



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
OFFICE OF ACQUISITION AND GRANTS

September 5, 2012

Mr. Gary Hanson
Deputy County Administrator
DeKalb County Government
200 N. Main Street, Ste. 120
Sycamore, IL 60178-1431

Re: Broadband Technology Opportunities Program (BTOP)
Grant Award No. NT10BIX5570030

Dear Mr. Hanson:

Thank you for your time and effort in preparing for the BTOP site visit on June 25-26, 2012. This letter is to notify you of certain issues that NOAA and NTIA identified during the site visit, which you must address quickly and comprehensively to ensure that the grant-funded project is compliant with the award terms and conditions.

Upon acceptance of a grant from the Department of Commerce, DeKalb County Government (DeKalb) agreed to comply with the requirements specified in the terms and conditions of the award. On July 12, 2012, due to concerns related to recent disallowed costs, the National Oceanic and Atmospheric Administrative (NOAA) Grants Office placed your Automated Standard Application for Payments (ASAP) account on reimbursement-only status. At that time, the NOAA Grants Office also placed your award under a Corrective Action Plan (CAP), to which you responded on August 11, 2012. NOAA is currently reviewing that response.

Based on information reviewed at the site visit, the NOAA Grants Office received notice from the National Telecommunications and Information Administration (NTIA) that you have not complied with several additional terms and conditions of the award, as noted below. Consequently, NTIA has recommended that NOAA place your BTOP award under the additional Corrective Action Plan (CAP) detailed below. Please respond to your NTIA Program Officer and NOAA Grants Specialist no later than **September 21, 2012** regarding the requests below.

BACKGROUND

1. Match Documentation

The Department of Commerce (DOC) Uniform Administrative Requirements require grantees to maintain effective control and accountability for all grant cash, real and personal property, and other assets¹ and to maintain records which adequately identify the source and application of funds provided for financially-assisted activities.² Costs and third party in-kind contributions counting towards satisfying a cost sharing or matching requirement must be verifiable from the

¹ 15 C.F.R. § 24.20(b)(3).

² 15 C.F.R. § 24.20(b)(2).

records of grantees and subgrantees or cost-type contractors.³ These records must show how the value placed on third party in-kind contributions was derived.⁴

The site visit team reviewed your documentation regarding the in-kind matching contribution from DeKalb Fiber Optic LLC (DFO). DFO provides invoices showing the amount of duct contributed each month and the number of hours of project management and engineering time that it has contributed each month, along with detailed timesheets. However, the site visit team learned that neither the donated hours nor the duct had yet been placed on the county financial records (*i.e.*, “booked”).

2. Davis-Bacon Compliance

The Recovery Act requires BTOP grant award recipients, subrecipients, contractors, and subcontractors to comply with the wage requirements of the Davis-Bacon Act.⁵ Recipients are responsible for monitoring their subrecipients’ and contractors’ compliance with these requirements.⁶

The site visit team reviewed copies of certified payrolls that DeKalb had collected from DFO (some of which DFO had collected from its own subcontractor), verified the wage determination and rate of pay for an arbitrarily selected employee, and noted the Davis-Bacon posters posted at a construction site. However, the site visit team learned that:

- Although DFO performs Davis Bacon compliance interviews with its subcontractor’s personnel, DeKalb does not interview DFO laborers for the BTOP project.
- DFO was erroneously applying the federal wage determination for fiber splicers in DeKalb County to fiber splicers in LaSalle County.

CORRECTIVE ACTION PLAN: The CAP items below apply to your BTOP Middle Mile Infrastructure award.

1. Match Documentation

- A. Please provide a third party independent appraisal to document the fair market value of the duct that DFO is contributing to the project.
- B. Please provide a plan for recording the in-kind match of duct and personnel time from DFO in DeKalb’s official financial records.

³ 15 C.F.R. § 24.24(b)(6); *see also* BTOP Match Documentation Fact Sheet, http://www2.ntia.doc.gov/files/BTOP_Match_Documentation_Fact_Sheet_2012-07-20.pdf (July 2012).

⁴ *Id.*; *see also* BTOP Recipient and Third Party In-Kind Contribution Fact Sheet, http://www2.ntia.doc.gov/files/btop_fact_sheet_matching_contributions_february_2011.pdf (last updated December 2011).

⁵ *See* Recovery Act § 1606; *see also* BTOP Davis Bacon Fact Sheet at http://www2.ntia.doc.gov/files/davis-bacon_fact_sheet_july-2012.pdf (last updated July 2012).

⁶ The BTOP Davis Bacon Compliance Checklist for Recipients is a useful tool for ensuring compliance. <http://www2.ntia.doc.gov/files/davis-bacon-compliance-checklist.pdf> (March 2012).

- C. If, after revaluing DFO's contribution to the project, DeKalb's total approved sources of match fall below a value of \$2,966,040, please explain how you will make up the difference in match.

2. Davis-Bacon Compliance

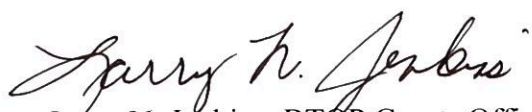
- A. Please provide a plan to conduct and document Davis Bacon wage verification interviews with DFO's laborers on the project and to ensure that such interviews are conducted with DFO's subcontractor's laborers on the project. Documentation verifying that wage verification interviews took place may include Form SF-1445.
- B. Please submit a Form SF-1444 for fiber splicers in LaSalle County or explain why a conformance is not necessary.
- C. Please provide a plan to ensure that DFO submits all necessary requests for conformances on Form SF-1444 and, if necessary, pays retroactive wages if the Department of Labor denies the conformance request.

Please provide all necessary information to address these CAP items no later than September 21, 2012. Failure to provide a sufficient and adequate response to this CAP may result in additional enforcement action, including termination of the award.

If you have any questions on how to complete the information requests described above, please contact your Federal Program Officer, Katherine Scott at 202-482-2205.

Thank you for your cooperation and assistance.

Sincerely,



Larry N. Jenkins, BTOP Grants Officer
NOAA Grants Management Division

cc: William Ball, NOAA
Alan Conway, NOAA
Raul Hernandez, NOAA
Doug Kinkoph, NTIA
Arlene Simpson Porter, NOAA
Katherine Scott, NTIA
Anthony G. Wilhelm, NTIA