

BROADBAND STIMULUS: MAXIMIZING YOUR CHANCES OF SUCCESS

**FTTH Council
Service Provider Workshop**

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BRIEF OVERVIEW OF THE BROADBAND STIMULUS PROGRAMS

- Rural Utilities Service
 - \$2.5B for grants, loans, and loan guarantees
 - Funding is available where at least 75% of the service area is “a rural area without sufficient access to high speed broadband service to facilitate rural economic development.”
- NTIA
 - Not less than \$4.35B for the Broadband Technology Opportunities Program
 - Purposes of BTOP: Broadband access in unserved areas; Improved Access in underserved areas; Education, awareness, training; Improved access by public safety agencies; Stimulate demand.

WHERE THE PROCESS STANDS

- RUS/NTIA
 - White House Memos
 - Memo on Spending Funds – March 20th
 - Office of Management and Budget April 3rd Memo
 - Council of Economic Advisors May Jobs Memo
 - Agency Updates on Program Plans – Filed mid-May
 - Rules/NOFA – 3rd Week of June?
 - Applications – August/September?
 - First Awards – RUS – late September?; NTIA – December?
 - Second Filing Round – Fall, 2009
 - Third Filing Round – Spring, 2010

- FCC
 - Rural Broadband Strategy – Report to Congress by May 22nd
 - National Broadband Strategy – Comments due on June 8th

- CONGRESS
 - Reports Due from RUS & NTIA
 - Confirmation Process: L. Strickling/NTIA; J. Adelstein/RUS

KEYS TO UNDERSTANDING THE PROGRAMS

- It's economic stimulus, not broadband, legislation.
 - Jobs, economic output, long-term infrastructure
 - Rapid deployment
- It's a new law with specific purposes and directives...Read and follow it.
 - RUS and NTIA programs differ significantly

KEYS TO UNDERSTANDING THE PROGRAMS

- The agencies are overwhelmed.
 - New criteria
 - More money in less time
 - Expansive eligibility
 - Deadlines – Awards by Sept. 30, 2010
 - Still have regular programs to run
- The agencies are given much discretion.
 - Congress rushed the programs
 - Little likelihood of court review
- The agencies are continuously monitored by Congress and the Administration.

KEY ISSUES STILL TO BE DECIDED BY THE AGENCIES

- Process
 - NOFA's Rounds 1, 2 & 3
 - Application Filing Deadlines
- RUS
 - Definitions: "High-Speed Broadband", "Insufficient Access", "Rural Economic Development"
 - Grants, Loans, Loan Guarantees
 - Matching Funds?
 - Scoring System/Handling Preferences
 - Design-build/Turnkey Projects?

BROADBAND PROVISIONS – NTIA'S BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM

- NTIA
 - Definitions: “Broadband”, “Unserved”, “Underserved”
 - Balancing Multiple Purposes
 - Role of the States
 - Eligible Applicants
 - Scoring System/Handling Preferences
 - Affordability
 - Broadband Speed
 - Healthcare, Education, Children
 - Socially and economically disadvantaged small businesses
 - Interconnection & Non-discrimination

 - Post Award Reporting and Audits
 - Compliance with Other Laws

CONSTRUCTING AN APPLICATION STRATEGY

- KEY ELEMENTS TO MAXIMIZE OPPORTUNITIES
 - CLOSELY FOLLOW THE LAW
 - DEMONSTRATE CREDIBILITY AND COMPETENCE
 - DEMONSTRATE PROJECT FEASIBILITY AND SUSTAINABILITY
 - OBTAIN SUPPORT FROM KEY CONSTITUENCIES
 - ANTICIPATE CONSTRAINTS, SUCH AS RIGHT-OF-WAY AND ENVIRONMENTAL IMPACT ISSUES
 - REMEMBER YOU'RE DOING BUSINESS WITH THE GOVERNMENT
 - AND, ABOVE ALL...UNDERSTAND THE NEEDS OF THE OFFICIALS AT RUS AND NTIA WHO ARE APPROVING AWARDS

MOVING FORWARD ON AN APPLICATION

- Start Now. There may not be sufficient time to get ready once the NOFA's are released.
- Project must make business sense. Then overlay the requirements of the new law.
- Build your team -- Business Development, Engineer, Finance, Lobbyists, Lawyer + Vendors/Construction.
- Set internal deadlines for preparing drafts of key sections and be prepared to alter when NOFA released.

A POTENTIAL OUTLINE FOR AN APPLICATION (NTIA)

1. Introduction – Narrative on Project
2. Applicant History (Competence)
 - a. Company Background
 - b. Background on Key Personnel
 - c. Current Infrastructure/Services
 - d. Financial History
 - e. Background on Partners/Vendors/Construction Entities
 - f. Evidence of Eligibility to Seek Grant

A POTENTIAL OUTLINE FOR AN APPLICATION (NTIA)

3. Project Service Area Information
 - a. Current Infrastructure
 - b. Demonstration Area is Unserved/Underserved (or other purpose)
4. Project Description and Costs
 - a. Project Design Overview – Narrative
 - b. Engineering Design/Infrastructure (Equipment, Technology, Facilities, Customers Reached)
 - c. Services (Including Broadband Speeds and Affordability)
 - d. Jobs/Economic Benefits from Deployment/Economic Development
 - e. Connectivity to Community Institutions, Government, and Public Safety
 - f. Cost of Project, Budget, and Matching Funds
 - g. Evidence Project would not have been built without stimulus funding
 - h. Evidence Project will be completed within 2 years

A POTENTIAL OUTLINE FOR AN APPLICATION (NTIA)

5. Project Deployment Plan
 - a. Turn-Key/Design-Build -- Narrative
 - b. Schedule for Deployment (Milestones)
 - c. Identification of Entities/Personnel in Charge
 - d. Permits & Environmental Impact Statements
6. Project Financials
 - a. Evidence Project is Feasible
 - b. Evidence Project is Sustainable
7. Support for Project from Community
8. Scoring Criteria Documentation
9. Post-Award Accountability
 - a. Reporting
 - b. Audit
10. Compliance with Laws

BROADBAND STIMULUS FUNDING: KELLEY DRYE'S SERVICES FOR APPLICANTS

Broadband Stimulus Applications: Services Provided by Kelley Drye

- Work with Provider to Assess Viability of Project and Application
 - Mesh Business Needs with Stimulus Opportunities
 - Determine Project's Consistency with Purposes of Program and Rules Adopted by RUS & NTIA
 - Determine which Program Fits Best: RUS v. NTIA
 - Identify and Assess –
 - Partnership Opportunities with Service Providers, Vendors & Others
 - Support from Government, Community, and Others
 - Government Licensing Requirements and Regulatory Obligations
 - Rights to Access to Rights-of-Way, Poles and other Critical Facilities
 - Ability to Access Universal Service Funding

Broadband Stimulus Applications: Services Provided by Kelley Drye

- With Provider Develop Strategy to Maximize Chances of Success
- Manage Overall Application Process
 - Develop/Implement Campaign to Support Application
 - Draft Grant Application
 - Assist in Development of Partnerships and Draft Agreements
 - Perform Due Diligence on Essential Requirements, e.g. Non-Discrimination/Interconnection Mandate; Matching Funds; Project Need for Government Funding; Buy America; Environmental Impact
 - Obtain Support from State/Local Government and Community
 - Advocate for Application

Broadband Stimulus Applications: Services Provided by Kelley Drye

- Monitor and Ensure Post-Award Compliance
 - Assist with Post-Award Reporting Requirements
 - Address Compliance Issues and Resolve Disputes
- Other Post-Award Actions
 - Obtain Necessary Government Licenses
 - Negotiate and Draft Agreements for Access to Rights-of-Way, Poles and Other Critical Facilities
 - Ensure Compliance with Other Laws and Regulations