

Congress of the United States
Washington, DC 20510

February 26, 2020

The Honorable Sonny Perdue
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Avenue, S.W.
Washington, D.C., 20250

Dear Secretary Perdue,

Encouraging the development of high-quality telecommunications infrastructure is essential to bridging America's digital divide. We are pleased to continue advocating for further congressional appropriations to level the playing field in our increasingly connected nation. In particular, the ReConnect Program, administered by the U.S. Department of Agriculture (USDA), has benefitted from several rounds of funding, including the original \$600 million in funding through the Consolidated Appropriations Act of 2018, as well as the most recent tranche of funding amounting to \$555 million for fiscal year 2020.

Prior to the ReConnect Program's launch, we heard several concerns from our constituents in Oregon that the initial design of the ReConnect Program limited accessibility for local internet service providers (ISPs) due to both administrative issues and eligibility restrictions. While changes have been made to improve the program, we continue to hear from many Oregonians that several major issues unfortunately remain. We wish to relay these concerns to you in this letter and to raise a few questions of our own to inquire about how USDA plans to improve the administrative, technical, and eligibility burdens of the ReConnect Program, which may have resulted in denied funding for truly unserved communities, and discouraging prospective applicants from applying at all.

Administrative issues

The administrative hurdles presented by the ReConnect Program, whether it is to understand the rules and restrictions laid out by the Rural Utilities Service (RUS) or to navigate the mapping software, are virtually impossible for local internet service providers (ISPs) to overcome without hiring an outside consultant. This severely increases the costs associated with completing an application, which, in many instances, only serves to gain a greater understanding of whether an ISP is eligible for one of the three funding sources the ReConnect Program offers.

Once an application is denied, applicants cannot appeal the decision. This is particularly concerning when the project hours and overhead necessary to prepare a ReConnect Program application are so high, that many local ISPs feel as if to submit their application is more akin to a high-stakes gamble rather than soliciting funding for a fiber-to-the-premises project.

Equally concerning is USDA's reliance on the Federal Communications Commission's (FCC) Form 477 data as a way to determine whether or not a community in question is considered to be served or unserved. The telecommunications industry as well as FCC leadership agree that this data is wildly inconsistent with the actual service provided by incumbent telecommunications companies. Census blocks in rural areas span large geographic areas, but the whole block is considered served if one household is reported to have internet service. This makes many unserved communities ineligible and lowers the number of locations that an applicant can submit on their application, even though they will still have to build out broadband there.

Finally, as USDA continues to consider supplemental information in determining served, unserved, and underserved populations, it is imperative that the eligibility criteria be explained as clearly as possible. In considering the definition of "underserved" and "unserved," when an applicant believes they had done their due diligence in locating an eligible proposed service area, only to be turned down in the first round, greater clarity is needed in determining which parts of Oregon (and the rest of the U.S.) are ineligible for ReConnect funding, rather than waiting to find out in their rejection letter. For example, the USDA could provide a list of eligible areas as shape files, census blocks or street addresses.

Eligibility issues

As required in the Consolidated Appropriations Act of 2018, ReConnect funding is to be provided to the "most rural areas" that seek assistance. The current eligibility criteria seem to conflict with the ReConnect Program's commitment, specifically that the scoring criteria appear to favor proposed service areas that feature businesses, healthcare centers, and educational facilities. But these are less likely to be found in the most rural regions of the country truly unserved by incumbent ISPs. Thus, offering points for features not associated with rurality undermines the goal of serving the unserved.

Highly competitive applications could ultimately be rejected since they cover service areas that already received FCC funding for satellite service. These satellite services funded by the FCC typically offer lower bandwidth caps, incur higher latency, and are less reliable. This restriction, which is not required by statute, precludes areas within Oregon from receiving high-speed service from their local providers, offering fiber-to-the-home or high-capacity fixed wireless, who are willing and able to build out in areas that do not feature any terrestrial infrastructure.

The current application removes a scoring factor that benefited applications with the intention of serving tribal lands. In the first round of the ReConnect Program, five points were awarded to applications whose proposed service area would operate in tribal areas. In the second round of applications, this eligibility factor was dropped and instead granted five points to applications operating in opportunity zones. Not only does the revised ReConnect Program take for granted that communities designated as opportunity zones lack sufficient broadband, the removal of points that expressly helped applicants serving tribes to be more competitive appears counterproductive.

USDA did make some helpful changes in several areas. Issues regarding population density versus rurality were highlighted by also providing rurality points for projects more than 100

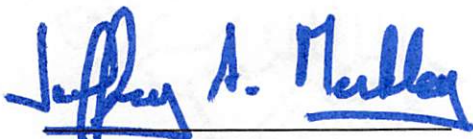
miles from an urban area. Unfortunately, the same limitations exist for points associated with educational, healthcare, and essential community facilities. To maximize those points, an application would need to serve more populated areas. If this grant focuses on bringing broadband to rural and unserved America, the evaluation criteria seem to contradict the program's mission mentioned previously.

Encouraging the rollout of robust, high-speed internet throughout the U.S. is of paramount importance and USDA can make critical contributions to closing the digital divide. To address the concerns we outlined above, we ask you to provide the following information:

1. What alternatives to the FCC Form 477 does USDA plan to draw on in order to determine eligibility for future rounds of funding?
2. How does USDA plan to ensure greater access of ReConnect funding to tribal communities?
3. How does USDA plan to reduce the administrative burdens explained above?
4. Does USDA plan to loosen the eligibility restrictions for service areas awarded CAF-II funding to providers who either offer high-latency services or do not verifiably provide internet services of at least 10/1 Mbps download/upload speed?
5. Does USDA plan to implement an appeal process in the event an applicant believes that their rejection was not warranted, or where minor edits to their application would secure funding for their project?

Comments from our constituents in Oregon have suggested that there is room for improvement for future rounds of funding. Please know that we stand ready to assist in any way we can to ensure greater clarity, equity, and accessibility for the ReConnect Program.

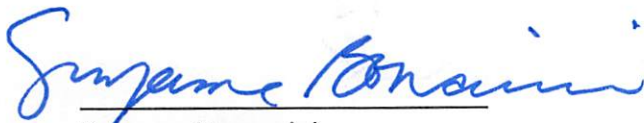
Sincerely,



Jeffrey A. Merkley
United States Senator



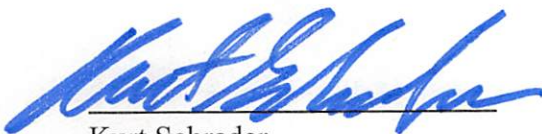
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United States Senator



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