



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

August 12, 2014

Mr. Lionel Bittner  
GovNET, Inc.  
7835 E. McClain Drive  
Scottsdale AZ 85260

Re: Broadband Technology Opportunities Program (BTOP)  
GovNET, Inc. (GovNET)  
Grant Award # NT10BIX5570136  
Corrective Action Plan

Dear Mr. Bittner:

Upon acceptance of a grant from the Department of Commerce (DOC), GovNET agreed to comply with the requirements specified in the terms and conditions of the award. The National Oceanic and Atmospheric Administration (NOAA) Grants Office received notice from the National Telecommunications and Information Administration (NTIA) Program Office that GovNET has not complied with these terms and conditions, as noted below. Consequently, NTIA has recommended that NOAA place your BTOP award under the Corrective Action Plan (CAP) detailed below.

**BACKGROUND:** In September 2010, GovNET was awarded \$39,274,877 in federal funds under a BTOP grant for a project that proposed bringing high-capacity microwave broadband capabilities to connect all 15 counties of the State of Arizona. The approved application stated that GovNET would deploy 8,432 miles of network (including 4,855 backbone miles) and connect 281 community anchor institutions (CAIs).

Per the special award conditions, GovNET was required to submit a baseline report detailing key outputs and outcomes from its project. GovNET's baseline report showed that GovNET would deploy 4,855 new network miles (including 1,277 backbone miles) and directly connect 266 CAIs within the three-year period of performance. GovNET's explanation for why the length of new network miles was almost half of what was proposed in the original application was that GovNET had accidentally double-counted the number of lateral miles in the application. In the baseline GovNET also explained that a total of 281 CAIs would be connected, as had been proposed in the application, but 15 of those CAIs would be connected through funding already received outside of the grant. On January 18, 2011, the National Oceanic and Atmospheric Administration (NOAA) Grants Office approved GovNET's baseline report.

On November 21, 2011, NTIA issued a Finding of No Significant Impact (FONSI) under the National Environmental Policy Act regarding GovNET's proposed project, which allowed

GovNET to begin construction work. The FONSI stated that GovNET would establish 54 backbone hub sites and 268 infill node sites (266 CAIs). NTIA and the NOAA Grants Office approved a route change request updating the project activities to match the FONSI.

On May 3, 2012, the NOAA Grants Office issued a partial stop work order due to GovNET's failure to comply with the terms of its FONSI at Mingus Mountain. On May 22, 2012, the NOAA Grants Office suspended GovNET's award due to concerns about fiscal controls, which arose upon NTIA's review of GovNET's past funding draw requests. The suspension required GovNET to stop all work on the project.

On June 12-13, 2012, NTIA and the NOAA Grants Office performed a site visit to GovNET's headquarters to interview GovNET personnel and inspect GovNET's records. On July 19, 2012, the NOAA Grants Office sent GovNET a CAP to address compliance concerns including matching funds, potential lobbying, disallowed and questioned costs, violations of environmental and historic preservation (EHP) requirements, and issues surrounding financial and grants management. NTIA and the NOAA Grants Office fully evaluated GovNET's CAP response and additional follow-up documentation.

On April 30, 2013, the NOAA Grants Office partially lifted the suspension, subject to milestones that GovNET was required to meet. The NOAA Grants Office also reduced the federal award by \$377,206 to address disallowed costs. The letter lifting the suspension noted, "NOAA and NTIA continue to expect and require that GovNET will fulfill the full extent of benefits envisioned under the award as most recently approved prior to suspension." The partial suspension lift allowed GovNET to resume work on its project, subject to EHP limitations. Specifically, consistent with the terms of the award, GovNET was not allowed to perform project implementation activities that were not approved as part of the award-funded project and covered by the project FONSI. Additionally, GovNET could not perform project implementation activities at sites where GovNET had submitted a request for route change approval until receiving approval to proceed.

GovNET requested an extension of its project period and on August 30, 2013, the NOAA Grants Office approved a 13-month extension of the project period to September 30, 2014 to facilitate completion of the project. GovNET's extension request stated that GovNET planned to deploy 74 backbone sites by September 30, 2014, and would submit an appropriate route modification request for those sites not already approved.

On September 5, 2013, the NOAA Grants Office fully lifted the suspension. The NOAA Grants Office reminded GovNET that it must not perform project implementation activities that were not approved as a part of the project and covered by its FONSI. The NOAA Grants Office also stated that GovNET must hire a General Manager to serve as its Authorized Organization Representative (AOR) by October 15, 2013. On October 14, 2013, you were designated and began work as the AOR.

Between June 26, 2013 and March 11, 2014, the NOAA Grants Office approved six route change requests for GovNET's project. Taking these approvals into account, GovNET is authorized under the award to establish 58 backbone sites. However, GovNET's approved extension request from August 30, 2013 called for 74 sites, and GovNET verbally informed NTIA on June 12, 2014 that it planned to establish 70 sites to complete the network due to budget constraints, but those sites would still reach 266 CAIs. GovNET therefore submitted two route change requests in June 2014 to add 14 sites (five new towers and nine new collocations), and it plans to



submit a third route change request to cover two additional sites. The pending route changes also include changes at seven approved backbone sites. GovNET also recently received approval of additional CAIs that it may connect in lieu of originally planned CAIs. GovNET's frequent route change requests as well as the organization's inability to meet deadlines set forth in project plans has introduced significant uncertainty as to whether GovNET can meet the deployment schedule.

On March 11-12, 2014, NTIA and the NOAA Grants Office performed a site visit to GovNET's headquarters. At that time, GovNET explained that its construction had been delayed because it had been unable to locate crews to work on individual sites without a large-scale contract. Since fall 2013, GovNET had been conducting a Request for Proposals (RFP) and negotiations pursuant to that RFP for such a contract. GovNET signed a contract for deployment of all backbone sites on March 13, 2014. (GovNET later amended the contract to include CAI deployments.) At the site visit, GovNET presented a high-level project plan and schedule to deploy its entire network by September 30, 2014. GovNET provided a copy of the plan for backbone sites on March 27, 2014, after finalizing the plan with its construction vendor.

**REASONS FOR CORRECTIVE ACTION PLAN:** As of the date of this letter, approximately two months remain in GovNET's project period, and NTIA is highly concerned that GovNET may be unable to complete the approved project, achieve all award milestones, and deliver the benefits proposed in the award. NTIA is also concerned that GovNET may expend funds on sites and project-related materials that will not be completed and/or deployed within the project period.

According to GovNET's First Quarter 2014 Performance Progress Report (PPR), GovNET deployed 170 new network miles, built three towers, and connected one CAI by March 31, 2014.<sup>1</sup> The PPR projected that GovNET would deploy 1000 network miles and connect 30 CAIs by June 30, 2014.

From April through June 2014, weekly calls with GovNET revealed little tangible progress, as GovNET failed to adhere to the project schedule it had provided in the March site visit. According to the schedule, GovNET was to fully complete 23 backbone sites by July 1, 2014. However, as of July 3, 2014, GovNET's weekly status report to NTIA showed only two backbone sites fully completed and ten sites in progress.<sup>2</sup> GovNET also reported that it had not connected any additional CAIs.

On July 8-10, 2014, NTIA and the NOAA Grants Office performed a site visit to GovNET's headquarters and several of its field sites. At the site visit, GovNET stated that it would not be possible to complete all of the sites by the project period end date of September 30, 2014.

<sup>1</sup> See [http://www2.ntia.doc.gov/files/grantees/nt10bix5570136\\_govnet\\_inc\\_ppr2014\\_q1.pdf](http://www2.ntia.doc.gov/files/grantees/nt10bix5570136_govnet_inc_ppr2014_q1.pdf). On July 18, 2014, in (b) (4)

<sup>2</sup> At the July site visit, NTIA and NOAA agreed that GovNET could show any site that was operational as completed. Therefore, on July 17, 2014, GovNET submitted a weekly dashboard showing three sites completed and nine in progress, and on July 31, 2014, GovNET revised this to four sites completed with nine in progress. The number of completed sites did not represent a substantial change in actual circumstances from the July 3 report.

Instead, GovNET presented a detailed plan to complete just under half (32 of 70) of the sites by that date. GovNET also indicated that it intends to, but has not yet submitted, a request to extend the project period to complete the remaining sites.

At the site visit, GovNET also provided a dashboard showing project progress, which revealed that significant pre-construction work remains to be done for many backbone sites. According to the dashboard, architectural and engineering work was incomplete for the vast majority of backbone sites, and had not been started for over 35 percent of the locations (26 of 70 sites). Similarly, GovNET had secured rights-of-way for just over half of its backbone sites (36 of 70 sites) and had EHP clearance for just under 65 percent (45 of 70 sites).

Since the time of the site visit, GovNET failed to adhere to the project plan and schedule that it provided at the July site visit. Neither the (b) (4) (scheduled for completion on July 8, 2014) nor the (b) (4) (scheduled for completion on July 19, 2014) was fully operational as of July 31, 2014.

On August 7, 2014, GovNET provided updated goals for completion of 31 sites by September 30, 2014.

**RESULT:** For the above reasons, NOAA is imposing the CAP below.

**REQUIRED CORRECTIVE ACTION:** GovNET must address the items below to be compliant with the terms and conditions of its award and to implement its project. Please communicate with your NTIA Program Officer and/or NOAA Grants Specialist.

**1. Prior Approval for Purchases**

GovNET must submit an Award Action Request (AAR) to obtain specific prior approval from the NOAA Grants Office for any single invoice over \$1,000 for all types of purchases. This condition does not apply to equipment and supplies ordered prior to the date this condition was imposed; such equipment and supplies must, however, be covered by GovNET's approved budget.

**2. Progress Milestones**

GovNET must report weekly on its progress and complete the following milestones by the dates listed below:<sup>3</sup>

- Week ending 9/5/14
  - Completion (on-air and transmitting/receiving actual data) of the middle miles (b) (4)
- Before the close of business on 9/30/14
  - Completion (on-air and transmitting/receiving actual data) of the middle-mile (b) (4)

<sup>3</sup> These milestones are based on information provided by GovNET August 7, 2014.



(b) (4)

- (b) (4)
- Installation of last-mile equipment at 156 targeted CAIs serviceable from middle-mile sites - 88 CAIs will have complete installs and be service-ready while the remaining 68 will have partial installs and be service-ready within 1 or 2 weekdays

### 3. Tower Purchase Documentation

By August 22, 2014, GovNET must furnish a copy of:

- Purchase contract, signed bill of sale, and signed assignment of lease for (b) (4)
- Signed bill of sale and signed assignments of leases for purchase (b) (4)  
(b) (4)
- Signed bill of sale and signed assignment of lease for purchase (b) (4)  
(b) (4)

### 4. UCC-1 Documentation and Inventory of Equipment

By August 28, 2014, GovNET must file UCC-1 documentation. Prior to filing the required documentation, NTIA strongly recommends providing it to NTIA at least 3 working days in advance for review of accuracy and completeness. Please see the instructions in the BTOP Federal Interest Fact Sheet

[http://www2.ntia.doc.gov/files/fact\\_sheet\\_federal\\_interest\\_082510\\_v2\\_1.pdf](http://www2.ntia.doc.gov/files/fact_sheet_federal_interest_082510_v2_1.pdf). However the name of the secured party should be “National Telecommunications and Information Administration.” Also note that, consistent with the instructions, the federal interest percentage should not be listed in the documentation.

By August 28, 2014, GovNET must also submit an updated inventory of equipment purchased with federal or matching funds, in the form of a spreadsheet (in a format such as Excel) containing the following information:

- Asset Tag Number
- Vendor
- Manufacturer
- Model
- Serial number
- Brief description (*e.g.*, “12-foot antenna”)
- Acquisition date
- Reimbursement number, if available
- Unit acquisition cost
- Cost of grant-funded improvements
- Location

## 5. Inventory of Unused Supplies

By September 10, 2014, GovNET must submit an inventory of as-yet unused supplies purchased with federal or matching funds, in the form of a spreadsheet (in a format such as Excel) containing the following information:

- Vendor
- Manufacturer
- Model (if applicable)
- Brief description (*e.g.*, “3-foot antennas”)
- Quantity
- Acquisition cost per unit
- Total cost (cost \* quantity)
- Location

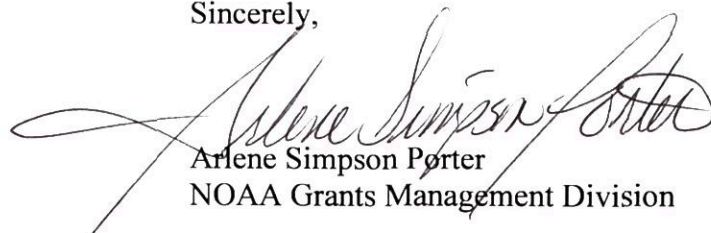
This inventory should be provided for any items where the aggregate cost of a single type of item is \$5,000 or more.

Please provide all necessary information to address CAP items 3-5 no later than the dates noted and project updates on a weekly basis to address item 2. **Failure to respond to this CAP in a timely or comprehensive manner may result in additional corrective action, including suspension and/or termination of the award.**

If you have any questions on how to complete the information requests described above, please contact your Federal Program Officer, Chris Holt at (202) 482-4884 or your Grants Management Specialist, Larry Jenkins at (301) 628-1305.

Thank you for your cooperation and assistance.

Sincerely,



Arlene Simpson Porter  
NOAA Grants Management Division

Cc: Alan Conway, NOAA  
Doug Kinkoph, NTIA  
Chris Holt, NTIA  
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Aimee Meacham, NTIA  
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