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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Rural eConnectivity Program

[Docket Number: RUS-21-Telecom-0010]

AGENCY: Rural Utilities Service, USDA.

ACTION: Funding opportunity announcement.

SUMMARY:

The Rural Utilities Service, a Rural Development agency of the United States Department of Agriculture (USDA), hereinafter referred to as “RUS” or “the Agency” is issuing a Funding Opportunity Announcement (FOA) to announce that it is accepting applications for fiscal year 2022 (FY 22) for the Rural eConnectivity Program (the ReConnect Program). In addition, this FOA defines requirements that are determined at the time a funding announcement is published, as outlined in the regulation. As part of this announcement, the Agency is also informing potential applicants and other interested parties about its intention to seek information on a topic that will help inform future funding announcements. More information is located in Section G of this announcement.

DATES: Beginning on **[INSERT DATE 30 DAYS AFTER DATE OF**

PUBLICATION IN THE FEDERAL REGISTER], applications can be submitted

through the RUS on-line application portal until 11:59 AM Eastern on **[INSERT DATE**

120 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

Applications will not be accepted after **[INSERT DATE 120 DAYS AFTER DATE OF**

PUBLICATION IN THE *FEDERAL REGISTER*] until a new application opportunity

has been opened with the publication of an additional FOA in the *Federal Register*.

ADDRESSES: Applications must be submitted electronically through the RUS on-line application portal located at <https://www.usda.gov/reconnect>. This FOA will be made available for informational purposes on Grants.gov

FOR FURTHER INFORMATION CONTACT: For general inquiries regarding the ReConnect Program, contact Laurel Leverrier, Assistant Administrator, Telecommunications Program, Rural Utilities Service, U.S. Department of Agriculture (USDA), email laurel.leverrier@usda.gov, telephone: (202) 720-9554.

For inquiries regarding eligibility concerns, please contact the ReConnect Program Staff at <https://www.usda.gov/reconnect/contact-us>.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: Rural Utilities Service.

Funding Opportunity Title: The Rural eConnectivity Program

Announcement Type: Funding Opportunity Announcement

Assistance Listing: 10.752

Funding Opportunity Number (grants.gov): RUS-REC-2022

Dates: Beginning on **[INSERT DATE 30 DAYS AFTER DATE OF**

PUBLICATION IN THE *FEDERAL REGISTER*], applications can be submitted

through the RUS on-line application portal until 11:59 AM Eastern on **[INSERT**

DATE 120 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL*

***REGISTER*]**. Applications will not be accepted after **[INSERT DATE 120 DAYS**

AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*] until a new

application opportunity has been opened with the publication of an additional FOA in the *Federal Register*.

Administrative: The Agency encourages applicants to consider projects that will advance the following key priorities:

- Assisting Rural communities recover economically from the impacts of the COVID-19 pandemic, particularly disadvantaged communities.
- Ensuring all rural residents have equitable access to Rural Development programs and benefits from Rural Development funded projects.
- Reducing climate pollution and increasing resilience to the impacts of climate change through economic support to rural communities.

In addition, the Agency would like to highlight the importance of creating good-paying jobs with strong labor standards.

Program Description

1. Program purpose. The ReConnect Program provides loans, grants, and loan/grant combinations to facilitate broadband deployment in rural areas. In facilitating the expansion of broadband services and infrastructure, the program will fuel long-term rural economic development and opportunities in rural America.

2. Statutory authority. The ReConnect Program is authorized by the Consolidated Appropriations Act, 2018 (Pub. L. 115–141), which directs the pilot to be conducted under the Rural Electrification Act of 1936 (7 U.S.C. 901 *et seq*). Since its establishment in 2018, the ReConnect Program has been implemented by issuing two FOAs that detailed the requirements for submitting an application. The ReConnect Program has received successive appropriations by Congress and has matured due to Agency experience and feedback provided by stakeholders. The policies and procedures for the ReConnect Program are codified in a final rule, 7 CFR part 1740, that was published in the *Federal Register* on February 26, 2021 (86 FR 11603). Among other things, those rules require that the applicant demonstrate that the project can be completely built out within five years from the date funds are first made available; the project is technically feasible; all project costs can be fully funded or accounted for; facilities funded with grant funds will provide the broadband service proposed in the application for the

composite economic life of the facilities, as approved by RUS, or as provided in the Award Documents; and that facilities funded with loan funds must provide broadband service through the amortization period of the loan. Applicants should carefully review those rules in conjunction with this FOA.

For FY 22, loans, grants, and loan/grant combinations will be made for the costs of construction, improvement, or acquisition of facilities and equipment needed to facilitate broadband deployment in rural areas.

3. Definition of terms. The definitions applicable to this FOA are as follows:

i. *Local government* means the administration of a particular town, county, or district, with representatives elected by those who live there.

ii. *Remote areas* means areas classified by the USDA Economic Research Service as Frontier and Remote Area (FAR) Level 4. A geographic information system (GIS) layer of FAR Level 4 areas can be found at <https://www.usda.gov/reconnect>.

iii. *Socially Vulnerable Community* means a community or area identified in the Center for Disease Control's Social Vulnerability Index with a score of .75 or higher. A GIS layer identifying the Socially Vulnerable Communities can be found at <https://www.usda.gov/reconnect>.

iv. *Sufficient access to broadband* (7 CFR 1740.2) means any rural area in which households have fixed, terrestrial broadband service defined as 100 megabits per second (Mbps) downstream and 20 Mbps upstream.

v. *System requirements* (7 CFR 1740.3(a)(2)). Facilities proposed to be constructed with award funds must be capable of delivering 100 Mbps symmetrical service to every premise in the proposed funded service area (PFSA). Please note that capable of delivering 100 Mbps symmetrical service to every premise means that all premises in the PFSA must be able to receive this service at the same time.

vi. *Tribal Government* means the governing body of an Indian or Alaska Native tribe, band, nation, pueblo, village, or community listed pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

vii. *Tribal land* means any area identified by the United States Census Bureau as tribal land. A GIS layer of Tribal Lands can be found on the RUS mapping tool located at <https://www.usda.gov/reconnect>.

viii. *Other definitions* related to the ReConnect Program are contained in 7 CFR 1740.2.

B. Federal Award Information

1. Funding categories, interest rates and terms (7 CFR 1740.3(b)).

i. *100 Percent Loan*. Applications will be processed and awarded on a rolling basis. In the event two loan applications are received for the same PFSA, the application submitted first will be considered first. The interest rate for a 100 percent loan will be set at a fixed 2 percent. Principal and interest payments will be deferred for three years. The amortization period will be based on the composite economic life of the assets funded plus three years.

ii. *50 Percent Loan/50 Percent Grant Combination*. The interest rate for the 50 percent loan component will be set at the Treasury rate for the remaining amortization period at the time of each advance of funds. Principal and interest payments will be deferred for three years. The amortization period will be based on the composite economic life of the assets funded plus three years. Applicants may propose substituting cash for the loan component at the time of application and funds must be deposited into the applicant's operating accounts at the closing of the award.

iii. *100 Percent Grant*. Applicants must provide a matching contribution equal to at least 25 percent of the cost of the overall project. The matching contribution

requirement applies only to the 100 Percent Grant funding category. The applicant must clearly identify the source of the funds even if it is to be provided from the applicant's operating accounts. All matching funds must be deposited into the applicant's operating accounts at the closing of the award. If the matching funds are provided by a third party, a commitment letter from the third party must be submitted indicating that the funds will be available at the closing of the award if approved. The matching contribution can only be used for eligible purposes. If the applicant elects to initiate a loan to satisfy the matching requirement, documentation must be included as part of the application indicating the terms and conditions for the loan and that the grant funded assets cannot be used as collateral for the matching funds loan. The loan must be entered into and funds transferred into the applicant's accounts by the closing of the award.

iv. *100 Percent Grant for Tribal Governments and Socially Vulnerable Communities.* If the applicant is a Tribal Government, or a corporation that is wholly owned by a Tribal Government, proposing to provide service on its own lands, there is no matching fund requirement and applicants may apply for grant funds to construct the broadband facilities. In addition, if at least 75 percent of the geographic area of an applicant's PFSA(s) consists of Socially Vulnerable Communities, as defined in section A.3.iii. of this FOA, there is no matching fund requirement and applicants may apply for grant funds to construct the broadband facilities.

2. Maximum and minimum funding amounts (7 CFR 1740.3(b)).

i. *100 Percent Loan.* Up to \$200,000,000 is available for loans. The maximum amount that can be requested in an application is \$50,000,000.

ii. *50 Percent Loan—50 Percent Grant Combination.* Up to \$250,000,000 is available for loan/grant combinations. The maximum amount that can be requested in an application is \$25,000,000 for the loan and \$25,000,000 for the grant. Loan and grant amounts will always be equal.

iii. *100 Percent Grant*. Up to \$350,000,000 is available for grants. The maximum amount of grant funds that can be requested in an application is \$25,000,000. However, to encourage broadband deployment in remote areas, if an applicant provides supporting information that demonstrates that the PFSA(s) is comprised 100 percent of areas classified by the USDA Economic Research Service as FAR Level 4, the applicant may request up to \$35,000,000. A GIS layer of FAR Level 4 areas can be found at <https://www.usda.gov/reconnect>.

iv. *100 Percent Grant for Tribal Governments and Socially Vulnerable Communities*. Up to \$350,000,000 is available for grants. The maximum amount of grant funds that can be requested in an application is \$25,000,000. However, to encourage broadband deployment in remote areas, if an applicant provides supporting information that demonstrates that the PFSA(s) is comprised 100 percent of locations within areas classified by the USDA Economic Research Service as FAR Level 4, the applicant may request up to \$35,000,000. A GIS layer of FAR Level 4 areas can be found at <https://www.usda.gov/reconnect>.

v. The minimum amount that can be requested in any ReConnect Program application is \$100,000.

C. Eligibility Information

1. Eligibility requirements. The eligibility requirements for the ReConnect Program are published at 7 CFR 1740 Subpart B.

2. Eligible service areas. The following areas are eligible:

i. For a PFSA to be eligible for funding, at least 90 percent of the households in the PFSA must lack sufficient access to broadband. For purposes of this FOA, sufficient access to broadband means any rural area in which households have access to fixed, terrestrial broadband service of at least 100 megabits per second (Mbps) downstream and 20 Mbps upstream. Applicants must submit evidence that sufficient access to broadband

does not exist for 90 percent of the households in the PFSA, identify all existing providers in the PFSA, and indicate what level of service is being provided. If these areas are found to have sufficient service, the application will be rejected.

ii. Pursuant to the Consolidated Appropriations Act, 2021 (Pub. L. 116-260), the service areas of existing RUS borrowers without sufficient access to broadband, as defined in this FOA, are eligible for ReConnect funding.

iii. Areas that receive support from the Federal Communications Commission (FCC), but are without sufficient access to broadband, as defined in this FOA, are eligible for funding under this FOA.

iv. RUS will offer funding in areas receiving or under consideration for a Rural Digital Opportunity Fund (RDOF) award because RDOF funds both operational expenses and capital expenses, while ReConnect funds only capital expenses. However, the application should explain why RUS should provide additional funding. For example, will the applicant commit to an accelerated deployment schedule if it receives RUS funding. RUS will also require all ReConnect awardees receiving or under consideration for RDOF funding to submit a statement certifying that the funds requested from ReConnect have not been and will not be reimbursed by the RDOF award. That is, funds must be used only for complementary purposes and not for duplicative ones, and therefore funding recipients cannot claim that both RDOF and ReConnect funds were used to pay for the same labor or materials used to deploy broadband to specific locations or to procure the same unit of network equipment. Recipients that receive both RDOF and ReConnect funding must keep separate accounts to track the sources and uses of each funding source as needed to support the certification statement submitted with its ReConnect application.

v. If two or more applications are submitted for the same non-Tribal Land area receiving or under consideration for an RDOF award, and one of those applications is

submitted by the RDOF winning bidder, or the winning bidder's assignee, and its application scores equally as high as the other application(s) for the area, RUS will give preference to the applicant receiving or under consideration for the RDOF award, except that on Tribal Lands, RUS will give preference to the applicant that has a Tribal Government Resolution of Consent.

vi. If an applicant has applied for or is receiving other federal funding to deploy broadband in all or part of the PFSA, the applicant should explain how RUS funding will be complementary to but not duplicative of the other funding. ReConnect awardees will be required to submit a statement certifying that the funds requested from ReConnect have not been and will not be reimbursed by any other federal funding mechanism.

3. Tribal Government Resolution of Consent. Pursuant to 7 CFR 1740.60(d)(19), a certification from the appropriate tribal official is required if service is being proposed over or on tribal lands. The appropriate certification is a Tribal Government Resolution of Consent. The appropriate tribal official is the Tribal Council of the Tribal Government with jurisdiction over the tribal lands at issue. Any applicant that fails to provide a certification to provide service on the tribal lands identified in the PFSA will not be considered for funding.

4. Pre-application expenses. The costs associated with satisfying the environmental review requirements are eligible for reimbursement under this category. Up to three percent of the requested award funds can be used for this purpose. Please note that any environmental expenses will count as part of the overall five percent that is allowable for pre-application expenses.

D. Application and Submission Information

1. All requirements for submission of an application under the ReConnect Program are subject to 7 CFR part 1740.

2. Applications must be submitted through the Agency's online application system located on the ReConnect webpage, <https://www.usda.gov/reconnect>. All materials required for completing an application are included in the online system. Please note there are a number of supporting documents that will need to be uploaded through the application system.

3. Applicants can submit only one application. Applicants may start multiple applications in the system but only one can be submitted.

E. Application Review Information

1. Evaluation. All applications are subject to the submission and evaluation requirements contained in 7 CFR 1740, Subpart E.

2. Scoring. Applications will be scored based on the following criteria:

i. *Rurality of PFSA (25 Points)*. Points will be awarded for serving the least dense rural areas as measured by the population of the PFSA per square mile or if the PFSA is located at least one hundred miles from a city or town that has a population of greater than 50,000 inhabitants. If multiple service areas are proposed, the density calculation will be made on the combined areas as if they were a single area and not the average densities. Population densities of 6 or less or if the PFSA is located one hundred miles from a city or town of 50,000, 25 points will be awarded.

ii. *Level of existing service (25 Points)*. Projects that are proposing to build in areas that are not receiving service of at least 25 Mbps downstream and 3 Mbps upstream will receive 25 points, with points awarded based on the number of households lacking such service that the project will serve. Applicants must provide supporting evidence that 25/3 service does not exist for those households. To the extent possible, applicants must identify all existing providers in the PFSA and indicate what level of service is actually being provided. Applicants are not required to treat the publicly

available FCC current Form 477 data as dispositive of what speed service currently exists.

iii. *Economic need of the community (20 Points)*. Economic need is based on the county poverty percentage of the PFSA in the application. The percentages must be determined by utilizing the United States Census Small Area Income and Poverty Estimates (SAIPE) Program. For applications where 75 percent of the PFSA(s) are proposing to serve communities with a SAIPE score of 20 percent or higher, 20 points will be awarded. Proposed funded service areas located in geographic areas for which no SAIPE data exist will be determined to have an average SAIPE poverty percentage of 30 percent. Such geographic areas may include territories of the United States or other locations eligible for funding through the ReConnect Program. A GIS layer identifying SAIPE areas can be found in the RUS mapping tool located at <https://reconnect.usda.gov>.

iv. *Affordability (20 Points)*. Applications can receive 20 points based on their affordability measures. Applicants should demonstrate that the broadband prices they will offer are affordable to their target markets, provide information about the pricing and speed tiers they intend to offer, and include at least one low-cost option offered at speeds that are sufficient for a household with multiple users to simultaneously telework and engage in remote learning. Applicants should also commit to applying to participate in the Federal Communication Commission's Lifeline Program, the Emergency Broadband Benefit Program, and any successors to those programs which provide low-income consumers with discounts on broadband services. More details are available in the Application Guide.

v. *Labor Standards (20 points)*. It is important that necessary investments in broadband infrastructure be carried out in ways that produce high-quality infrastructure, avert disruptive and costly delays, and promote efficiency. The Agency understands the importance of promoting workforce development and encourages recipients to ensure that

broadband projects use strong labor standards consistent with Tribal laws when projects propose to build infrastructure on Tribal Lands. Using these practices in construction projects not only promotes effective and efficient delivery of high-quality infrastructure and supports the economic recovery through employment opportunities for workers, but may also help to ensure a reliable supply of skilled labor that would minimize disruptions, such as those associated with labor disputes or workplace injuries.

Applicants should include in their applications a description of whether and, if so, how the project will incorporate strong labor standards, including whether workers (including contractors and subcontractors) will be paid wages at or above the prevailing rate;¹ whether the project will be covered by a project labor agreement; what safety training, professional certifications, in-house training and/or licensure will be required of workers (including contractors and subcontractors); whether a locally-based workforce will be used; whether work will be performed by a directly employed workforce or whether the employer has policies and practices in place to ensure employees of contractors and subcontractors are qualified; and whether the applicant, its contractors, or subcontractors have any violations of state or federal labor, workplace safety and health, or employment laws within the last five years.

For applicants that commit to strong labor standards, consistent with Tribal Laws when the project proposes to build infrastructure on Tribal Lands, 20 points will be awarded. Projects that propose to build infrastructure on Tribal Lands must follow Tribal Laws such as Tribal Employment Rights Ordinances to be in compliance with a

¹ This means that all laborers and mechanics employed by contractors and subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the “Davis-Bacon Act”) or, for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate state entity pursuant to a corollary state prevailing-wage-in-construction law (commonly known as “baby Davis-Bacon Acts”).

ReConnect award, regardless of receiving points under this standard. The Agency reserves the right to adjust award amounts for unforeseen circumstances.

vi. Tribal lands (15 Points). For applicants that are Tribal Governments and tribal entities and, at a minimum, 50 percent of the geographical area of the PFSA(s) is to provide service on tribal lands, 15 points shall be awarded. For non-tribal entities where at least 50 percent of the geographic area of the PFSA(s) is to provide service on tribal lands, 10 points shall be awarded. Tribal lands will be analyzed using the GIS layer in the RUS mapping tool located at <https://reconnect.usda.gov>.

vii. Local governments, non-profits and cooperatives (15 points). Applications submitted by local governments, non-profits or cooperatives (including for projects involving public-private partnerships where the local government, non-profit, or cooperative is the applicant) will be awarded 15 points.

viii. Socially Vulnerable Communities (15 points). For applications where at least 75 percent of the PFSA(s) are proposing to serve Socially Vulnerable Communities, as defined in this FOA, 15 points will be awarded.

ix. Net neutrality (10 points). For applicants that commit to net neutrality, 10 points will be awarded. A board resolution or its equivalent must be submitted in the application committing that the applicant's networks shall not (1) block lawful content, applications, services, or non-harmful devices, subject to reasonable network management; (2) impair or degrade lawful Internet traffic on the basis of Internet content, application, or service, or use of a non-harmful device, subject to reasonable network management; and (3) engage in paid prioritization, meaning the management of a broadband provider's network to directly or indirectly favor some traffic over other traffic, including through use of techniques such as traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, either (a) in

exchange for consideration (monetary or otherwise) from a third party, or (b) to benefit an affiliated entity.

x. *Wholesale broadband services (10 points)*. Recipients that commit to offering wholesale broadband services at rates and terms that are reasonable and nondiscriminatory will receive 10 points.

F. Federal Award Administration Information

1. *Closing, servicing and reporting*. All applications are subject to the requirements contained in 7 CFR 1740, Subpart F.

2. *Other requirements*. All applications are subject to the additional requirements contained in 7 CFR 1740, Subpart G.

3. *Ineligible Costs*. A recipient may not use grant or loan funds, whether directly or indirectly as an offset for other funds, to support or oppose collective bargaining.

G. Upcoming Request for Information

As noted in the Summary section of this announcement, RUS intends to issue a Request for Information (RFI) seeking feedback from potential applicants and other interested parties on whether the requirement for facilities constructed with RUS funding to provide 100 Mbps symmetrical service to every premise in the proposed funded service area (PFSA) at the same time should apply in future funding rounds. The feedback from that RFI will help inform future funding announcements, including potentially scoring criteria.

H. Federal Awarding Agency Contacts

Any questions should be addressed to the contact information located in the FOR FURTHER INFORMATION section of this FOA.

I. Other Information

1. *Paperwork Reduction Act.* In accordance with the Paperwork Reduction Act of 1995, the information collection requirements associated with the ReConnect Program, as covered in this FOA, have been approved by the Office of Management and Budget (OMB) under OMB Control Number 0572-0152. This funding announcement does not create any new information collection requirements nor does it change existing information collection requirements.

2. *Congressional Review Act.* Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act or CRA), 5 U.S.C. 801 *et seq.*, the Office of Information and Regulatory Affairs in the Office of Management and Budget designated this action as a major rule as defined by 5 U.S.C. 804(2), because it is likely to result in an annual effect on the economy of \$100,000,000 or more. Accordingly, there is a 60-day delay in the effective date of this action. Application selection will not begin until after **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Therefore, the 60-day delay required by the CRA is not expected to have a material impact upon the administration and/or implementation of the ReConnect Program.

3. *USDA Non-Discrimination Statement.* In accordance with Federal civil rights law and USDA civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, familial status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program Information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Mission Area, Agency, or staff office; the USDA TARGET Center at 202-720-2600 (voice and TTY); or the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a complainant should complete a Form AD-3027, *USDA Program Discrimination Complaint Form*, which can be obtained online at <https://www/ocio.usda.gov/documents/ad-3027>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

- (1) Mail: U.S. Department of Agriculture,
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, DC 20250-9410; or
- (2) Fax: (833) 256-1665 or (202) 690-7442; or
- (3) Email: program.intake@usda.gov

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Christopher A. McLean,

Acting Administrator,

Rural Utilities Service.

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