

Substantially Underserved Trust Areas (SUTA) Frequently Asked Questions and Answers

Q: Where can the SUTA provision be found in the 2008 Farm Bill?

A: The SUTA provision can be found under Section 6105 of the Food, Conservation, and Energy Act of 2008 (HR 6124).

Q: When was the SUTA Proposed Rule Published?

A: The SUTA Proposed Rule was published in the Federal Register on Friday, October 14th, 2011.

Q: When was the SUTA Final Rule Published?

A: The SUTA Final Rule was published in the Federal Register on Wednesday, June 13th, 2012. The rules do not go into effect until July 13th, 2012.

Q: What are the additional benefits the SUTA provision affords applicants?

A: The SUTA Provision gives the Secretary of Agriculture (the authority to delegate to the Administrator of USDA's Rural Utilities Service), the discretion to use on a case-by-case basis any of the following authorities individually or in combination to: **(1)** Make available to qualified applicants financing with an interest rate as low as 2 percent; **(2)** extend repayment terms; **(3)** Waive non-duplication restrictions, matching fund requirements, and credit support requirements from any loan or grant program administered by RUS and; **(4)** Give the highest funding priority to designated projects in substantially underserved trust areas.

Q: What are non-duplication restrictions?

A: Non-duplication generally means a restriction on financing projects for services in a geographic area where reasonably adequate service already exists as defined by the applicable program.

Q: What are credit support requirements?

A: Credit support means equity, cash requirements, letters of credit, and other financial commitments provided in support of a loan or loan guarantee

Q: What does financially feasible mean?

A: Financial feasibility means the ability of a project or enterprise to meet operating expenses, financial performance metrics, such as debt service coverage requirements and return on investment, and the general ability to repay debt and sustain continued operations at least through the life of the RUS loan or loan guarantee.

Q: What is considered Trust Land under the SUTA Final Rule?

A: Under the SUTA initiative a Trust Land is legislatively defined as any land that: **(1)** is held in trust by the United States for Native Americans; **(2)** is subject to restrictions on alienation imposed by the United States on Indian lands (including native Hawaiian homelands); **(3)** is owned by a Regional Corporation or a Village Corporation, as such terms are defined in section 3(g) and 3(j) of the Alaska Native Claims Settlement Act, respectively (43 U.S.C. 1602 (g), (j)); or **(4)** is on any island in the Pacific Ocean if such land is, by cultural tradition communally-owned land. Rural Development Staff is encouraged to work with the Tribe, Community, the Bureau of Indian Affairs and other responsible land offices to determine if the proposed project is indeed on Trust Land as described in the SUTA legislation.

Q: How is Substantially Underserved defined under the SUTA Final Rule?

A: Substantially underserved trust area means a community in a trust area with respect to which the Secretary of Agriculture or his/her designee determines has a high need for the benefits of an eligible program **Underserved** is further defined to mean an area or community lacking an adequate level or quality of service in an eligible RUS program, including areas of duplication of service provided by an existing provider where such provider has not provided or will not provide adequate level or quality of service.

Q: What RUS programs are affected by the SUTA Final Rule?

A: The programs that are affected by the SUTA provision include: Rural Electrification Loans and Guaranteed Loans, High Cost Energy Grants; Water and Waste Disposal

Loans, Guaranteed Loans and Grants; Telecommunications Infrastructure Loans and Guaranteed Loans; and Broadband Loans and Guaranteed Loans.

Q: What RUS programs are not affected by the SUTA Final Rule?

A: The programs that are **not** affected by the SUTA provision include: Solid Waste Management Grants, Distance Learning & Telemedicine Grants, Delta Health Grants, Public Broadcasting Systems Grants and Broadband Telecommunications Grants commonly known as Community Connect.

Q: Since the SUTA provisions were already included in the Interim Final Rule for the Broadband Loan Program what process should Broadband Loan Program applicants follow to request SUTA consideration?

A: The SUTA Final Rule outlines the process for applicants to request SUTA consideration for all SUTA eligible RUS programs (listed in the previous answer), including the Broadband Loan Program.

Q: Can non-Tribal applicants request SUTA consideration?

A: Yes. The SUTA legislation does nothing to limit applicant eligibility – so standard program eligibility criteria are applicable under the proposed SUTA regulation.

Q: Is the SUTA Tribal Consultation Process over?

A: The initial Tribal and local government consultation that was legislatively mandated in the SUTA provision has been completed. However, Tribes and Tribal Leaders can - and are welcome to - request Tribal consultation on any RUS program, at any time. If tribal consultation is requested please immediately notify the appropriate RUS National Office Staff, Rural Development's Native American Coordinator and the State Director where that tribe is geographically located.

Q: Is there a SUTA webpage where I can find more information?

A: Yes. The SUTA webpage can be found at: www.rurdev.usda.gov/suta.html

Q: Who should I contact for more information?

A: Contact information for all RUS programs can be found at: www.rurdev.usda.gov/Utilities_Assistance.html. Bear in mind that the Electric and Telecommunications programs are managed out of the National Office, while the Water and Environmental programs are administered through USDA Rural Development's State Office structure. State Office contact information can be found at: www.rurdev.usda.gov/StateOfficeAddresses.html. For questions about electric and telecommunications projects, you may want to contact the RUS General Field Representative (GFR) in your state. For Electric GFRs, visit http://www.rurdev.usda.gov/UEP_GFR_map.html. For Telecommunications GFRs, visit http://www.rurdev.usda.gov/UTP_GFRContact.html. For a single point of contact you can email USDA Rural Development's Native American Coordinator at AIAN@wdc.usda.gov.