

Special Award Conditions

Award Number: NT10BIX5570135

Amendment Number: 1

1) Compliance with Environmental Protocols and Measures

Special Award Condition

Compliance with Environmental Protocols and Measures

Broadband Technology Opportunities Program Grant

Maryland Department of Information Technology, One Maryland Broadband Network

This BTOP Grant Special Award Condition establishes requirements applicable to implementation of the Maryland Department of Information Technology (DoIT), One Maryland Broadband Network. The funding of the Grant is dependent on compliance with the provisions of this Special Award Condition.

Post-award environmental reviews of the Project included consultation with regulatory agencies related to the protection of biological and historic and cultural resources. These consultations identified specific protocols or environmental protection measures. These protocols or protective measures may be either required or recommended to be included in the implementation of the Project to minimize potential impacts to biological resources and effects on historic and cultural resources. The protocols and measures are listed below.

Note that this Special Award Condition does not distinguish requirements identified during the consultations from recommendations that were also provided. DoIT shall implement the identified protocols and measures without regard to this distinction and advise the Federal Project Officer (FPO) immediately if any issues arise related to the ability to fully comply with any requirement or recommendation listed below.

For each protocol or measure listed, DoIT shall include the following information in its periodic report to the FPO administering the grant:

- a. Specifically where and when the protocol has been used or a measure has been implemented during the reporting period, and
- b. Whether full compliance with the protocol or measure was achieved.

The FPO may, if they determine necessary, require additional information to ensure compliance with the protocol or measure. If, at any time, DoIT has questions or requires clarification regarding any of these protocols or measures, they shall notify the FPO, who will coordinate with the appropriate regulatory authority to provide the necessary information.

Biological Resource Protection Protocols and Measures

Project-specific consultations were conducted with the U.S. Fish and Wildlife Service (USFWS) and the Maryland Department of Natural Resources (MDNR). In a letter dated February 7, 2011, the USFWS requested a survey of the project area for bog turtles and bog turtle habitat in cooperation with the Maryland Wildlife and Heritage Division. The USFWS also noted that the Delmarva fox squirrel may be located within the Project area, but based on the proposed activities the USFWS did not have any further comments about that species. The MDNR provided a response in a letter

dated February 17, 2011, concluding that the proposed project would not likely create adverse impacts on known bog turtle habitat and that no further action is required. In a separate letter dated February 17, 2011, the MDNR also concurred that the Project likely poses no threat to listed species or their habitats. However, requirements and recommendations applicable to implementation of the Project and identified during these consultations include:

1. DoIT will notify the USFWS if the project plans change, or if additional information on the distribution of listed or proposed species becomes available. USFWS, February 7, 2011.
2. DoIT will ensure that alternative methods, such as using existing utility poles for aerial construction or directional boring, will be used in lieu of trenching or plowing for the portions of the route located in sensitive areas associated with state rare, threatened or endangered species, as identified by MDNR. MDNR, February 17, 2011 and February 21, 2011 (email).

Historic and Cultural Resource Protection Protocols and Measures

Project-specific consultations were conducted with the Maryland Historic Trust (MHT). Interested tribes were also contacted via the Federal Communication Commission's automated Tower Construction Notification System (TCNS). Requirements and recommendations applicable to implementation of the Project and identified during these consultations include:

1. DoIT is required to submit a set of evaluation/site plans to the MHT for review and comment for the Chestertown and Cumberland equipment hut locations. The Chestertown and Cumberland equipment hut architecture should complement and not detract from the historic districts in which they are located. MHT, February 16, 2010.
2. DoIT will need to consult with the MHT to consider and address any effects on historic properties should there be any substantive modifications to the hut locations or other action that may affect historic properties during project implementation. MHT, February 16, 2010.
3. DoIT will need to consult with the MHT if additional time is required to complete activities associated with the Warfield Complex past the six month approval period (expires August 17, 2011); if any changes are made to the scope of work as approved; or regarding any questions for this part of the project. MHT, February 16, 2010.
4. DoIT will ensure that an archaeologist who meets the Secretary of the Interior's Professional Qualification Standards monitors all ground-disturbing activities that occur during project implementation in the vicinity of known archaeological sites or suspected or known burials.
5. In the event of inadvertent discovery of human remains and/or archaeological artifacts, DoIT will cease all activity in proximity to the discovery location and notify appropriate authorities and interested tribes.
6. If the tribal nations notified of the project through TCNS respond to the recipient with any concerns, the recipient shall notify and consult with the NTIA and the tribal nation to resolve the identified concern.

Additional Protection Protocols and Measures

1. DoIT will avoid wetlands to the extent feasible and will continue working with the Army Corps of Engineers (USACE) and the Maryland Department of the Environment (MDE) on the ongoing permitting process pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Concurrence from both the USACE and the MDE must be received before construction activities may begin within the vicinity of regulated wetlands and waterways (e.g. streams, rivers, floodplains), and the State-regulated 25-foot nontidal wetlands buffer. DoIT will also need to obtain a Tidal Wetlands License from the State's Board of Public Works for any activities in, on, over, or under tidal wetlands or waterways, including the hanging of fiber on an existing bridge.

2. DoIT will avoid impacts to groundwater quality within the Piedmont Sole Source Aquifer (SSA) and will continue working with the Environmental Protection Agency (EPA) on the ongoing Phase 1 Preliminary Assessment under the EPA Sole Source Aquifer Program. Concurrence from the EPA must be received before construction activities may begin within the vicinity of the SSA.

Mitigation Measures identified in the Environmental Assessment as being required to avoid potential significant environmental impacts:

None.