

From PLI's Online Program

New Truth in Lending Disclosure Rules for Private Education Loans
#24376



Overview

- BTOP Basics
- BIP Basics
- Key Definitions and Program Priorities
- Eligibility Criteria
- Application Contents
- Application Evaluation Process
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- Administrative and Compliance Obligations



BTOP and BIP Basics



BTOP Programs

- Up to \$1.4 billion will be awarded in the first round, with the remaining \$2.7 billion available for future funding rounds
- Three categories of BTOP projects:
 - Broadband Last Mile and Middle Mile Infrastructure projects for delivering broadband to unserved and underserved areas (\$1.2 billion)
 - Public Computer Center projects for expanding public access to broadband at computing facilities such as those at community colleges and libraries (\$50 million)
 - Sustainable Broadband Adoption projects to promote broadband demand and focus on broadband education, awareness, training, and equipment, particularly among vulnerable populations (\$150 million)



BIP Program

- Approximately \$2.4 billion will be awarded in the first round, essentially all of the funding available
- *Up to \$1.2 billion is available for Last Mile projects*
 - Up to \$400 million for Remote Area grants and
 - Up to \$800 million for loans or loan-grant combinations for Non-Remote projects
- *Up to \$800 million is available for Middle Mile project loans and loan-grant combinations*
- *Size of the grant portion may not exceed the amount of the loan portion of the award,*
- *Any unused funds funds will be made available under subsequent NOFAs*



BIP Broadband Infrastructure Categories

- Last Mile Remote Area Projects:
 - Applications must predominantly provide broadband directly to the premises or to end users within completely remote areas
- Last Mile Non-Remote Area Projects:
 - Applications must predominantly provide broadband directly to the premises or to end users not exclusively within remote areas
 - These projects may encompass both remote and non-remote areas, and will be awarded scoring points for remote areas
 - The proposed funded service area must contain 75% or more unserved or underserved rural areas



BIP Broadband Infrastructure Categories (cont.)

- Middle Mile Projects:
 - Applications must connect at least two points without predominantly providing broadband service to the premises or end users, and must be capable of bringing broadband service to eligible service areas
 - The proposed funded service area must benefit at least 75% or more unserved or underserved rural areas



Key Definitions and Program Priorities



Key BTOP and BIP Definitions

- **“Broadband”**: data transmission of at least 768 kbps downstream and at least 200 kbps upstream to end users (or for Middle Mile projects, providing sufficient capacity to support such speeds)
- **“Last Mile project”**: broadband infrastructure project providing broadband service to end users or end-user devices
- **“Middle Mile project”**: broadband infrastructure project that does *not* predominantly provide broadband service to end users or to end-user devices, and may include interoffice transport, backhaul, Internet connectivity, or special access
- **“Unserved area”**: A proposed funded service area, composed of one or more contiguous census blocks, where at least 90% of households lack access to facilities-based, terrestrial broadband service (fixed or mobile) at the minimum transmission speeds (access is if household can readily subscribe to service)



Definitions (cont.)

- “Underserved area”:
 - For Last Mile projects: an area composed of one or more contiguous census blocks where at least one of the following is met:
 1. *no more than 50% of households have access to “broadband”;*
 2. *no fixed or mobile broadband service provider advertises transmission speeds of at least 3 mbps downstream; or*
 3. *the rate of broadband subscribership is 40% of households or less*
 - Presumption is that more than one factor will be met
 - For Middle Mile projects: an area “may qualify” as underserved if one interconnection point terminates in a census block that qualifies as unserved or underserved for Last Mile projects



Definitions (cont.)

- “Remote area”: an unserved, rural area 50 miles from the limits of a non-rural area
- “Rural area”: any area confirmed by the latest Census, which is not located within:
 - (1) a city/town/unincorporated area with 20,000+ population; or
 - (2) an urbanized area adjacent to a city/town that has a population of 50,000+ inhabitants



BTOP Priorities

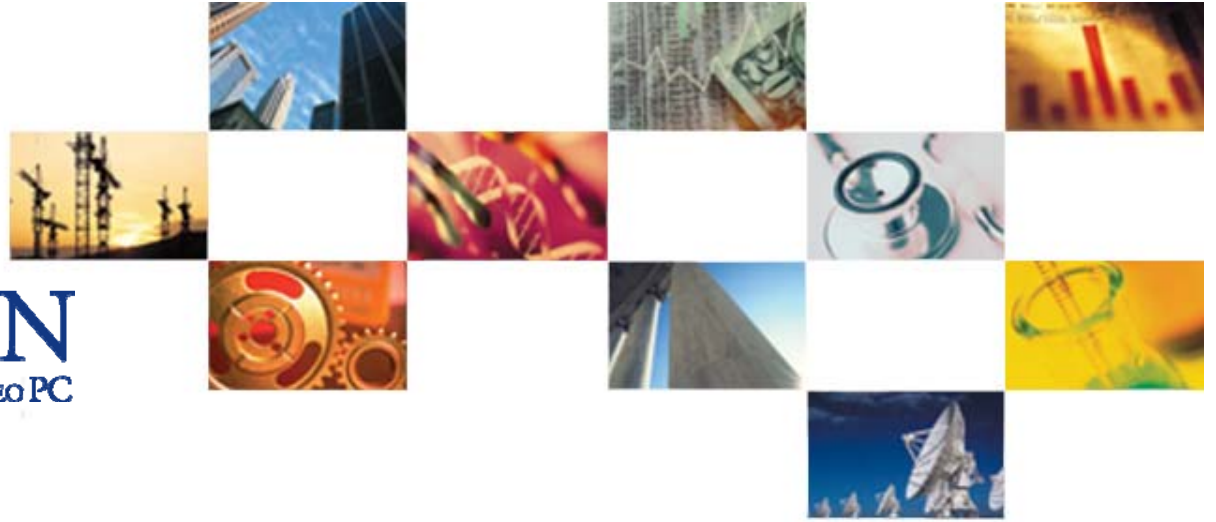
- BTOP projects must advance one or more of the five purposes outlined in the Recovery Act:
 1. *To provide broadband access to unserved areas;*
 2. *To provide improved broadband access to underserved areas;*
 3. *To provide broadband access, education, and training to community anchor institutions and vulnerable populations;*
 4. *To improve broadband access to public safety agencies; and*
 5. *To stimulate the demand for broadband, economic growth, and job creation*
- NTIA will give priority to “viable, sustainable, and scalable projects” and projects satisfying public-interest objectives
- NTIA will issue awards supporting a range of technologies, including fixed and mobile wireless, fiber, and satellite



BIP Priorities

- Priority will be given to those BIP projects that:
 1. *Give end users a choice of providers;*
 2. *Serve the highest proportion of rural residents that lack access to broadband service;*
 3. *Are projects of current or former RUS borrowers (Title II); and*
 4. *Are fully funded and ready to start once Recovery Act funding is received*
- BIP application reviewers will favor projects that implement these priorities, can commence construction promptly, and demonstrate technical and financial feasibility, organizational capacity, and furtherance of other Administration priorities

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Eligibility Criteria



Applying for BTOP and BIP Funding

- Applications proposing to fund broadband infrastructure in areas which are at least 75% rural *must* be submitted to RUS for consideration
- If RUS determines not to fund such a project, it can then be considered for BTOP funding at the applicant's election (provided that the applicant has answered all relevant application questions for both programs)
- Applications for this round will be accepted from July 14 at 8:00 am until August 14 at 5:00 pm, with awards likely announced November 7
- Applications requesting more than \$1 million must be submitted electronically; all other applicants are encouraged to file electronically via www.broadbandusa.gov



Non-Discrimination/Interconnection

- All BTOP Broadband Infrastructure and BIP applicants must:
 1. *adhere to the principles contained in the FCC's Internet Policy Statement;*
 2. *not favor any lawful Internet applications and content over others;*

This requirement applies only to applications and content that traverse the public Internet; awardees may offer managed services over private network connections, *e.g.*, telemedicine, public safety communications, distance learning.

3. *prominently display any network management policies on the service provider's web page;*



Non-Discrimination/Interconnection

- All BTOP Broadband Infrastructure and BIP applicants must:
 4. *offer interconnection, where technically feasible, on reasonable rates and terms negotiated with requesting parties; and*
 5. *connect to the Internet directly or indirectly, so as not to be an entirely private closed network.*
- Applicants must disclose “how [the ND/I] requirements will be met,” suggesting that applicants will have some flexibility in complying with these rules
- Entities that successfully reach an agreement to interconnect with a system funded under BIP may not use that interconnection agreement to offer services that would duplicate services offered by Rural Electrification Act-funded telephone borrowers



BTOP - Other Eligibility Criteria

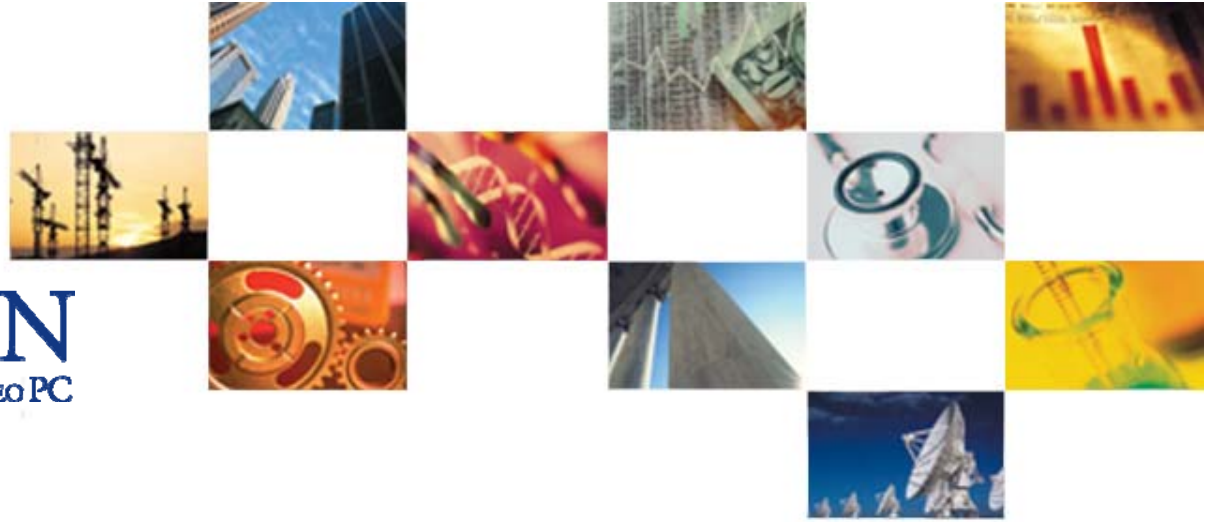
- Last Mile Coverage Obligation
 - BTOP Broadband Infrastructure projects must identify the census block(s) selected for the project and provide documentation showing that the proposed funded service area is either unserved or underserved
 - There is a presumption that applicants will provide service to the entire territory unless a waiver is filed
- Cost Sharing/Matching
 - BTOP awardees must show their ability to provide matching funds of at least 20% toward the eligible project cost
- Demonstration of Federal Grant Assistance Necessity
 - BTOP applicants must provide documentation showing that the project would not have been implemented during the grant period without federal grant assistance



BIP- Other Eligibility Criteria

- Last Mile Coverage Obligation
 - Same census block identification requirement as BTOP, as well as presumption that applicants will provide service to the entire territory unless a waiver is filed
- Overlapping Service Areas
 - RUS will not fund more than one BIP project to serve any given geographic area; in the event of overlapping areas, only the application with the highest score will receive funding unless the overlap is *de minimis*
- Fully Funded
 - BIP projects are eligible only if, after approval of the award, all project costs can be fully funded; projects must also be financially feasible and sustainable

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Application Contents



BTOP and BIP Application Contents

- Application requirements for Step One of the BTOP Broadband Infrastructure Project application and BIP application process include, but are not limited to, the following:
 - Applicant identity, project description, affected Congressional districts, and estimated dollar amount of the funding request;
 - Executive summary of project (including number of households and businesses passed, how nondiscrimination and interconnection requirements will be met, and estimated number of jobs created/saved);
 - Description of broadband delivery technology type and system design;
 - Timeline including key milestones for implementation and a certified construction schedule; lists of required licenses and regulatory approvals;
 - Resumes of key management personnel and a legal opinion addressing applicant's ability to enter award documents and all pending litigation;
 - Itemized budget, partnership identification, and verification of eligibility



BTOP Sustainable Adoption Projects Application Contents

- Many elements similar to Broadband Infrastructure Projects (identify Congressional district, proposed budget, etc.)
- Additional elements
 - *Demonstrate sustainable increase in demand for and subscribership to broadband services*
 - *Show how projects meet a specific public need for broadband service, including, education, employment, enhanced service for health-care delivery*
 - *Describe the barriers to adoption in a given area, especially among vulnerable populations*
 - *Propose a persuasive solution to encourage adoption*
 - *Show how variations on one or more proven demand stimulation strategy—such as awareness-building, development of content—would promote sustainable adoption*



BTOP Public Computer Center Application Contents

- Common elements
- Additional elements
 - *Capacity of the Public Computer Center ("PCC") and the areas/populations to be served*
 - *Availability to general public or specific populations*
 - *Membership fees (if any)*
 - *Restrictions on PCC use*
 - *Accessibility to disabled persons*
 - *Locations/hours, current/proposed number of work stations*
 - *Current/proposed speed of the PCC's broadband connection*
 - *Outreach strategy for the center*
 - *Training and educational programs to be offered*



Application Evaluation Process



BTOP Application Evaluation Process

- Initial Screen and Two-Step Review
 - NTIA will conduct an initial screen to determine application completeness
 - Step One of the review consists of three independent peer/expert reviewers awarding application points based on evaluation criteria in four categories:
 1. Project purpose (30 points)
 2. Project benefits (25 points)
 3. Project viability (25 points)
 4. Project budget and sustainability (20 points)
 - Step Two consists of NTIA requesting additional documentation as part of a “due diligence” process for applications that have been identified as the most highly qualified for funding in Step One



BTOP Application Evaluation Process (cont.)

- State Evaluation of BTOP Applications
 - States may make recommendations regarding allocation of funds for qualifying projects during Step Two of the BTOP application process
 - The Governor's office of each state will receive a list of applications under consideration and within 20 calendar days may provide NTIA with a list and prioritization of recommended projects explaining how the selected proposals meet the state's needs
- Notice of Proposed Funded Service Areas
 - NTIA and RUS will post a Public Notice of the proposed funded service areas of each Broadband Infrastructure application for a 30-day period during the review process
 - During this time, existing service providers will have an opportunity to submit information about their service offerings in the proposed funded service areas



BIP Application Evaluation Process

- RUS Two-Step Review of BIP Applications
 - Step One of the review consists of RUS evaluating applications for eligibility and completeness, followed by the awarding of application points based on criteria in four categories:
 1. Project purpose (25 points)
 2. Project benefits (25 points)
 3. Project viability (25 points)
 4. Project budget and sustainability (25 points)
 - Step Two, as with NTIA and BTOP, consists of RUS requesting additional documentation as part of a “due diligence” process for applications that have been identified as the most highly qualified for funding in Step One



Evaluation Factors Considered



BTOP Evaluation Factors

- Project purpose (30 points):
 - Fit with statutory purposes; Recovery Act and government collaboration; enhanced service for health care delivery, education, and children
- Project benefits (25 points):
 - *BTOP Broadband Infrastructure Last Mile Projects*: Cost-effectiveness; performance of offered services; affordability; nondiscrimination, interconnection, and choice of provider
 - Additional consideration given to applicants that:
 - Commit to offering wholesale access to network components and services such as wavelength or fibers at reasonable rates and terms; and
 - Commit to binding private arbitration of disputes concerning the awardees' interconnection obligations



BTOP Evaluation Factors (cont.)

- *BTOP Infrastructure Middle Mile projects-specific factors*: impact on the area of direct benefit, number of POIs, network capacity
- *BTOP Public Computer Center-specific factors*: availability to the public and training/educational programs offered
- *BTOP Sustainable Broadband Adoption-specific factors*: number of new users, cost per new user, innovation
- Project viability (25 points):
 - Technical feasibility of the proposed project; applicant's organizational capacity; level of community involvement; and ability to promptly start project
- Project budget and sustainability (20 points):
 - Reasonableness of the budget; sustainability of the project; and leverage of outside resources (*e.g.*, additional consideration to proposals that exceed the minimum 20 percent matching requirement and/or provide cash matches)



BIP Evaluation Factors

- Project purpose (25 points):
 - Proportion of rural residents served in unserved areas; rural area targeting (e.g., 1 point for every 10,000 unserved households that will receive broadband service); remote area targeting (5 pts); Rural Electrification Act borrowers (5 pts); “substantive and meaningful” Recovery Act and government collaboration/partnership (up to 5 pts)
- Project benefits (25 points): Performance of the offered service
 - *BIP Last Mile Projects*:
 - Wireline: Delivery of a minimum of 20 mbps service to the household (upstream + downstream) (10 pts)
 - Wireless: Delivery of a minimum of 2 mbps service to the end user (upstream + downstream) (10 pts)
 - Both: Points for projects combining wireline and wireless, if both standards are met (10 pts)
 - *BIP Middle Mile Projects*:
 - Points for delivery of 100 mbps to all network end points (10 pts)
 - **Additional factors**: affordability of services (5 pts), choice of provider (e.g., business plans allowing more than one provider to serve end users) (5 pts), and critical community facilities discount rate packages (5 pts)



BIP Evaluation Factors (cont.)

- Project viability (25 points):
 - Applicant's organizational capacity and management team (up to 12 pts)
 - Community support (up to 2 pts)
 - Ability to promptly start project (*i.e.*, all required licenses/regulatory approvals obtained, contractors/vendors prepared to contract upon receipt of funds) (10 pts)
 - Qualification as a "socially and economically disadvantaged" small business (1 point)
- Project budget and sustainability (25 points):
 - Reasonableness of the budget (up to 5 pts)
 - Leverage of outside resources (up to 10 pts)
 - Extent of grant funding (up to 10 pts)



BTOP Eligible Costs

- Broadband Infrastructure Projects
 - *Construction or improvement of facilities required to provide broadband service, the cost of leasing facilities required to provide broadband service if such lease is a capital lease, reasonable pre-application expenses in an amount not to exceed 5 % of the award*
 - *NOT operating expenses*
- Sustainable Adoption Projects
 - *Acquisition of broadband-related equipment, hardware and software, development and provision of training, education, support, and awareness programs or web-based content, broadband-related public education, outreach, and awareness campaigns, programs to facilitate greater access to broadband services*
 - *NOT purchases that are not used predominantly for the provision of broadband education, awareness, training, access, equipment, and support*



BIP Eligible Costs

- Awards may be used to fund:
 - *The construction or improvement of facilities required to provide broadband service, including facilities required for providing other services over the same facilities*
 - *The cost of leasing facilities required to provide broadband service if such lease is a capital lease*
 - *Reasonable pre-application expenses in an amount not to exceed 5% of the award*
 - *NOT operating expenses*



BTOP and BIP Timeline

- *July 14 - August 14*: Applications will be accepted.
- No earlier than *September 14*: Step Two announced
- Later of *October 15* or 30 days after request: Step Two supplemental documents due
- On or about *November 7*: Target date for awarding grants.



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Administrative and Compliance Obligations



Recovery Act Reporting

- Recovery Act Reporting:
 - Mandatory quarterly reports describing total amount of funds received and spent on projects, estimates of jobs created/retained, and details on sub-awards and other payments
 - BTOP awardees must also report quarterly on their progress in achieving project goals, and notify NTIA when they have met 67% of their milestones and received 67% of awarded funds
 - BIP awardees must also submit quarterly to RUS financial statements and the number of customers taking broadband service on a per community basis; submit annually the number of households and businesses subscribing to broadband service; and notify RUS when they have received 67% of awarded funds



Administrative/Compliance Obligations

- BTOP - Access to Records:
 - The Department of Commerce Inspector General has the right to inspect the broadband system and other grant-funded property of any awardee, including audits, inspections, and photocopies of records, accounts, contracts, and books
- BIP - Accounting, Monitoring, and Reporting Requirements
 - RUS's requirements will be specified in the award documents and will include:
 - Adoption of a generally accepted account principles ("GAAP") system of accounts
 - Submission of annual audited financial statements and compliance reports
 - Responses to all reasonable RUS and USDA Office of Inspector General monitoring requests, including inspection and copying of books and records



Administrative/Compliance Obligations (cont.)

- Additional Compliance Requirements for BTOP and BIP Applicants:
 - *Environmental and national historic preservation requirements*
 - *Davis-Bacon prevailing wage requirements*
 - *Financial and compliance audit reports for recipients that expend \$500,000 or more of federal funds during a fiscal year*
 - *Buy American requirements*
 - *Waived with respect to certain broadband equipment*
 - *Waiver with respect to other items may be requested on a case-by-case basis*
 - *Applicable only to public applicants and public-private partnerships; not applicable to private projects*



Questions?

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