



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and Information
Administration
Washington, DC 20230

JANUARY 23, 2013

Memorandum for: Lawrence E. Strickling
Assistant Secretary for Communications and Information

From: Anthony G. Wilhelm, Ph.D. *AW*
Associate Administrator for the
Office of Telecommunications and Information Applications

Subject: Extension of the BTOP Award Period through August 31, 2013 for the
Executive Office of the Commonwealth of Pennsylvania
(NT10BIX5570017)

ISSUE FOR DECISION: Whether the Executive Office of the Commonwealth of Pennsylvania (the “Recipient”) should be allowed to extend the period of performance of its BTOP project until August 31, 2013.

BACKGROUND: The Recipient received a BTOP Round One award in February 2010 to implement a Broadband Infrastructure project. The purpose of the award was to increase broadband Internet speeds at Community Anchor Institutions (CAIs) and throughout underserved areas. The project leverages Pennsylvania’s existing microwave public safety communications network, adding a parallel Ethernet backbone and connecting numerous schools, libraries, public safety entities, and government institutions. The project is approximately 55% complete.¹ The Recipient has submitted a request for an extension of its three-year award period to August 31, 2013 to complete the implementation of its BTOP award.

STANDARD OF REVIEW: Although the financial assistance award sets forth specific award periods for each award, the Department of Commerce Uniform Administrative Requirements of 15 C.F.R. Parts 14 and 24 allow for extensions beyond the initial award period.²

ANALYSIS: NTIA may recommend no-cost extensions on its own initiative. The American Recovery and Reinvestment Act of 2009 (Recovery Act) does not mandate a maximum three-year award period for BTOP projects.³ Rather, NTIA established the three-year award period for

¹ Executive Office of the Commonwealth of Pennsylvania, 2012 Third Quarterly Performance Progress Report (explaining that as of Sept. 30, 2012, the project is progressing, but its overall percent complete, measured by expenditures alone, remains low due to their purchasing arrangements with a key vendor, which only permit the vendor to invoice for payment when the microwave radio and switching equipment have been installed at each site).

² See 15 C.F.R. § 24.23 (allowing recipients to carry over funds from the initial award period upon approval of the grants office); 15 C.F.R. § 14.28.

³ See Pub. L. No. 111-5, 123 Stat. 115, 128, 512 (Feb. 17, 2009) (“Recovery Act”).

BTOP projects in the two BTOP NOFAs⁴ to correspond with the Recovery Act's requirements that awards be made by September 30, 2010,⁵ and that the Assistant Secretary seek assurances from recipients that they will substantially complete projects within two years following the issuance of the award.⁶ More recently, the Office of Management and Budget (OMB) released memorandum M-11-34, which directs NTIA to reclaim any funds that remain unspent after September 30, 2013, but does not limit the length of BTOP award periods before this date.⁷

In this case, providing additional time for completion of the grant will allow the recipient to fully deliver the benefits promised under the award, maximize taxpayer investment in this project, and further the goals of the Recovery Act. While the Recipient has made significant progress towards project completion, upgrading approximately 1,000 miles of their network, it has faced numerous delays as a result of several factors beyond its control. For instance, the project was delayed as a result of a state organizational realignment, causing administrative and procurement delays. Additionally, Environmental and Historic Preservation requirements associated with a previously approved project modification have delayed the project, and a vendor will not be able to provide the necessary equipment for this modification until January 25, 2013. Extending the project award period will allow the Recipient to build on the substantial progress it has already made, ensuring that it will be able to install the necessary equipment, turn-up links, and complete network testing on the approved modification. Further, if extended, the Recipient will be able to ensure completion of 35 last mile hand-off switches, benefiting customer connections throughout the underserved region, and connect an additional 24 CAIs and government entities. Even though the project is only 55% complete, the Recipient has shown to NTIA's satisfaction that it will be able to complete their project goals by August 31, 2013. Thus, an extension will allow the Recipient to fully achieve its project objective of developing a key middle mile network throughout underserved areas—delivering results for the taxpayer and fulfilling BTOP goals.

Extending the award project period until August 31, 2013 promotes BTOP's purposes and advances the interests of the Federal government, as defined in the two BTOP NOFAs, by ensuring prudent expenditure of taxpayer funds and the full delivery of the expected benefits to the communities served by the project. Furthermore, this project advances the statutory objectives of the Recovery Act, which sought to increase and improve broadband access, provide community training, and stimulate broadband demand. Barring additional external obstacles to completion, the Recipient fully anticipates being able to complete the project by the new award

⁴ Notice of Funds Availability and Solicitations of Applications, 74 Fed. Reg. 33104 (July 9, 2009) (First NOFA), available at http://www.ntia.doc.gov/frnotices/2009/FR_BBNOFA_090709.pdf; Notice of Funds Availability and Solicitation of Applications, 75 Fed. Reg. 3792 (January 22, 2010) (Second NOFA), available at http://www.ntia.doc.gov/frnotices/2010/FR_BTOPNOFA_100115.pdf.

⁵ Recovery Act § 6001(d)(2).

⁶ *Id.* at § 6001(d)(3).

⁷ OMB memorandum M-11-34 (Sept. 15, 2011), entitled "Accelerating Spending of Remaining Funds from the American Recovery and Reinvestment Act for Discretionary Grant Programs," directs Federal agencies to accelerate the spending of remaining Recovery Act funds in discretionary grant programs consistent with existing laws and regulations and programmatic objectives. Funds that have not been spent by September 30, 2013 must be reclaimed by Federal agencies to the extent permitted by law, unless OMB issues a waiver from this requirement.

end date. NTIA will continue to work with the Recipient to facilitate regulatory and contract challenges, environmental issues, and any other special circumstances that may arise.

RECOMMENDATION: For the reasons discussed above, I recommend you approve this recommendation to allow the Recipient to extend its project period through a no-cost extension until August 31, 2013. If you concur with this recommendation, please indicate by signing and dating this memorandum below.

Signature: Lawrence E. Strickling
Lawrence E. Strickling
Assistant Secretary for Communications
and Information

Date: 1/23/13