- For a full list of Eligible Countries, go to:
http://www.rd.usda.gov/files/UEP_Engineering_EligibleCountries.pdf

7 CFR 1787 RUS Buy American Requirements - Eligible Countries

- The Office of the United States Trade Representative list of “eligible countries” for the Telecommunications Program of the Rural Utilities Service. The list reflects the March 17, 2014, Federal Register Notice published by the Trade Representative.

Canada	Iceland	Mexico
Chinese Taipei	Israel	Norway
European Union	Japan	Singapore
Hong Kong	Liechtenstein	

7 CFR 1787 Buy American Waivers

Showing required for compliance:

- Cost differential (§ 1787.11)
- Non-availability or shortages, or (§ 1787.12)
- Public Interest or Practicality (§ 1787.13)

Awardee is required to demonstrate compliance!

COST DIFFERENTIAL § 1787.11

If the “...cost of the domestic product is unreasonable.”:

- The non-domestic product must provide 6% or more price reduction below the lowest domestic price found.
- The awardee must show diligence seeking domestic manufacturers of functionally equivalent equipment: typically, multiple competitive price quotations showing the cost differentials.

NON-AVAILABILITY OR SHORTAGES § 1787.12

If domestic products are not available:

- An awardee must present documentation of delivery or lead-times from the non-domestic supplier and multiple domestic suppliers.

PUBLIC INTEREST OR IMPRACTICALITY § 1787.13

If it is not in the public interest or is impractical for the RUS Awardee to purchase a domestic product:

- Awardee must show how incorporating the domestic product is incompatible with existing, significant capital infrastructure or critical software already in use. Hardship or negative impacts on a project must be clearly shown.
- Awardee must provide "...written, detailed explanation" supporting their request (§1787.10).

RUS Technical Standards, too.....

- For those products for which RUS retains technical standards—fiber optic cable especially—a statement from the project Professional Engineer certifying compliance with the accepted standard for the chosen product must be submitted.
- Standards for backbone, feeder, and distribution plant systems: RUS Bulletin 1753F-601a (previously PE-90a)
- Standards for service entry fiber: RUS Bulletin 1753F-601b (previously PE-90b)
- Other equipment standards found at 7 CFR 1755.

Important Details:

- Awardees may only use loan funds to purchase a nondomestic product if a waiver pursuant to § 1787.10 has been granted by RUS.
- A waiver must be granted PRIOR to signing a contract with a supplier (§1787.8).
- Manufacturers must certify compliance with the McCain Defense Authorization Act, the NDAA, for all purchases.

RUS Buy American Requirements

IIJA Build America Buy America Act



What is the Build America, Buy America Act (BABAA)?

➤ Enacted as part of the
**Infrastructure
Investment and Jobs
Act** signed by
President Biden
November 2021.

- ✓ Strengthen “Made in America” laws
- ✓ Bolster America’s industrial base
- ✓ Protect national security
- ✓ Support high-paying jobs

IIJA Build America Buy America Act

RUS grant, loan, and loan guarantee applications in the telecommunications program will be evaluated to determine whether

1. the applicant is a non-Federal entity,
2. the project is an infrastructure project, and
3. the activity is a defined project activity.

If the application meets all three criteria the project is subject to the Build America Buy America Act.

IIJA Build America Buy America Act Definitions

Non- Federal Entities defined in 2 CFR 200.1:

“State, local government, Indian tribe, Institution of Higher Education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.”

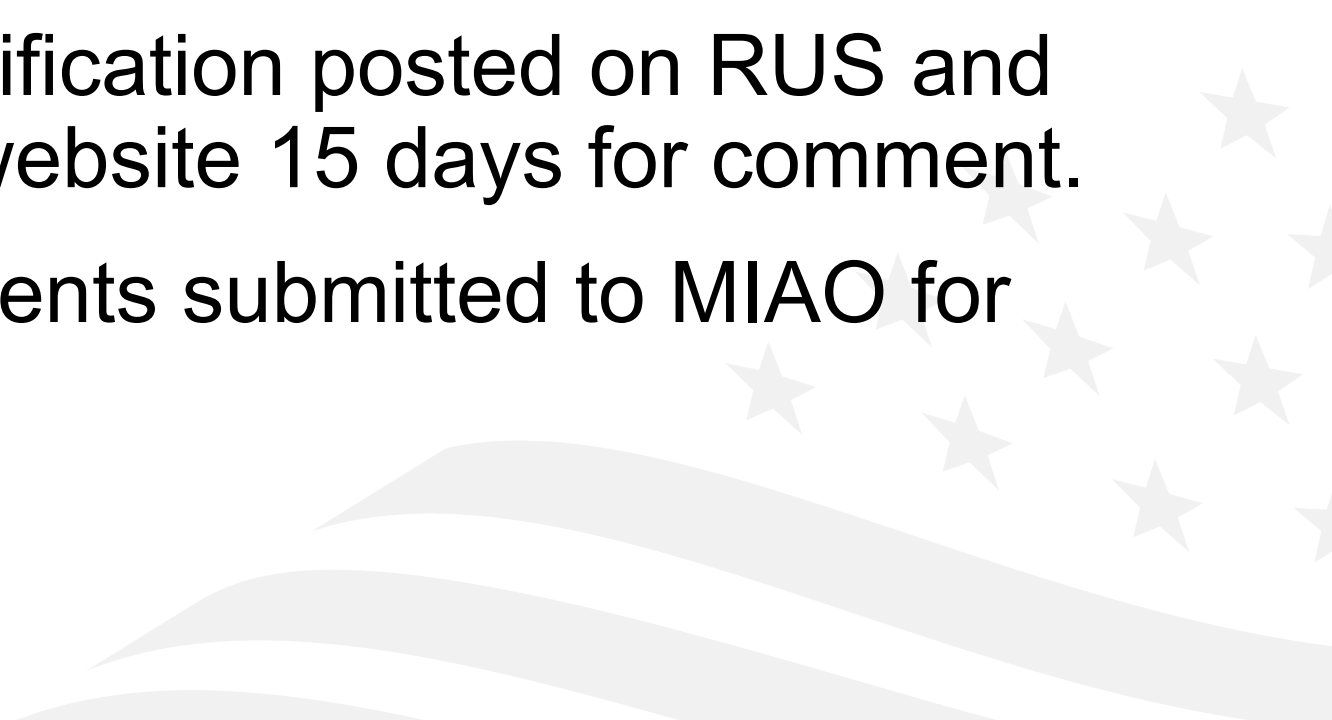
Infrastructure:

For the RUS Telecom Program means broadband infrastructure, buildings, real property, radio towers.

Defined Project Activity:

The construction, alteration, maintenance, or repair of infrastructure in the United States.

Non-Federal Entities: How BABAA changes waiver requests

- Cost differential raised from 6% to 25% for a waiver.
 - Domestic content raised from 50% to 55%. Higher in later years.
 - Eligible requests and justification posted on RUS and Made in America Office website 15 days for comment.
 - Request and reply comments submitted to MIAO for review.
- 

IIJA Build America, Buy America Act

- Reconnect Rounds 4 and 5 *Non-Federal* awardees are subject to Build America Buy America Act.
- All other RUS awardees are subject to existing RUS Buy American requirements codified under 7 CFR Part 1787.

Build America, Buy America Act waivers must be **limited, targeted, and where appropriate, conditional**

Waivers may be requested for:

- (1) *Nonavailability*. Iron, Steel or relevant manufactured goods or construction materials are not produced or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality.
- (2) *Unreasonable cost*. The cost of domestic iron, steel, or relevant manufactured goods will increase the cost of the overall project by more than 25%.
- (3) *Inconsistent with public interest*. Application of these restrictions would be inconsistent with the public interest.

Build America, Buy America Act waivers must be **limited, targeted, and where appropriate, conditional**

Understand the waiver process and inform suppliers:

1. Waiver requests are reviewed by RUS/RD and at USDA Department Level. OMB will review all supported waivers.
2. The waiver request **might be adjusted** by RUS/USDA. Supported requests are posted on USDA public website for **15 days**.
3. Commenters might suggest domestic solutions.
4. Feasible solutions **might enable compliance with BABAA**.
5. If no solutions meet project requirements, the final **Approved Waiver** will be issued and posted for public transparency.

Build America Buy America Act

Contact your Agency representative.

The information required to submit a waiver request is listed on Data Collection Form OF2211 and at [USDA Buy America Waivers for Federal Financial Assistance | USDA.](#)

Much of the information about the materials, manufactured products, and construction materials necessary for a project is contained in the project planning documents.

Detailed written justification and demonstration of a good-faith effort to procure a domestic product are necessary to obtain a waiver of the domestic preference.

Build America Buy America Act

De Minimis, Small Grants & Minor Components Waivers

- 1) *De Minimis* waiver: covering a maximum of 5% of BABA materials cost, up to a maximum of \$1 million.
- 2) *Small Grants* waiver: covers awards below the Federal Simplified Acquisition Threshold, currently \$250,000. Loan materials are covered.
- 3) *Minor Components*: covers minor components contained within domestic iron and steel products, up to 5% cost of the domestic iron or steel product.

<https://www.usda.gov/ocfo/federal-financial-assistance-policy/USDABuyAmericaWaiver>

Differences: 7 CFR 1787 Buy American Requirement and the Build America, Buy America Act

Topic	7 CFR 1787	BABA Act
Cost Differential:	6%	25%
Domestic Content Requirement:	50%	55%
Iron & Steel:	No requirement	Must be considered.
Public Disclosure:	No requirement	Required (15 days)

The decision rests with RUS to reject or grant waivers!

Because information is subject to change, always consult official program regulations or contact your local Rural Development office or Agency representative for help.

This presentation **does not** replace the law as established in the Infrastructure Investment and Jobs Act (P.L. 117-58) , or any current, or future federal regulations.

QUESTIONS & ANSWERS



Please share your feedback!



Please share your feedback on these sessions!



Build America, Buy America
(BABA) Act & Buy American

BREAK

Next Session – Section 106 & Enviro. Clearance Process

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Post Award Environmental Review Process



USDA Rural Development
U.S. DEPARTMENT OF AGRICULTURE



Anthony W. High

Environmental Protection
Specialist

Agenda

- **Environmental Review and Clearance Process.** Presented by Anthony High, Environmental Protection Specialist, Rural Utilities Service (RUS) Telecommunications Policy and Outreach Division Engineering Branch (PODEB)
- **Q&A**

Environmental Review and Clearance Process



What is the Environmental Review Process?

- The environmental review process is a way of evaluating the environmental impacts of federal actions and identifying ways of meeting the need.



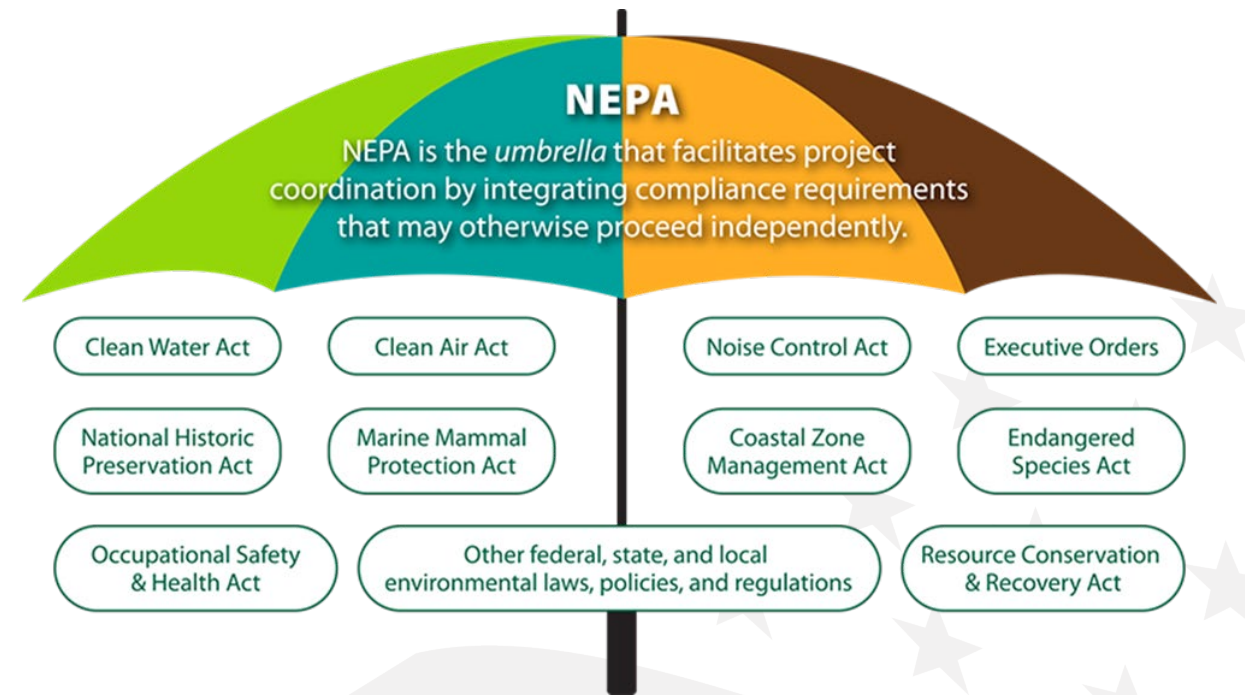
Plowing Method of Installation



Plowing along a roadside

National Environmental Policy Act (NEPA) of 1969

- Establishes national framework for protecting the environmental
 - “Umbrella” Law because it encompasses other environmental laws
- All branches of government must consider the environment prior to undertaking a major federal action
- Specifies that federal agencies must comply with federal regulations



Exclusions under NEPA

- Most ReConnect projects are categorical exclusions under NEPA
- ReConnect projects are subject to 46 laws, authorities and executive orders

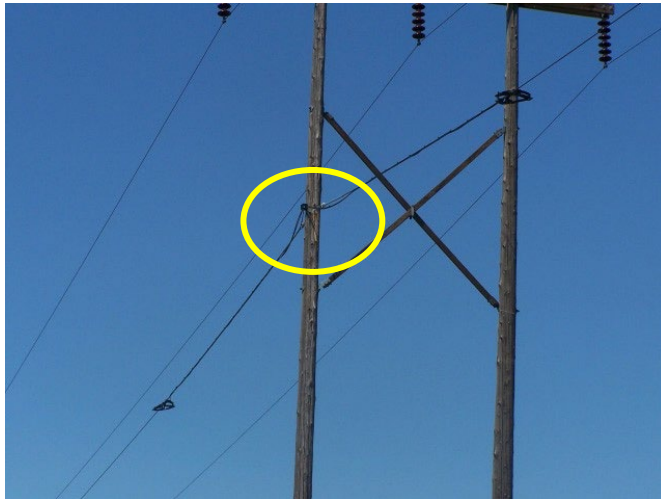
Special Purpose Laws

- **Special purpose laws** are federal laws, regulation, executive orders, or departmental orders that protect environmental resources and other items of concern in addition to NEPA.
- Statutes
 - Endangered Species Act (ESA)
 - National Historic Preservation Act (NHPA)
 - Magnuson-Stevens Act (MSA)
 - Clean Water Act (CWA)
 - Coastal Zone Management Act (CZMA)
 - Wild and Scenic Rivers Act (WSRA)
- [Executive Orders \(EO\)](#)
 - EO 11988 – Floodplain Management
 - EO 11990 – Protection of Wetlands
 - EO 12898 – Environmental Justice

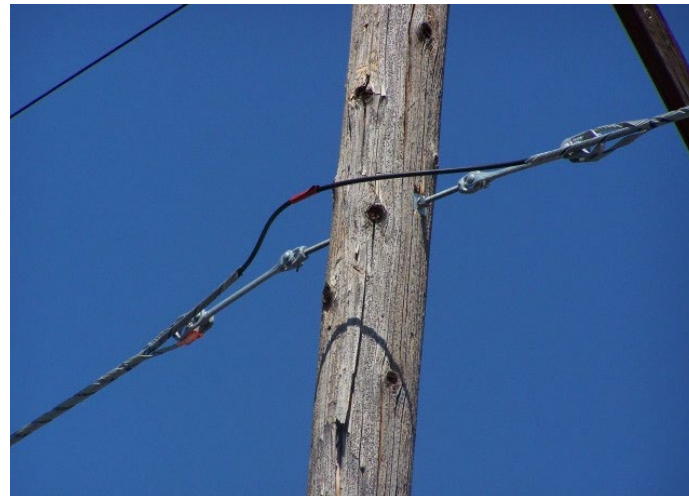
RUS's Environmental Regulations

- **7 CFR Part 1970 – RUS Environmental Policies and Procedures**

<https://www.ecfr.gov/current/title-7/subtitle-B/chapter-XVIII/subchapter-H/part-1970>



Fiber optic cable anchored by a strong cable and attached to an empty area on an existing utility pole



Cable placement on an existing pole along a stabilizing cable.

RUS Telecommunications Responsibilities

- RUS is responsible for :
 - All environmental decisions and findings related to its actions
 - Compliance with all environmental laws, regulations, and EOs
- Outline types of information and analyses to be included in, and independently evaluate, environmental information submittals required of awardees
- Advise awardees to:
 - Consider environmental issues during early project planning
 - **Not** take specific actions, such as initiation of construction prior to completion of environmental review process or risk denial of financial assistance

RUS Telecommunications Responsibilities continued

- Act as either lead or cooperating agency in preparation of environmental review documents
- Include mitigation measures identified in environmental documentation as conditions (covenants) in RUS financial commitment documents
- Monitor and track the implementation, maintenance, and effectiveness of any required mitigation measures

Awardee Responsibilities

- Consult with RUS staff to determine the appropriate level of environmental review
- Obtain all necessary federal, tribal, state, and local governmental permits and approvals necessary for proposed project
 - Permits are not required at the time the application is submitted.
 - Participate in meetings with land managing agencies
 - State laws may be more restrictive and time consuming than federal
- Awardees are not authorized to initiate consultation in accordance with Section 106 of the NHPA with Indian Tribes on behalf of RUS without written consent from RUS
- Provide information to RUS necessary to evaluate the potential impacts and alternatives of the proposal

Awardee Responsibilities (continued)

- Prepare environmental review documents according to RUS format and standards
 - Employ environmental professional(s) to assist in preparation of environmental review documents
- Provide any additional studies, data, and document revisions requested by RUS
 - Biological Assessments
 - Archaeological surveys
 - Essential Fish Habitat Assessments, etc.
- Ensure that no actions are taken that may have an adverse impact or limit choice or reasonable alternatives during review process

Awardee Responsibilities (continued)

- Promptly notify RUS when changes are made so that the environmental review and documentation may be supplemented or revised as necessary.
- Incorporate mitigation measures and required monitoring into plans, specifications and construction contracts for proposals, or provide mitigation action plans

Environmental Questionnaires

- Awardees complete the following Environmental Questionnaires (EQs) :
 - Site/Route EQ
 - Project EQ
 - NHPA Section 106 Project EQ
- EQs provide information to complete the environmental review process
- EQs assist in determining the appropriate level of environmental review needed in accordance with RUS Environmental Policies and Procedures, 7 CFR 1970

Levels of Environmental Review

- The environmental review process involves three levels of review:
 - Categorical Exclusion (CE), §1970.53 and §1970.54
 - Environmental Assessment (EA), §1970.101
 - Environmental Impact Statement (EIS), §1970.151



Handhole in a neighborhood

§ 1970.52 (a) Extraordinary Circumstances

- Defines extraordinary circumstances as unique situations presented by specific proposals, such as:
 - Characteristics of the geographic area affected by proposal
 - Scientific controversy about environmental effects of proposal
 - Uncertain or unknown effects or risks



Directional Boring in a sensitive area avoids significant environmental effect

§ 1970.52 (a) Extraordinary Circumstances (continued)

- **All** projects **MUST** be screened for extraordinary circumstances
- If an extraordinary circumstance exists and the resource will be adversely impacted by the project, the level of NEPA review will be elevated to an EA or EIS

§ 1970.52 (a) Extraordinary Circumstances (continued)

- **Extraordinary circumstance include:**
 - Any violation of applicable regulatory requirements
 - Resource Conservation and Recovery Act (RCRA) facility construction or expansion (landfills, waste transfer facilities, shipyards, cement kilns, injection wells, etc.).
 - Uncontrolled release of hazardous materials (HAZMAT)

§ 1970.52 (a) Extraordinary Circumstances (continued)

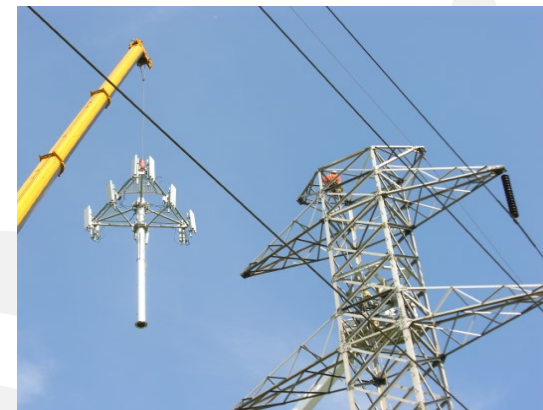
- **Any adverse effect on:**
 - Historic properties
 - Threatened, endangered, proposed or candidate species or critical habitat
 - Manipulation of wetlands, except:
 - Linear utilities in existing ROW
 - Activities authorized under a U.S. Army Corps of Engineers Section 404 Nationwide permit (less than ½-acre of waters of the U.S. for a single project)
 - Individual 404 permits are an extraordinary circumstance and will require an EA

§ 1970.52 (a) Extraordinary Circumstances (continued)

- **Any adverse effect on:**
 - Floodplains (unless there is no effect to hydrologic character)
 - Formally Classified Lands (State/Federal Parks, Monuments, Natural Landmarks, Wilderness Areas, Wild and Scenic Rivers, National Forest System Lands, other Federal or State Lands, etc.)
 - Water Resources (Sole Source Aquifers, Well-head protection areas, Watershed Protection Areas, etc.)
 - Coastal Resources (Coastal Barrier Resources System or Coastal Zone Management Areas)
 - Coral Reefs
 - Adverse comments from Federal, tribal, state, or local entities.

§1970.53 Categorical Exclusions involving no or minimal disturbance without an Environmental Report (ER)

- These actions normally do not require an awardee to submit documentation, but RUS may request additional environmental documentation from the awardee if RUS determines that extraordinary circumstances may exist.
- Example of actions classified under §1970.53:
 - Upgrade/rebuild of existing telecom facilities or addition of aerial cable on existing poles in developed, existing rights-of-way (ROWs)
 - Buried fiber cable in developed, existing ROWs
 - Collocation of telecom equipment on existing infrastructure
 - Upgrade or replacement of equipment in existing structures



Collocation of a cell tower

§1970.54 Categorical Exclusions involving small-scale development with an Environmental Report (ER)

- CE actions in §1970.54 require awardees to submit an ER:
 - Describe proposal and connected actions
 - Detailed site plans and location maps
 - Documentation of impact to any protected resource (extraordinary circumstance review)
 - 1970-B, Exhibit C – Guide to Applicants for Preparing ERs for CEs Under §1970.54
- Example of actions classified under §1970.54:
 - Construction of telecom towers 450 feet or less in height
 - Install new linear telecom facilities and related equipment and infrastructure outside of developed, existing ROWs
 - Construction of facilities with 10 acres or less of land disturbance



New microwave tower

§1970.101 Environmental Assessment (EA)

- Public document used RUS to determine if a Finding of No Significant Impact (FONSI) is appropriate or if an EIS will be required
 - Prepared in accordance with RD Instruction 1970-C, Exhibit B – Guidance to Applicants for Preparing Environmental Assessments
 - RUS recommends that awardee hire professional consultant
- EA required for all forms of financial assistance unless:
 - Categorically excluded under §1970.53 or §1970.54
 - Required to be subject of an EIS, and

§1970.101 Environmental Assessment (EA) continued

- EA required for:
 - Construction of towers exceeding 450' in height
 - Site development activities impacting more than 10 acres of real property
- RUS requires 14 to 30-day public comment period for Notice of Availability of an EA

*** Most Telecom projects that require an EA are in Alaska**

§1970.151 Environmental Impact Statement (EIS)

- EISs are for EA-level proposals with significant impacts and concludes with the execution of a Record of Decision (ROD)
 - Informs decision-makers and the public of the reasonable alternatives to avoid or minimize adverse impacts
 - Once authorized by the Agency in writing, awardees are responsible for funding all third-party contractors used to prepare the EIS.

*** EISs are not common in the Telecommunications Program**

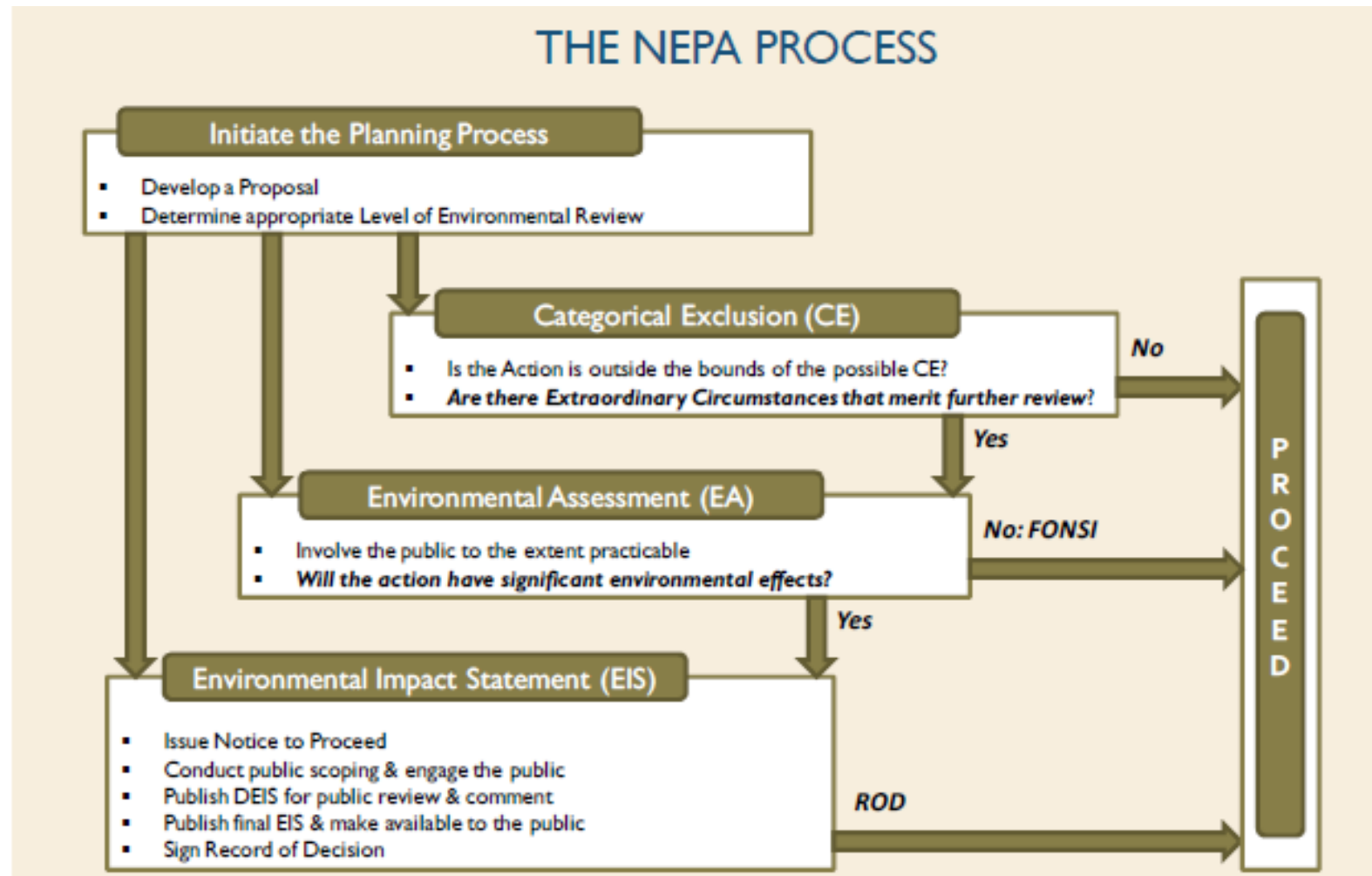
When is the environmental review process formally concluded?

- Appropriate environmental review document has been reviewed for completeness
- All required public notice(s) have been published and public comment periods have expired; any public comment(s) received have been considered and addressed by RUS
- Environmental review document has been approved by RUS
- Appropriate environmental decision document has been executed by RUS staff
 - Approves (Exhibit D) for CE under §1970.53 or §1970.54
 - Issues FONSI for EA
 - Issues a ROD for EIS

Post-Award Requirements for Route, Site, and Construction Changes

- Notify RUS if there are any deviations from the proposed project plan after staking the project and finalizing any engineering designs.
- RUS must approve any change and will engage the appropriate parties as needed to clear the changes.

NEPA Review Process



Q&A



Overview of Section 106 of the NHPA & ACHP Amendment to the Program Comment for Communications Projects

What is Section 106 of the NHPA?

National Historic Preservation Act of 1966

- Requires Federal Agencies funding, licensing, permitting, or approving projects (undertakings) to follow a review process known as Section 106
- Created the National Register of Historic Places
- Created the Advisory Council on Historic Preservation
- Created a role for state and local governments, Native American tribes, and Native Hawaiian Organizations advising and assisting Federal Agencies in Section 106



Section 106 Review Process

36 CFR § 800.3-7

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INITIATE the process

- Determine undertaking
- Coordinate with other reviews
- Identify SHPO/THPO, Indian tribes/NHOs, and other parties
- Plan to involve the public

Undertaking with potential to affect historic properties?

NO

YES



IDENTIFY historic properties

- Determine APE and scope of effort
- Make reasonable and good faith effort to identify
- Determine National Register eligibility
- Consult SHPO/THPO, Indian tribes/NHOs, and other parties
- Involve the public

Historic properties present or affected?

NO

YES



ASSESS adverse effects

- Apply Criteria of Adverse Effects
- Consult SHPO/THPO, Indian tribes/NHOs, and other parties
- Involve the public

Historic properties adversely affected?

NO

YES



RESOLVE adverse effects

- Develop and consider alternatives or modifications to avoid, minimize, or mitigate adverse effects
- Notify the ACHP
- Consult SHPO/THPO, Indian tribes/NHOs, and other parties
- Involve the public

AGREEMENT or Council Comment

PROCEED

Identification – 36 CFR § 800.4

- Must Include:
 - Review of existing information from the appropriate Federal, State, Territorial, or Tribal entity.
 - Information from SHPO/THPO and Indian Tribes, Native Hawaiian Organizations (NHOs), and others.
- May Include:
 - Intensive Field Survey
 - Sample Field Survey
 - Oral History Interviews
 - Review of historic aerial imagery, historic maps, LiDAR data, and other spatial data.

Historic Properties can include archaeological and architectural resources as well as properties of religious and cultural significant to Indian tribes and NHOs. These properties may be buildings, structures, objects, sites, or districts.

Evaluation - 36 CFR § 800.4(c)

Eligibility = Significance + Integrity

36 CFR § 60.4

Criteria for Evaluation (Significance)

A. Event

Associated with events that have made a significant contribution to the broad patterns of our history.

B. Person

Associated with the lives of significant persons in our past.

C. Design/Construction

Embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction.

D. Information Potential

Has yielded or may be likely to yield information important in history or prehistory.

Aspects of Integrity

setting MATERIALS
LOCATION
Workmanship **design**
feeling **Association**

- Federal Agency evaluates cultural resources in consultation with SHPO and Indian tribes
- Cultural resources are assumed eligible for the NRHP until they are proven otherwise.
- The passage of time, changing perceptions of significance, or incomplete prior evaluations may require the Agency to reevaluate properties previously determined eligible or ineligible.

Finding of Effect

- Finding of Effect Options:
 - No Historic Properties Affected
 - No Adverse Effect to Historic Properties
 - Adverse Effect to Historic Properties
- Federal Agency is required to provide a finding of effect to all appropriate consulting parties for 30-day review
 - Documentation provided must meet the documentation standards in 36 CFR § 800.11

Resolution of Adverse Effects

- Requires consultation with all relevant parties, including the awardee.
- Typically results in a Memorandum of Agreement signed by all relevant parties.
- MOA requires Agency Office of General Council (OGC) review and may require legal review from other parties.
- Advisory Council on Historic Preservation (ACHP) may be involved.
- Depending on the effects and the parties involved, these can be simple (3-6 months) or complicated (6+ months).

Consultation

- Who participates in consultation (36 CFR § 800.2)?
 - Federal Agency
 - RUS and any federal agency that is funding, permitting, licensing, or providing other approvals for the project such as the FCC, Forest Service, BLM, NTIA, etc.
 - State Historic Preservation Officer and/or Tribal Historic Preservation Officer
 - Indian tribes and Native Hawaiian Organizations
 - Representatives of local governments
 - Applicants for Federal assistance, permits, licenses, and other approvals
 - Advisory Council on Historic Preservation (ACHP), if the elect to participate
 - Additional consulting parties

Program Alternatives – 36 CFR § 800.14

- Five Types of Program Alternatives
 - Alternate Procedures
 - Programmatic Agreements
 - Exempted Categories
 - Standard Treatments
 - Program Comments
- RUS is currently developing Programmatic Agreements at national and local levels to provide further efficiencies in the Section 106 Process and are considering other Program Alternatives.

Program Comment for Communications Projects

- Originally issued in 2017, but limited to communications projects on Federal lands and properties
- Amended in 2024 to expand the scope to all Federal agencies
- Applicable nationwide with few exceptions such as Tribal land, National Monuments, National Historic Landmarks, etc.
- Provides alternate method that Federal agencies **may** use to meet Section 106 requirements

Program Comment for Communications Projects

- Types of Projects:
 - Collocation of communications antennae
 - Above-ground communications connections to and collocations on buildings
 - Placement of above-ground communications and cable lines on existing poles or structures
 - Installation of buried communications cable
 - Communications tower replacement
 - New communications tower construction
 - Removal of obsolete communications equipment and towers

Program Comment for Communications Projects

- Qualified Professionals must be involved
- Records Check is the minimum level of effort required
- Results of records check is used to determine if/what additional work is necessary
- Consultation and/or notification is required
- Annual reporting required

Program Comment for Communications Projects

- Installation of Buried Communications Cables
 - Standardizes the Area of Potential Effect (APE) to be the width of the construction ROW plus any additional areas for staging or access.
 - If in previously disturbed areas in the ROW, no further Section 106 review is necessary when the records check confirms no known historic properties within the APE.
 - Likely requires notifications and/or consultations to implement.
 - Additional ACHP guidance and flowcharts will clarify requirements.



Please share your feedback!



Please share your feedback on these sessions!



Environmental Clearance Process
& Section 106



Project Changes

USDA RUS ReConnect Program



United States
Department of
Agriculture

Rural Development



Joe Mafnas

Telecommunications Specialist
Post-Loan Servicing Engineering Branch
Portfolio Management & Risk Assessment
Division

Agenda

- Project Changes:
 - Network Design
 - Construction
 - Buildout Timeline
 - Delivery of Services
 - Objectives (Scope) Changes
- Budget Changes
- Tips for Success



Network Design Changes



Network Design Changes

A detailed request letter should be submitted with supporting documents.

Design changes may require additional environmental review and may require a revised budget depending on the change.

RUS may require additional information based on the nature of the change request.

Examples

- Change from an active (ethernet) to a passive (PON) network or vice versa.
- Change from a wireless to a fiber network or vice versa.

Construction Changes



Construction Changes

Construction changes primarily consist of the following topics:

- Route Changes
- Site Changes
- Construction Method



Construction Changes

Construction Changes require the submission a detailed request letter along with maps.

Construction Changes may require additional environmental review and a revised budget depending on the change.

Construction Changes need to be approved by RUS prior to the construction activity to ensure environmental compliance.

Examples

- Rerouting of previously approved routes that were included in the application.
- Construction of new routes.
- Changes in location of approved sites (towers, buildings, cabinets, etc.)
- Construction of new towers, building, cabinets, etc.
- Changes in construction methods such as switching from buried to aerial or vice versa.

Buildout Timeline



Timeline Changes

- Commencement and Completion of the Project
 - Awardees are required to commence the Project within 180 days from the date that RUS notifies in writing that the environmental review process has been concluded.
 - Project Completion shall occur within five years from the Release of Funds Date.
- Changes to either the commencement or completion timeline must be requested with a detailed letter explaining the circumstances.
- Extension of buildout period will require an amendment to the award agreement.

Service Delivery Changes



Service Delivery Changes

- Requires the submittal of a letter to RUS. An amendment of award agreement will be required.



Scope Changes



Scope Changes

- Scope changes are primarily for a reduction in the “Approved Project Service Area”.
- If there is a need to reduce the scope of the project, a request needs to be submitted to RUS. Requests must be supported by a revised budget and maps.
 - Maps should be submitted in both KMZ and PDF versions. The PDF copy should show the amended service area. The KMZ should show the approved project service area with the amended service area overlaid.
 - Requires a revised budget
- Scope changes, if approved, may require an amendment to the award agreement to update the award amounts included in Schedule 1 of the agreement.

Budget Changes



Budget Changes

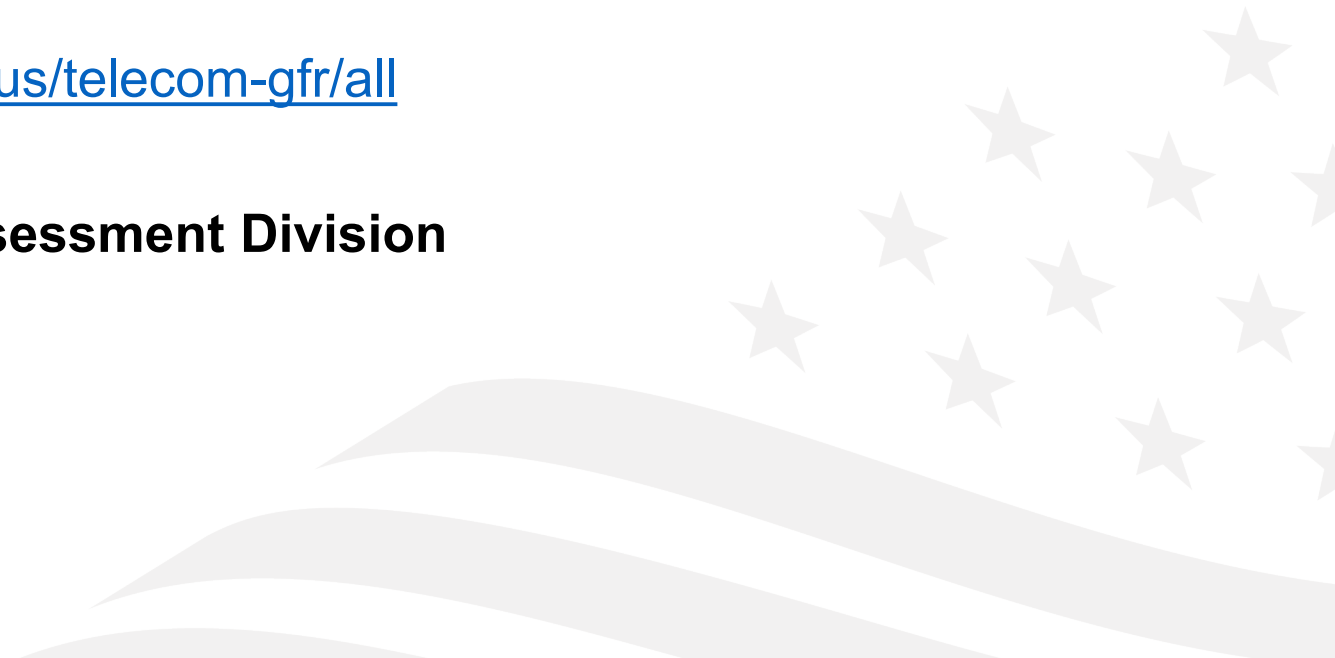
- Requires the submission of a letter providing the reason for the budget change and a revised budget that clearly shows any changes occurring.
- Budget changes do not require an environmental review; however, the budget change may be associated with another project change that does require an environmental review.
- The revised budget should be in the same format as the one submitted in the original application. This will enable RUS to expedite processing.

Tips for Timely Servicing Requests

- Requests are addressed on a first-come, first-serve basis
- Submit all documentation requiring RUS approval via email to the RUS General Field Representatives (GFR) until directed otherwise
- If you are unsure of how to proceed with a project change request, please reach out to your GFR!

Resources

- **Additional Information**
 - ReConnect website: <https://reconnect.usda.gov>
- **General Field Representative (GFR)**
 - <https://www.rd.usda.gov/contact-us/telecom-gfr/all>
- **RUS Portfolio Management & Risk Assessment Division**
 - (202) 720-1025



Frequently Asked Questions

Question : How long do construction change request take to be processed?

Answer: There is not a definite timeframe that can be given for construction changes. These types of requests often require additional environmental review before the request itself can be approved. Depending on the type of request, location, construction methods, etc. the level of environmental review deemed necessary will vary. RUS will review each complete request as quickly as possible on a first come, first serve basis.

Frequently Asked Questions

Question : Does a route change request need to be submitted if new construction routes are within the ReConnect Approved Project Service Area?

Answer: Yes, when new or changing routes are needed for the project, a route change request should be submitted prior to any construction activity, even if the routes are within the ReConnect Approved Project Service Area.

Frequently Asked Questions

Question : How detailed should KMZ maps be for project changes?

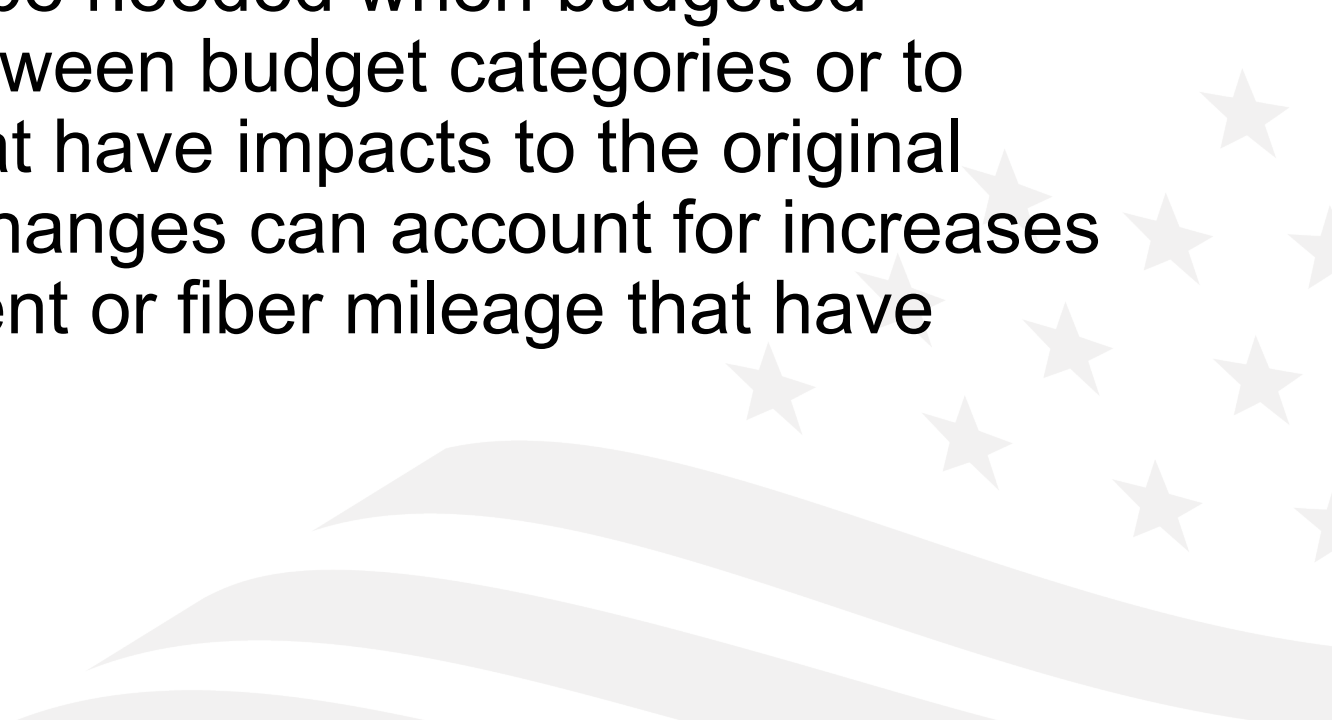
Answer: KMZ maps submitted should easily identify the changes occurring such as new fiber routes, new or changed site locations, removed fiber routes etc. These changes should be shown along with the Approved Project Service Area and the originally proposed sites and routes.

Utilizing multiple layers and color coding on the KMZ files, helps to expedite review processing timeframes.

Frequently Asked Questions

Question : What are some instances of when a budget change may be needed?

Answer: Budget changes may be needed when budgeted amounts need to be moved between budget categories or to account for project changes that have impacts to the original budget. For example, budget changes can account for increases / decreases to units of equipment or fiber mileage that have changed.

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Please share your feedback!



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Project Changes

LUNCH BREAK

Next Session – General Compliance Requirements

9:00-5:00 p.m.	Office Hours – Register in Beaufort Room
8:30-8:45 a.m.	Opening Remarks
8:45-9:45 a.m.	Build American, Buy America (BABA) Act & Buy American
9:45-10:00 a.m.	Break
10:00-11:00 a.m.	Section 106 & Environmental Clearance Process
11:00-12:00 p.m.	Project Changes
12:00-1:30 p.m.	Lunch
1:30-2:30 p.m.	General Compliance Requirements
2:30-3:30 p.m.	Accounting Compliance
3:30-3:45 p.m.	Break
3:45-4:45 p.m.	Sale of Assets, Lien Releases, and Additional Indebtedness
4:45- 5:00 p.m.	Open Q&A
5:00- 5:05 p.m.	Day 2 Closing Remarks



Post-Award General Compliance

USDA RUS ReConnect Program



Rural Development



Christopher Delzell

Field Accountant
Southern Accounting Branch
External Compliance Division



Tim Frantz

Chief
Northeast Accounting Branch
External Compliance Division

Agenda

- Compliance Resources
- Project Completion
- Affiliated Transactions
- Records Retention
- Disallowances

Compliance Resources



Compliance Resources

- ReConnect Funding Opportunity Announcement – Round Four
- ReConnect Regulations – 7 CFR 1740
- Award Documents (Loan/Grant and Security Agreements)
- ReConnect Program Construction Procedures
- ReConnect Loan and Grant Program Website: <https://www.usda.gov/reconnect>

Cross-Referencing Compliance Resources

- The FOA references 7 CFR 1740 as the codification of the ReConnect Program policies and procedures.
- The Regulations 7 CFR 1740.78 Construction; requires that all project assets must comply with 7 CFR part 1778 and 1970 and the ReConnect Program Construction Procedures.
- The Regulations 7 CFR 1740.79(b) requires Awardees to comply with all terms, conditions, affirmative covenants, and negative covenants contained in the award documents.
- The Funding Announcement, Regulations, ReConnect Program Construction Procedures, and Award documents all reference other regulations that must be followed.

Project Completion



Project Completion

7 CFR 1740.43(c)

- The build-out of the project must be completed within five years from the date funds are made available

7 CFR 1740.78(b)

- The build-out of the project must be completed within five years from the date funds are made available.
- Build-out is considered complete when the network design has been fully implemented, the service operations and management systems infrastructure is operational, and the awardee is ready to support the activation and commissioning of individual customers to the new system

Award Documents (Section 3.1 Loan and Grant Amounts, Interest Rate, and Expiration Date)

- Expiration date = 5 years from the release of funds date

Affiliated Transactions



Affiliated Transactions

7 CFR 1740.12

- If affiliated transactions are contemplated in the application, approval of the application does not constitute approval to enter into affiliated transactions, nor acceptance of the affiliated arrangements that conflict with the obligations under the award documents.

Award Documents (Section 7.13 Affiliated Transactions)

- The Awardee shall not enter into any transaction, contract, or dealing with an Affiliate of the Awardee or with the Awardee's or Affiliate's directors, trustees, officers, managers, members (if the Awardee is a limited liability company), or other corporate officials, without the prior written consent of RUS. RUS' consent to advance loan funds for affiliated transactions will be limited to an amount which is the lower of cost or market rate and which is subject to verification by RUS and its representatives having access to the books and records of the Affiliate

Affiliated Transactions (continued)

Award Documents (Article I – Definitions)

- "Affiliate" or "Affiliated Company" of any specified person or entity means any other person or entity directly or indirectly controlling of, controlled by, under direct or indirect common control with, or related to, such specified person or entity, or which exists for the sole purpose of providing any service to one company or exclusively to companies which otherwise meet the definition of affiliate. This definition includes Variable Interest Entities as described in Financial Accounting Standards Board Interpretation (FIN) No. 46(R), Consolidation of Variable Interest Entities. For the purpose of this definition, "control" means the possession directly or indirectly, of the power to direct or cause the direction of the management and policies of a company, whether such power is exercised through one or more intermediary companies, or alone, or in conjunction with, or pursuant to an agreement with, one or more other companies, and whether such power is established through a majority or minority ownership voting of securities, common directors, officers, or stockholders, voting trust, holding trusts (other than money exchanged) for property or services

Affiliated Transactions (continued)

ReConnect Construction Procedures

- With regard to the Project, the Awardee shall not enter into any transaction, contract, or dealing with an Affiliate of the Awardee or with the Awardee's or Affiliate's directors, trustees, officers, managers, members (if the Awardee is a limited liability company), or other corporate officials, without the prior written consent of RUS. RUS' consent to advance award funds for affiliated transactions will be limited to an amount which is the lower of cost or market rate and which is subject to verification by RUS and its representatives having access to the books and records of the Affiliate

Affiliated Transactions (continued)

ReConnect Construction Procedures

- All costs associated with construction of ReConnect Project assets by affiliates will be accumulated and supported as if the ReConnect Awardee were performing the construction themselves using a workorder system. For guidance on establishing an acceptable work order system, Awardees and the Affiliated Party should review REA Bulletin 1770-1, REA Work Order Procedure. The costs of affiliated party construction that RUS will finance through the ReConnect Program are divided into three categories and are limited to the following restrictions:

Affiliated Transactions (continued)

ReConnect Construction Procedures - Labor

Labor:

- Only labor directly associated with the construction of the ReConnect project assets will be eligible for financing through RUS. This is limited to the amounts paid to laborers constructing the assets, in-house engineers (if approved by RUS), and direct supervision of construction by first line supervisors overseeing the construction. RUS will not finance any supervision above the level of the direct supervisor working in the field. (first line supervisor) RUS will not finance the payroll of any executive or senior level supervisor of the affiliate, regardless of their role, unless negotiated with RUS and approved in writing prior to construction activities occur.

Affiliated Transactions (continued)

ReConnect Construction Procedures - Labor

Labor (continued):

- The labor rates must be supported by payroll records. (limited to actual rates paid and cannot be higher than what the employee is normally paid. In other words, the employees cannot be paid a premium just because they are working on the ReConnect project)
- All affiliated party employees charging time to the ReConnect award must maintain contemporaneous timesheets that account for all of the employees' hours and must also identify the times and functions of what the employee worked on, including the ReConnect Project.

Affiliated Transactions (continued)

ReConnect Construction Procedures - Material

Material:

- Only the actual cost of materials associated with the construction of the ReConnect project assets are eligible for financing through RUS.
 - Material can be directly purchased for the ReConnect Project in which case the actual cost of the materials is supported with Vendor Invoices and material issuance tickets.
 - Material can be taken out of inventory and used on the ReConnect Project, in which case the actual cost will be supported by the perpetual inventory average unit costs, supported with vendor invoices for material purchases, and material issuance tickets.
 - There are no markups allowed, only the actual cost supported with third party (non-affiliated party) invoices.
- Material must be tracked to identify material issued to the ReConnect project or returned to inventory if previously issued and not used.

Affiliated Transactions (continued)

ReConnect Construction Procedures - Material

Material (continued):

- Exempt material: Material that is of low cost and used in high quantities, making it impractical to track the usage. (Example: Nuts, bolts, and other similar items)
 - Can be spread similar to an overhead based on materials issued. (percentage of material issued)
 - Must be spread equitably to all accounts where materials are used, not just to the ReConnect Project.

Affiliated Transactions (continued)

ReConnect Construction Procedures - Overhead

Overhead costs:

- Only direct overheads that have a direct relationship to the construction of ReConnect Assets are financeable through RUS.
- Direct Overhead Costs include:
 - Employer portion of payroll taxes
 - Workers Compensation insurance costs
 - Employer portion of employee benefits (Pension, health, life, LTD, Savings
 - Compensated absences
 - Provisioning/Stores Expense (Costs of operating the stock room/warehouse)
 - Vehicle expense
- Power operated equipment expense

Affiliated Transactions (continued)

ReConnect Construction Procedures - Overhead

Overhead costs (continued):

- These costs must be allocated/spread to all accounts that received a portion of the benefits. (Normally spread based on labor hours, labor dollars, mileage, or usage; depending on the overhead) and substantiated by the underlying actual documentation such as timesheets, mileage odometers, and/or actual invoices.
- The allocation/spread to all accounts must be reasonable and equitable.
- RUS will not finance engineering overheads, administrative overheads, or any other overheads that are not specifically mentioned above unless the Awardee negotiates with RUS and receives prior written approval identifying the additional specific overheads an affiliate charges the Awardee.

Affiliated Transactions (continued)

ReConnect Construction Procedures

- 1) All affiliated party billings to the Awardee must be directly supported with the cost items identified above. Only the costs identified above should be submitted to RUS for financing. Any profit margin or other costs not covered on this document must be clearly identified on the billings and removed from financing requests submitted to RUS.
- 2) This applies for all matching requirements, grant funded, or loan funded ReConnect Project costs.
- 3) All costs financed must also meet the criteria of 2 CFR 200 subpart E – Cost Principles and must be reasonable, allocable, and eligible.
- 4) RUS may disallow all costs associated with funding requests if additional costs or amounts are comingled on submitted financing requests.
- 5) If RUS is denied or is not given access to the supporting documentation from the affiliated party, then affiliated party costs will be subject to disallowance.

Records Retention



Records Retention

7 CFR 1740.80(g)

- Awardee records shall be retained and preserved in accordance with 7 CFR 1770, subpart A
 - Construction – retained until audited and approved by RUS
 - Plant in service – retained until facilities are permanently removed from utility service
 - Life and mortality study data supporting depreciation – retained 25 years or for 10 years after plant is retired, whichever ever is longer

Award Documents (Section 6.1 Financial Records)

- The Awardee shall maintain, at its premises, such books, documents, papers, or other records and supporting documents, including, but not limited to, invoices, receipts, payroll records and bills of sale, adequate to identify the purposes for which, and the manner in which Loan, Grant, and other funds were expended on the Project. The Awardee shall at all times keep, and safely preserve, proper books, records and accounts in which full and true entries shall be made of all dealings, business, and affairs of the Awardee and its Subsidiaries, in accordance with its system of accounts
- The Awardee shall maintain copies of all documents submitted to RUS in connection with the Award until the longer of (i) the Loan being paid in full and all audits have been completed, (ii) the term of this Agreement or (iii) three years subsequent to close-out of the Award

Records Retention (continued)

ReConnect Construction Procedures

- Records supporting all assets financed by RUS shall be retained until audited and approved by RUS. Records must be sufficient to document the cost and location of all expenditures and to support advances and disbursement of award funds. The support records must include, but not limited to, contracts, third party invoices, timesheets, payroll records, material records, and overhead allocation records and summary schedules
- Records related to plant-in-service must be retained until the facilities are permanently removed from utility service, all removal and restoration activities are completed, and all costs are retired from the accounting records unless accounting adjustments resulting from reclassification and original costs studies have been approved by RUS or other regulatory body having jurisdiction

Disallowances



Disallowances

Award Documents (Section 8.3 Disallowed Expenditures)

- If RUS determines that the Awardee did not expend award funds on eligible purposes in accordance with approved line item budget and Form(s) 481 approved by RUS prior to the advance of funds, RUS may, in its sole discretion:
 - Disallow all or a part of the expenditures and disbursements
 - Require a deposit into the pledged deposit account to be used for other RUS approved purposes
 - Require reimbursement of the Government directly
 - Suspend future Advances
 - Take any other action RUS determines to be necessary

Disallowances

Award Documents (Section 5.3 Unused and Disallowed Advances)

- The Awardee shall reimburse RUS for any advanced funds whose original expenditure has been disallowed by and RUS loan and grant audit.
 - Satisfied as directed by RUS
 - Administrative offset against other approved purposes on Form(s) 481
 - Repaying the disallowed amount directly to the United States Treasury
 - Interest
 - Beginning on date RUS delivers a written demand for payment
 - Interest rate at the disallowed advance or US Treasury rate
 - Closeout of the Loan and/or Grant will not affect the right of RUS to disallow expenditures and recover in full any amount based on a subsequent audit or other review

Conditions of Award Documents



Conditions of Award Documents

Section 4.1 Conditions Precedent to Closing

- Legal Matters
- Loan-Grant Agreement
- Filed and Recorded Security Documents
- Articles of Incorporation, Charter Bylaws and Organizational Documents
- Authorizations
- Approvals
- Title Evidence
- Management, Service, and Operating Agreements
- Opinion of Counsel
- Additional Conditions

Conditions of Award Documents (continued)

Section 4.2 General Conditions Precedent to RUS' Obligations to Release Funds for Advance

- Service Rate Evidence
- Current Financial Information and Certificate of Authority
- Deposited Funds
- Additional Conditions

Conditions of Award Documents (continued)

Section 4.3 Conditions to Individual Advances

- Continuing Representations and Warranties
- Material Adverse Affect
- Event of Default
- Requisitions and Supporting Documentation
- Flood Insurance
- Current Financial Information
- Compliance with Buildout Timeline and Reporting Requirements
- Compliance with Loan/Grant Agreement
- Permits, Licenses and Franchises
- Deposited Funds
- Additional Documents
- Additional Conditions

Initial Visits

Site Visits or Remote meetings with Field Accountants and General Field Representatives to help ensure you understand the program requirements found in award documents, regulations, and other RUS instructional guidance.

External Compliance Reviews (ECRs)

Site Visit or Remote Review

- Review of Pledged Deposit Account (PDA) transactions
 - Receipts of award funds and matching contributions
 - Payments to Vendors
 - Reimbursements of costs paid out of general funds
- Review of General Fund bank transactions
 - Cancelled Checks
 - Electronic Funds Transfers
- Verification of supporting documentation of costs submitted to RUS
- Evaluation of accounting systems and procedures



Please share your feedback!



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General Compliance Requirements



Accounting

USDA RUS ReConnect Program



United States
Department of
Agriculture

Rural Development



Christopher Delzell

Field Accountant
Southern Accounting Branch
External Compliance Division



Tim Frantz

Chief
Northeast Accounting Branch
External Compliance Division

Agenda

- Accounting Principles
- Code of Federal Regulations 7 CFR 1773 Policy on Audits
- Internal Controls
- Capitalization versus Financing
- Documentation Requirements



Accounting Principles



Accounting Principles

3 Main Sources of Authoritative Accounting Principles required of all borrowers

- Generally Accepted Accounting Principles (GAAP)
- Telephone Uniform System of Accounts
 - Verses (Electric Uniform System of Accounts)
- Code of Federal Regulations, Title 2 Grants and Agreements



Generally Accepted Accounting Principles

The type of entity determines the overall accounting principles:

- For-profit private entity (Financial Accounting Standards Board)
 - **Departures from Telephone USoA must be approved in advance**
- Cooperative (Financial Accounting Standards Board –Telephone USoA)
- Not-For-Profit Entities (FASB 117/118)
 - **Departures from Telephone USoA must be approved in advance**
- Government Entities (Government Accounting Standards Board)
 - **Departures from Telephone USoA must be approved in advance**

Generally Accepted Accounting Principles

- Not allowed:
 - Cash Basis accounting and financial reporting
 - Tax Basis accounting and financial reporting
- Full accrual accounting under FASB or GASB standards must be followed, but it is also important to note that amounts capitalized under GAAP do not mean an item is financeable; the underlying transaction must also conform to Telephone USoA and Title 2 Grants and Agreements
- LLC's must prepare the financial statements in accordance with the Generally Accepted Accounting Principles (under FASB) and conform with Telephone USoA

Generally Accepted Accounting Principles

Common elements for all GAAP:

- Conservatism, Comparability, Consistency, Matching Principles
- FASB Accounting Standards Codified: ASC 360
 - Self Constructed Assets
 - All Direct Costs are included in the total cost of the asset
 - Fixed Overhead Costs are not included unless they are increased by the construction of the asset
 - Interest costs may or may not be capitalized (**AFUDC specifically excluded from financing and Interest During Construction requires prior approval to be financed**)

Generally Accepted Accounting Principles

Common elements for all GAAP:

- Reasonable, Allocable, and Necessary
- Costs for internally generated assets must have direct relationship to construction.
(note indirect costs are technically direct costs that cannot be specifically identified to a specific project)
- Fully Distributed Costs can be used for affiliated transactions, but agreements and the cost allocation methods must be approved by RUS under the Necessary, reasonable, and allocable constraints of Title 2 grants and agreements

NOTE: The uniform system of accounts and Title 2 of the code of federal regulations may constrain the capitalization of costs allowed under ASC 360

Telephone Uniform System of Accounts

1770B-1 47 CFR Part 32 Uniform System of Account required for REA Telephone Borrowers

- Chart of Accounts required for all Telephone Borrowers
 - Electric and non-telephone borrowers must have a general ledger/chart of accounts that comply with the system for purposes of projects funded by ReConnect loans and grants (possibly use a division for reporting)
- 32.12 Records
 - The company's financial records shall be kept in accordance with generally accepted accounting principles to the extent permitted by this system of accounts
 - The company's financial records shall be kept with sufficient, particularity (detailed evidence) to show fully the facts pertaining to all entries in these accounts. The detailed records shall be filed in such a manner as to be readily available for examination

Telephone Uniform System of Accounts

32.12 Records

- The commission (RUS) shall require a company to maintain financial and other subsidiary records in such a manner that specific information, of a type not warranting disclosure as an account or subaccount, will be readily available
 - **Subsidiary Loan Budget Records** (reconcile amounts paid to contractors, invoice amounts, and amounts approved, advanced and disbursed from the pledged deposit account)
 - **Pledged Deposit Account Reimbursement Schedule** (shows by advance, deposit, and disbursement the budget purpose from the financial requirement statement that have been disbursed to the general fund cash account)
 - **Continuing Property Records** (detailed.....)
 - **Labor, Material, and Overhead** subsidiary ledgers

Telephone Uniform System of Accounts

32.13 Accounts- General

- (e) Where the use of subsidiary records is considered necessary in order to secure the information required in reports to any state commission, the company shall incorporate the following controls into their accounting system with respect to such subsidiary records:
 - (i) Subsidiary Records shall be reconciled to the company's general ledger or books of original entry, as appropriate
 - (ii) The company shall adequately document the accounting procedures related to subsidiary records
 - (iii) The subsidiary records shall be maintained at an adequate level of detail to satisfy regulators

Telephone Uniform System of Accounts

32.13 Accounts- General

- Continuing Property Records
 - Subsidiary Fixed Asset Listing that reconciles to the amounts within the classified plant accounts
 - Details must include Date installed, specific location installed, serial numbers if applicable, PFSA or non-PFSA designation, capitalized cost, accumulated depreciation, net cost, and for disposition purposes should have some indicator if grant funds were used
 - Plant accounts should be divided into classified plant accounts based on uniform system of accounts and standard retirement units

2 CFR 200

- §200.402 Composition of costs
 - Total cost -- the total cost of a Federal award is the sum of the allowable direct and allocable indirect costs less any applicable credits
- §200.403 Factors affecting allowability of costs
 - Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards:
 - a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles
 - b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items
 - c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity

2 CFR 200

- §200.403 Factors affecting allowability of costs
 - d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost
 - e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part
 - f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b)
 - g) Be adequately documented. See also §200.300 Statutory and national policy requirements through §200.309 Period of performance of this part

2 CFR 200

- §200.404 Reasonable costs
 - A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when the non-Federal entity is predominantly federally-funded.
 - **i.e. Must have direct relationship and necessary for construction at a reasonable rate.**

2 CFR 200

- §200.404 Reasonable costs
 - a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award

i.e. Administrative Assistant's labor not necessary for construction

- b) The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, state, local, tribal, and other laws and regulations; and terms and conditions of the Federal award

Affiliated Transactions must be pre-approved and at cost with no profit margin and must provide evidence of true cost from affiliate's records

2 CFR 200

- §200.404 Reasonable costs

- c) Market prices for comparable goods or services for the geographic area

- A CEO performing an install and recording his/her salary as the cost rather than the cost of an installer not reasonable. Increasing salaries for work performed under ReConnect not reasonable**

- d) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-Federal entity, its employees, where applicable its students or membership, the public at large, and the Federal Government

- Buying state of the art construction equipment when renting would have resulted in savings to taxpayer, federal government not reasonable**

2 CFR 200

- §200.404 Reasonable costs
 - e) Whether the non-Federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost

Changing overtime policy to increase amount charged to Federal award would not be reasonable

Must employ conservatism, prudent person, third-party, arms length and geographic market considerations in all transactions

When in doubt do not capitalize and do not finance

2 CFR 200

- §200.405 Allocable costs
 - a) A cost is allocable to a particular Federal award or other cost objective if the goods or services involved are chargeable or assignable to that Federal award or cost objective in accordance with relative benefits received. This standard is met if the cost:
 - 1) Is incurred specifically for the Federal award
 - 2) Benefits both the Federal award and other work of the non-Federal entity and can be distributed in proportions that may be approximated using reasonable methods

Must use approved allocation methods under bulletin 1770-1 work order procedures to allocate these costs

2 CFR 200

- Eligible Costs
 - Even if a cost is reasonable and allocable it still may not be eligible
 - **Allowance For Funds Used During Construction** (AFUDC) should be capitalized if the criteria for AFUDC is met but this cannot be financed
 - Internal Control systems must accumulate the cost of AFUDC but it must be reduced on the summary of work orders before the cost is submitted for financing
 - Executive Compensation (Account 6711) any costs that would normally be included under account 6711 are not eligible for financing even if the amount is reasonable and allocable

2 CFR 200

- §200.420 Considerations for selected items of cost
 - Title 2 CFR 200 specifically covers eligibility of certain items of cost
 - For the most part the Telephone Uniform System of Accounts, Work Order Procedures, and ReConnect Construction procedures outline the costs of construction that meet the eligibility criteria
 - It is important to review this section though for any costs that might be deemed ineligible within other costs
 - **§200.423 Alcoholic beverages**
 - **Costs of alcoholic beverages are unallowable**

Code of Federal Regulations 7 CFR 1773 Policy on Audits



1773 Policy on Audits of RUS Borrowers and Grantees

- Section 6.3 Annual Audit
 - Effective after an Advance has been made, one hundred twenty (120) days from the end of the Awardee's current fiscal year and, thereafter, one hundred twenty (120) days from the close of each subsequent fiscal year, the Awardee must submit annual audited financial statements along with a report on compliance and on internal control over financial reporting, and a management letter in accordance with the requirements of 7 CFR 1773

Note for Non-Federal Entities under .200 which have 9 months to submit an audit this date

1773 Policy on Audits of RUS Borrowers and Grantees

- §1773.3 Annual audit
 - a) Each auditee must have its financial statements audited annually by an auditor selected by the auditee and approved by RUS as set forth in §1773.4. All auditees must submit audited financial statements on a comparative basis covering two consecutive 12-month periods
 - b) Each auditee must establish an annual audit date within 12 months of the date of the first advance and must prepare annual financial statements for the audit date established. Each auditee must notify RUS of the audit date at least 90 days prior to the selected audit date
 - c) In addition to the requirements of this part, certain auditees may be subject to the Single Audit Act

1773 Policy on Audits of RUS Borrowers and Grantees

- §1773.3 Auditee's responsibilities
 - a) Selection of a qualified auditor. The auditee's governance board is responsible for the selection of a qualified auditor that meets the requirements set forth in §1773.5. When selecting an auditor, the auditee should consider, among other matters:
 - 1) The qualifications of auditors available to do the work;
 - 2) The auditor's experience in performing audits of utilities, related industries, or in the case of grantees, experience in auditing entities comparable to the grantee; and
 - 3) The auditor's ability to complete the audit and submit the reporting package within 90 days of the audit date
 - b) Board approval of selection. The board's approval of an auditor must be recorded by a board resolution that states:
 - 1) The auditor represents that it meets RUS qualifications to perform an audit; and
 - 2) The auditee and auditor will enter into an audit engagement in accordance with §1773.6

1773 Policy on Audits of RUS Borrowers and Grantees

- §1773.4 Auditee's responsibilities
 - c) Notification of selection. When the initial selection or subsequent change of an auditor has been made, the auditee must notify RUS, in writing, at least 90 days prior to the audit date
 - d) Audit engagement letter. The auditee must enter into an audit agreement with the auditor that complies with §1773.6 prior to the initiation of the audit
 - e) Debarment certification. The auditee must obtain, from the selected auditor, a lower tier covered transaction certification (Form AD-1048)
 - f) Peer review report. The auditee must obtain, from the selected auditor, a copy of the auditor's current approved peer review report

1773 Policy on Audits of RUS Borrowers and Grantees

- §1773.5 Qualifications of the Auditor
 - Auditors that meet the qualifications criteria of this section and enter into an audit engagement with the auditee that complies with §1773.6, will be considered satisfactory to RUS
 - (Licensed to audit in the United States of America, Independent, and Peer Review)
 - Peer review requirement. Auditors must be enrolled and participating in a peer review program and must have undergone a satisfactory peer review of their accounting and audit practice. The peer review must be in effect at the date of the audit report opinion
 - RUS reserves the right to request peer review reports from selected audit
 - The auditee must obtain, from the selected auditor, a copy of the auditor's current approved peer review report

1773 Policy on Audits of RUS Borrowers and Grantees

- §1773.10 Access to audit documentation
 - Pursuant to the terms of this part and the audit engagement letter, the auditor must make all audit documentation available to RUS, or its designated representative, upon request and must permit RUS, or its designated representative, to photocopy all audit documentation



1773 Policy on Audits of RUS Borrowers and Grantees

- §1773.21 Auditee's review and submission of the reporting package
 - a) The auditee's governance board should note, and record receipt of the reporting package and any action taken in response to the reporting package in the minutes of the board meeting at which such reporting package is presented
 - b) The auditee must furnish RUS with an electronic copy of the reporting package within 120 days of the audit date as provided for in §1773.3
 - c) The auditee must furnish RUS with a copy of its plan for corrective action, if any, within 180 days of the audit date
 - d) The auditee must include in the reporting package a copy of each special report, summary of recommendations or similar communications, if any, received from the auditor as a result of the audit
 - e) All required submissions to RUS described in paragraphs (b) through (d) of this section should be furnished electronically. The electronic copy must be provided in a Portable Document Format (PDF)

1773 Policy on Audits of RUS Borrowers and Grantees

- Subpart D – RUS Reporting Requirements
 - §1773.31 Auditor's report on the financial statements
 - §1773.32 Report on internal control over financial reporting and on compliance and other matters
 - ~~§1773.33 Report on compliance with aspects of contractual agreements and regulatory requirements (No longer required)~~
 - §1773.34 Schedule of findings and recommendations

Internal Controls



Internal Controls

REA Bulletin 1770-1 Work Order Procedure:

https://www.rd.usda.gov/files/UTP_Bulletins_1770-1.pdf

- Provides the basic internal controls over construction under a work order system
- 2.1) Contributions in the form of money or its equivalent toward the construction of telecommunications plant are credited to the accounts charged with the cost of such construction

Contributions in aid of construction should be reduced on the summary of work orders

Internal Controls

REA Bulletin 1770-1 Work Order Procedure

- 5) Estimated Work Orders: Estimated work orders should be prepared, as necessary, to management needs. The form should provide a section for listing the quantity of each construction unit to be installed. Unit costs are based upon engineering estimates and are multiplied by the quantities to determine total cost of construction
 - **Estimated Work Orders cannot be financed but should be done to control costs**
- 6) A construction work order should accumulate, in one record, all cost assignable to a specific addition of telecommunications plant

Internal Controls

REA Bulletin 1770-1 Work Order Procedure

ReConnect work orders will also have to be segregated further to comply with the construction procedures and differentiate between PFSA and non-funded service areas

- 8) Job Orders: usually refers to maintenance activities chargeable to expense. The term, however, may be used to identify small construction jobs that are not considered large enough to require a separate work order. Under a blanket work order system, job order numbers may be assigned to individual projects covered by one blanket work order

Customer install might be handled by blanket work order as long as individual job numbers are recorded and the job number can be associated with a specific site location. Blanket work orders cannot violate the approved ReConnect construction procedures

Internal Controls

REA Bulletin 1770-1 Work Order Procedure

10) Work Order Register: Borrowers (all awardees) should (must) maintain a register or control record in which work orders are assigned a number and listed in numerical order

10.1) The content of the Register

- a) The work order number **(should include exchange (if applicable, the year, tax district, geo-code or specific location, evidence within service area, whether grant funds were used, and any serial numbers that should be associated with the plant equipment))**

Internal Controls

REA Bulletin 1770-1 Work Order Procedures

10.1) The content of the Register

- b) The job order number, when identifying individual projects under a blanket work order **(job order numbers for customer installs must identify location and whether the customer is within the service territory)**

If a blanket work order is permitted to be used the work order must allocate cost properly between funded and non-funded service areas and the blanket work order must be reduced on the summary of work orders for costs not eligible for financing

Internal Controls

REA Bulletin 1770-1 Work Order Procedures

10.1) The content of the Register

- c) A description of the work or other identification
- d) The location of the work (physical address, geo-code, site specific information)
- e) The date the work began; and,
- f) The date work was completed. (date of staking and date of right of way may also be useful)

Internal Controls

REA Bulletin 1770-1 Work Order Procedure

11) Labor:

11.1) The daily Work Report is prepared each day by the personnel responsible for the work being performed. It is the basic accounting record for payroll hours, plant additions, and retirements

11.1.1) Enter each employee's name (employee i.d.) and provide a description of the work performed...and the work order number, if any. An employee's time should be reported by hours, with no attempt to segregate overtime from regular hours. This segregation is made on the payroll distribution sheet

A separate "description of work" column should be used for each type of work that includes cost chargeable to separate accounts **(i.e. non-funded area construction)**

Award recipients under ReConnect may want to segregate construction work in progress 2003 into multiple accounts to ensure that costs are adequately tracked for different types of construction and eligible and non-eligible construction cost for financing purposes

Internal Controls

REA Bulletin 1770-1 Work Order Procedure

11) Labor:

11.1.2) The daily Work Report is the original record of material used. If a telecommunications entity does not employ a storekeeper/warehouse supervisor to control materials, non-exempt materials and supplies taken from stock for either construction or maintenance activities should be reported under the heading "Material Used." The kind of material, size, and material code should be entered

11.1.4) Motor Vehicle: The foreman, or individual when working alone, should distribute total hours/total miles a vehicle used during the day. For multiple trips to various jobs the distribution of the vehicle time is made on the same basis as the direct labor hours for each job

Internal Controls

REA Bulletin 1770-1 Work Order Procedure

The remaining sections of 1770-1 outlined below should also be followed in detail

12) Material

13) Overhead

14) Account Analysis

15) Work Order Ledger (usually handled electronically now and used as basis for unitization and distribution)

16) Summary of Work Orders is used to summarize costs of completed work orders and to requisition funds from RUS

Capitalization vs. Financing



Capitalization vs. Financing

Capitalization – an item is capitalized when it is recorded as an asset, rather than an expense.

- Assets are depreciated over their useful life

Financing – the money provided by RUS for the ReConnect project.

- Capitalized cost of the ReConnect project may not be equal to the financed cost
 - Required match
 - Grant may not cover the entire project

Documentation Requirements



Documentation

- All documentation must be contemporaneous: That is, initiated and created at the time of the transaction;
- The original must be available for inspection and must have original signatures if an approval process is required for receipt and issuance of material, time reported, and approved for labor
- The awardee must document third party construction through invoices and reconcile those costs to the completed construction paid from general funds, advanced and disbursed from the pledged deposit account. **Engineers and Award Recipients should also provide evidence that monitors percentage of completion and compliance with contracts**

Documentation

- Original Source documentation must be organized and retained in such a manner to be readily available for inspection by RUS and Rural Development personnel for at least 3 years after last date for advance, or until final costs are audited whichever is longer
- 3 years after the last date for advance or the final audit, a retention period should be established that provides sufficient documentation for the economic life of plant assets constructed
- **Before any record is eliminated, an Awardee must notify the General Field Representative and the Field Accountant to determine if the record must be retained for audit purposes**



Please share your feedback!



Please share your feedback on these sessions!



Accounting Compliance

BREAK

Next Session – Sale of Assets, Lien Releases, and Additional Indebtedness

9:00-5:00 p.m.	Office Hours – Register in Beaufort Room
8:30-8:45 a.m.	Opening Remarks
8:45-9:45 a.m.	Build American, Buy America (BABA) Act & Buy American
9:45-10:00 a.m.	Break
10:00-11:00 a.m.	Section 106 & Environmental Clearance Process
11:00-12:00 p.m.	Project Changes
12:00-1:30 p.m.	Lunch
1:30-2:30 p.m.	General Compliance Requirements
2:30-3:30 p.m.	Accounting Compliance
3:30-3:45 p.m.	Break
3:45-4:45 p.m.	Sale of Assets, Lien Releases, and Additional Indebtedness
4:45- 5:00 p.m.	Open Q&A
5:00- 5:05 p.m.	Day 2 Closing Remarks



RD Reconnect Financial Workshop

Rural Development

April 24, 2024

USDA Rural Development

Rural eConnectivity Program - ReConnect

Financial Requirements

Additional Indebtedness

Release of Lien

Sale of Assets



ReConnect Program: Financial Requirements



Important Provisions Specific to Type of Award and Agreement – Financial Requirements

100% Grants

- Section 5.16 Financial Requirements

The Awardee shall maintain a positive ending cash balance as reflected on the cash flow statement for each year in which grant funds are expended

Loan/Grant Combinations

- Section 5.8 Financial Requirements

a) At least two of the three requirements on the Financial Requirements Commencement Date, as specified in Schedule 1 hereto, until the Loan is repaid in full:

- (i) a minimum TIER requirement of 1.2;
- (ii) a minimum DSCR requirement of 1.2; and
- (iii) a minimum Current Ratio of 1.2

b) Positive cash flow from operations at the end of the fifth year of the award; and

c) Positive ending cash balance as reflected on the cash flow statement for each year of the forecast period

Important Provisions Specific to Type of Award and Agreement – Financial Requirements (cont'd.)

100% Loans: “Loan and Security Agreement”

Section 5.8 Financial Requirements

- a) At least two of the three requirements on the Financial Requirements Commencement Date, as specified in Schedule 1 hereto, until the Loan is repaid in full:
 - (i) a minimum TIER requirement of 1.2;
 - (ii) a minimum DSCR requirement of 1.2; and
 - (iii) a minimum Current Ratio of 1.2;
- b) Positive cash flow from operations at the end of the fifth year of the award

Important Provisions Specific to Type of Award and Agreement – Financial Requirements (cont'd.)

100% Loans: “Loan Agreement” (with Mortgage)

- Section 5.8 Financial Requirements
 - a) At least two of the three requirements on the Financial Requirements Commencement Date, as specified in Schedule 1 hereto, until the Loan is repaid in full:
 - (i) a minimum TIER requirement of 1.2;
 - (ii) a minimum DSCR requirement of 1.2; and
 - (iii) a minimum Current Ratio of 1.2
 - b) Tangible equity to Total Assets must be at least 20 percent at the end of the calendar year starting in the third year and ending in the fifth year of the award
 - c) Positive cash flow from operations at the end of the fifth year of the award; and
 - d) Positive ending cash balance as reflected on the cash flow statement for each year of the forecast period

ReConnect Program: Additional Indebtedness



Additional Indebtedness - RUS Concurrence Requirement



- Concurrence required if Debt is 10% of Total Assets
- If RUS concurrence is not required, then the Borrower needs to simply notify the agency of the debt

Additional Indebtedness W/O RUS Concurrence But Requiring Shared Mortgage

If additional indebtedness does not require RUS concurrence but a shared mortgage is required RUS will need:

- A letter describing the transaction
- Copy of shared mortgage
- UCC for review



Additional Indebtedness - State and Federal Funding

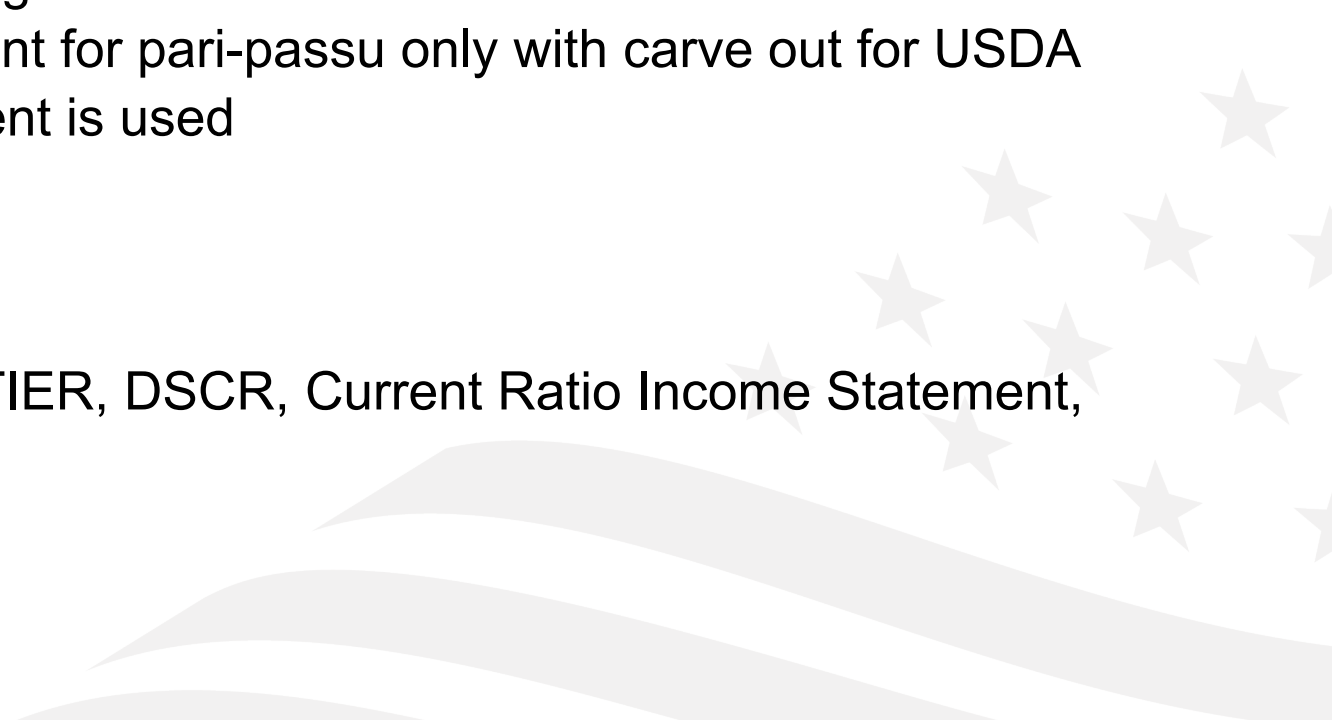
If additional debt will support construction involving State and Federal Funding, then one will need:

- Detailed Letter from Awardee Describing Transaction
- Draft Copy of Shared Mortgage Agreement
- Draft Copy of Loan Agreement
- Copy of UCC Filing



Additional Indebtedness W/O State and Federal Funding

If additional debt will support construction not involving State and Federal Funding, then one will need:

- A detailed letter from the Awardee describing the transaction
 - Draft copy of the shared mortgage agreement for pari-passu only with carve out for USDA grant funded assets if Intercreditor Agreement is used
 - Draft of copy of loan agreement
 - Draft of the Promissory Note
 - Copy of the UCC filing
 - Copy of 5-Year Pro Forma Financials with TIER, DSCR, Current Ratio Income Statement, Balance Sheet, and Cash Flow Statement
- 

Additional Indebtedness (cont'd.)

Lien Sharing

- RUS will not subordinate lien position for additional indebtedness request
- Under no circumstances will RUS share its lien position on grant funded assets



Additional Indebtedness (cont'd.)



Legal Review



RUS has Office of General Counsel (OGC) approved and shared mortgage template



OGC review will not be required if lender uses template and is not modified



OGC review required if lender modifies template or uses Shared Mortgage

ReConnect Program: Release of Lien



RUS Release of Lien

Types of Lien Release

Full

- Borrower is PAID IN FULL on all programs
- Release issued only on Loan portion (in cases of combos)

Partial

- Accommodates borrower's request to sell, lease, or transfer property or equipment. To obtain a clear title
- Partial release issued only on the asset being sold

Switch to a Replacement Grant Agreement

Per the loan agreement, when the loan pays in full, and there's remaining economic composite life, a replacement grant agreement must be executed by the Awardee.

ARTICLE I – DEFINITIONS

- “Service Obligation” shall mean the period in which assets purchased with federal assistance and subsidized by a federal grant to lower the interest rate, must be placed into service to carry out the purposes of the ReConnect Program

Section 5.10 **Service Obligation:**

- The Awardee shall provide the level of broadband service described in the RUS approved Application commencing from the date of Project Completion until the longer of: (i) the Composite Economic Life of the facilities financed by the Award as specified on Schedule 1; or (ii) as long as the Note(s) is outstanding. Awardee acknowledges that given the significant amount of government contribution to the Project in the form of a subsidized interest rate through a federal grant, the Service Obligation is a significant portion of the public benefit of the Award, and that a material breach of the Service Obligation shall be an Event of Default

Full Release of Lien



Notification of PAID IN FULL

- Initiated by RUS
- Initiated by borrower through GFR

Full Release, Satisfaction and Discharge of Mortgage

- Completed by awardee and attorney
- Attach 1st page of last mortgage filed
- Legal Property Description

Filing of UCC3

- Obtained from Secretary of State Office (In person or online)
- Terminates the governments lien

Partial Release of Lien

Loan Agreement

Sections 7.15 **Restrictions on Transfers of Property**

- A. Awardee shall not sell, lease or transfer any Collateral to any other person or entity (including any subsidiary or affiliate of the Awardee) without the prior written consent of the RUS
- B. Requirements to Sell, Lease or Transfer (without RUS consent)
 - Not in default
 - Property no longer necessary to, nor useful for the operation of the Awardee's business; Provide that a formal release not required by purchaser
 - I. Replace or substitute with other property of the same kind and nature
 - II. Apply entire amount of proceeds to the prepayment of the indebtedness evidence by the Note
 - III. Deposit all or part of the proceeds to the Pledge Deposit Account (PDA)

- Partial Release Agreement
- Authorizing Board Resolution
- Appraisal/Valuation of Property (if applicable)
- Purchase Agreement (if applicable)


U. S. DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE		RUS FORM 793 REV 2-2024 OMB FORM 0572-0041 Exp. Date: 11/30/2022	
REQUEST FOR RELEASE OF LIEN AND/OR APPROVAL OF SALE		1. DATE OF THIS REQUEST	2. CLOSING DATE
INSTRUCTIONS - Submit three copies to RUS. See RUS Bulletin 415-1 for detailed instructions.		3. SYSTEM DESIGNATION OF SELLER	4. SYSTEM DESIGNATION OF PURCHASER (If RUS borrower)
5. NAME AND ADDRESS OF SELLER		6. NAME AND ADDRESS OF PURCHASER	
7. APPROXIMATE ORIGINAL COST	8. SOURCE OF FUNDS (Original purchase)	9. DATE BOUGHT OR BUILT	10. PROPOSED SELLING PRICE
11. DESCRIPTION OF PROPERTY TO BE SOLD. (Identify it adequately and estimate its present value. If real estate, include legal description to be used in deed and release of lien.)*			
12. FORMAL RELEASE OF LIEN <input type="checkbox"/> IS <input type="checkbox"/> IS NOT REQUIRED BY PURCHASER.			
13. REASON FOR SALE*			
14. DISPOSITION OF NET PROCEEDS OF SALE. (Insert estimated amounts in appropriate spaces):			
a. ACCOUNT 113.2 OR 1600.2 "CASH - TRUSTEE RUS CONSTRUCTION FUND" TO BE USED FOR RUS APPROVED PURPOSES			
b. TO THE RURAL UTILITIES SERVICE AS A SPECIAL PAYMENT ON THE MOST RECENT NOTE OF THE RUS LOAN. CONTACT USDA AT RD.SO.BETS@USDA.GOV FOR PAYMENT ARRANGEMENTS			
c. OTHER			
d. SELLERS NOTE(S) TO BE ASSUMED. (For sale of property by assumption of indebtedness only)			
SYSTEM DESIGNATION	DATE OF NOTE(S)	AMOUNT OF NOTE(S)	AMOUNT TO BE ASSUMED
CERTIFICATION			
I hereby certify that, in my opinion, the selling price is not less than the fair market value of the property; the system after the sale will be financially feasible for repayment of RUS loan funds and will constitute a satisfactory operating unit; all necessary approvals have been or will be obtained where required by law or by the articles of incorporation or by-laws of the organization; the sale is in the best interest of the Government and this organization; and the transaction will provide the Government with a compensating benefit for its approval.			
Two certified copies of the resolution adopted by the <input type="checkbox"/> Directors <input type="checkbox"/> Shareholders <input type="checkbox"/> Members authorizing the proposed sale are attached if such authorization is required.			
SELLER'S CORPORATE NAME			
TITLE OF AUTHORIZED OFFICIAL		SIGNATURE OF AUTHORIZED OFFICIAL	

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 0572-0041. Public reporting for this collection of information is estimated to be approximately 2.75 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information. All responses to this collection of information are voluntary. However, in order to obtain or retain a benefit, the information in this form is required. Rural Development has no plans to publish information collected under the provisions of this program. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Rural Development Innovation Center, Regulations Management Division at ICRMTRequests@usda.gov*

ReConnect Program: Sale of Assets



Frequently Asked Questions (FAQs)

- 
- ReConnect Program Assets are Collateral
 - Facilities and/or Equipment Required for Project Functions
 - Composite Economic Life of Facilities and/or Equipment
 - RUS Permission Requests
 - Legal Guidance

Legal Guidance

- **7 CFR Part 1740 -- Rural eConnectivity Program – eCFR**

1740.44 Security

- 1) The government must be provided an exclusive first lien
- 2) All Awardees must repay the grant if the project is sold or transferred without receiving written approval

1740.79 Servicing of grants, loans, and loan/grant combinations

- (c) The sale or lease of any portion of the Awardee's facilities must be approved in writing by RUS prior to initiating the sale or lease

1752.17 Sale or exchange of loan collateral.

- Borrowers must make a showing that the sale or exchange of collateral is in the best interest of the Government

Replace, Repay, or Rebuild?

Mortgage, Security Agreement; Section 2.8

*(1) **Replace** the same with other property of the same kind and nature, or substitute thereof, which shall be subject to the lien hereof, free and clear of all prior liens, and apply the proceeds, if any, derived from the sale or disposition of such property, which are not needed for the replacement thereof, to the **prepayment** of the indebtedness on the outstanding Notes, and shall be applied to such notes and installments thereof as may be designated by the respective Noteholders at the time of any such receipt*

OR

*(2) immediately upon the receipt of the proceeds of any sale or disposition of said property, apply the entire amount of such proceeds to the **prepayment** of the indebtedness evidenced by the Notes*

OR

*(3) deposit all or such part of the proceeds derived from the sale or disposition of said property into such bank accounts as the Mortgagee shall specify and shall use the same only for such **additions to, or improvements in**, the Mortgaged Property, on such terms and conditions as the Mortgagee shall specify.*

Sale of Assets: Request Package



1) Written Request - *A detailed explanation of the request and why it is needed.*



2) Form 793 - 2 forms for each sale



3) Board Resolution - A copy of the board resolution showing agreement for the sale



4) Appraisal (Valuation) - Appraisal document providing evidence of fair market value.



5) Purchase Agreement/Contract/Bill of Sale (as applicable) - The agreement that outlines the terms of the sale.

- Written Request
- Authorizing Board Resolution
- Partial Release Agreement (if applicable)
- Appraisal/Valuation of Property
- Purchase Agreement (if applicable)

Clear Form

**If additional space is needed, use reverse side.*

ReConnect Program: Questions?



Please share your feedback on these sessions!



Sale of Assets, Lien Releases, and Additional Indebtedness



Open Q&A



United States
Department of
Agriculture

Rural Development

Thank You!



Catrina Southall

Deputy State Director for
Florida/U.S. Virgin Islands

ReConnect Post-Award Workshop – Day 3

- 9:00-12:00 p.m. **Office Hours – Register in Beaufort Room**
- 9:00-9:15 a.m. **Opening Remarks**
- 9:15-10:15 a.m. **Reporting Requirements and Reporting & Compliance (R&C) Portal Live Demo**
- 10:15-10:30 a.m. **Break**
- 10:30-11:30 a.m. **Best Practices and Lessons Learned for a Successful ReConnect Project – Panel Discussion**
- 11:30-12:00 p.m. **Day 3 Closing Remarks**