

UNITED STATES DEPARTMENT OF AGRICULTURE  
OFFICE OF INSPECTOR GENERAL

STATEMENT OF DAVID R. GRAY  
DEPUTY INSPECTOR GENERAL

Before the  
Subcommittee on Communications and Technology  
Committee on Energy and Commerce  
U.S. House of Representatives

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Good morning, Chairman Walden, Ranking Member Eshoo, and Members of the Subcommittee. I thank you for inviting me to testify before you today to discuss the Office of Inspector General's (OIG) work to help improve oversight of the Department of Agriculture's (USDA) broadband grant and loan programs.<sup>1</sup>

Since 2001, the Rural Utilities Services (RUS) has administered broadband programs to fund projects intended to provide broadband service to rural communities, particularly those that may not otherwise have access to this important communications technology. As part of OIG's mission to promote the efficiency and effectiveness of USDA's programs, we assessed RUS' administration of USDA's broadband programs to ensure that these programs meet their intended purposes and benefit those needing broadband service.<sup>2</sup> We are currently undertaking work to evaluate RUS' program operations for USDA's Broadband Initiatives Program (BIP), which received \$2.5 billion in funding with the passage of the Recovery Act.<sup>3</sup> While this program differs from prior broadband grant and loan programs in some regards (discussed in more detail below), it shares a common goal to expand and provide access to broadband service for those in rural areas across the Nation.

### **Prior Audits of USDA's Broadband Grant and Loan Programs**

As our past audit work shows, RUS has not always maintained its focus on providing broadband service to rural communities without existing access to broadband service. When we first reviewed RUS' administration of broadband programs in 2005, we found that its definition of "rural communities" did not distinguish between rural communities and affluent suburbs near major metropolitan areas.<sup>4</sup> This led to RUS issuing loans to provide broadband service to 64 communities within a few miles of major cities. We also reported that RUS devoted significant resources to funding service in areas with preexisting broadband service, even though the law establishing the program emphasized that funds should first be used for expanding

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<sup>1</sup> In this testimony, we will refer to USDA broadband grant and loan programs collectively as "broadband programs."

<sup>2</sup> Our audits covered the period from October 2000 to June 2008.

<sup>3</sup> American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, Division A, Title I, dated February 17, 2009.

<sup>4</sup> "Rural Utilities Service Broadband Grant and Loan Programs," 09601-0004-Te, dated September 30, 2005.

services to communities with no broadband service.<sup>5</sup> We questioned whether RUS should be loaning money for competing services when the areas they serve might not be able to reasonably support multiple broadband service providers. Our findings, which included defaulted loans, incomplete applications, and grant funds used for inappropriate purposes, caused us to question \$340 million of the \$599 million in grants and loans we reviewed. We consequently recommended that the agency improve its administration of the broadband programs and focus its resources on rural communities without preexisting broadband service.

At the request of Congress, we conducted a followup audit in 2009 to determine if RUS had taken sufficient corrective action to address these issues and found that the agency continued to provide questionable loans to providers near very large cities or in areas with preexisting service.<sup>6</sup> At that time, RUS was soon to receive \$2.5 billion in Recovery Act funds to implement this broadband initiative, and we expressed concern that RUS' broadband programs may not have controls in place to meet the objectives of the Recovery Act and properly administer associated funding.

### **Current RUS Broadband Work**

Given the seriousness of the issues raised by our prior audits and shortly after our meeting with this Subcommittee last year on February 10, 2011, we initiated further audit work to look specifically at Recovery Act BIP grants and loans to assess the effectiveness of RUS' corrective actions and to evaluate whether RUS had controls in place to meet the purposes of the Recovery Act and its program objectives. We coordinated with the Government Accountability Office, which performed a multi-department review of Recovery Act broadband grants and loans, as well as the Department of Commerce (DOC) Office of Inspector General, which has performed audits of DOC's Broadband Technology Opportunities Program in two phases. Our current work is similarly divided into two phases: fieldwork is near completion for the first phase, which focuses on the controls RUS had in place prior to awarding grants and loans; and we have started the second phase, which focuses on RUS' post-award controls. Because BIP's focus was to fund

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<sup>5</sup> Amendments to the Distance Learning and Telemedicine Program, Public Law 106-387, 114 Stat. 1549A-22, dated October 28, 2000.

<sup>6</sup> "Rural Utilities Service Broadband Grant and Loan Programs," 09601-0008-Te, dated March 31, 2009.

grants and loans to provide broadband service in rural areas, our work will take up some of the same issues as our prior audits. However, BIP differs from prior programs in significant ways, which we have also considered in our audit methodology.

As part of the Recovery Act's efforts to boost the economy nationwide, Congress provided BIP with significantly more funding than other USDA broadband programs. For instance, in fiscal year (FY) 2008, according to RUS, it obligated about \$453 million to 38 broadband grants and loans.<sup>7</sup> By contrast, by the end of FY 2010, RUS reported that BIP awarded 320 grants and loans in 46 States and territories for a total of \$3.5 billion.<sup>8</sup> RUS utilized a contractor to address more than 2,000 BIP applications in two rounds of funding. Additionally, the agency divided projects according to three types: infrastructure projects (which included last mile projects to provide service to end-users and middle mile projects to establish necessary infrastructure to make broadband connectivity possible); satellite projects to provide satellite broadband to rural areas; and technical assistance projects to plan the future development of broadband infrastructure.

We selected projects to review according to a statistical sample, which enables us to review program operations from a broad perspective and provide nationwide analyses. Our statistical sampling for both phases includes selections from each of the three project types. Of the 320 awards,<sup>9</sup> we selected 86 for review that are spread across 22 geographic locations.<sup>10</sup> In our first phase of work we are also reviewing how RUS managed the high volume of applications and handled approvals, its controls over contractor reviews, and its coordination with DOC's similar Recovery Act efforts.

Because BIP was a new program rather than an extension of prior and existing broadband programs, RUS had to define and interpret key statutory broadband criteria, including to what extent served areas should be rural and which areas should receive priority. The Recovery Act stipulated that at least 75 percent of service areas be rural areas without sufficient access to high

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<sup>7</sup> \$438 million was obligated to 13 loans, and \$15 million to 25 grants.

<sup>8</sup> USDA Broadband Initiatives Program Awards Report, "Advancing Broadband: A Foundation for Strong Rural Communities," dated January 2011.

<sup>9</sup> "Awards" refers to loans, grants, and loan/grant combinations.

<sup>10</sup> Of the 86 awards, 2 were ultimately rescinded.

speed broadband to facilitate rural economic development. It also required that RUS give priority to projects that would deliver broadband service to the highest proportion of rural residents without access and projects that would provide end-users with a choice of more than one service provider.<sup>11</sup> OIG’s audits will look at several of RUS’ program-level changes—particularly how RUS defined “underserved” and “unserved”<sup>12</sup>—to ensure that BIP grants and loans are awarded and that funds are used for intended purposes.

With BIP, RUS policies allowed overlapping broadband coverage, a practice that, as we have noted before, could lead to RUS encouraging competition rather than expanding service to areas without any broadband access. Such competition could even result in RUS-funded providers failing due to too much competition in markets where there is little demand. In prior broadband programs, to prevent competition among existing or previous loan or grant recipients, RUS generally did not fund additional projects in areas where a RUS loan or grant recipient was already providing broadband service. Similarly, the 2008 Farm Bill broadband programs did not fund service in areas where three or more providers were already present.

However, BIP did not have these limitations. In round one, RUS allowed applications to be approved for any eligible service area—regardless of possible overlap with existing RUS loan or grant recipients’ service areas. In round two, RUS did prohibit overlapping service areas of prior RUS grant or loan recipients and BIP round one providers. However, RUS allowed “*de minimis*” geographic overlap between BIP service areas in each of the funding rounds.<sup>13</sup> While our work is still ongoing, we are assessing the impact these policies may have on rural broadband coverage.

Because RUS’ interpretations of the Recovery Act’s policies will shape the effectiveness of its program administration, we will be looking to make sure that these definitions, terms, and usages

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<sup>11</sup> American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, Division A, Title I, dated February 17, 2009.

<sup>12</sup> Notice of Funds Availability 1, 74 Federal Register 33109, dated July 9, 2009; Notice of Funds Availability 2, 75 Federal Register 3825, dated January 22, 2010.

<sup>13</sup> RUS’ internal guidance limited overlap within the first round to 10 percent. Notice of Funds Availability 2 limited overlap within the second round to 25 percent and prohibited overlap between the first and second rounds.

meet the purposes of the Recovery Act, and that Recovery Act money is reaching the rural population it was intended to serve.

**Conclusion**

OIG's work is designed to help USDA enhance program performance and efficiency by identifying potential areas of concern. OIG is committed to working with RUS to ensure these broadband programs and operations fulfill their important missions as intended.

This concludes my written statement. I thank you again for the opportunity to testify today before the Subcommittee and would be pleased to address your questions.