



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

February 6, 2013

Bill Welch
Nevada Hospital Association
5250 Neil Road
Suite 302
Reno, NV 89502-6568

Re: Broadband Technology Opportunities Program (BTOP)
Nevada Hospital Association (NHA) Recovery Act Nevada Broadband Telemedicine
Initiative Grant Award # NT10BIX5570103
ASAP Suspension and 30-Day Notice of Award Suspension

Dear Mr. Welch,

This letter is to notify the Nevada Hospital Association (NHA) of certain programmatic and budgetary issues that NHA must address before drawing down any additional award funds. Addressing these issues quickly and comprehensively is essential to ensure that the grant-funded project is compliant with award terms and conditions, will be completed on time, and will be able to deliver the benefits described in the final award agreement.

Upon acceptance of a grant from the Department of Commerce, the (NHA) agreed to comply with 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 your organization has not complied with these terms and conditions, as noted below. Consequently, NOAA is suspending NHA's Treasury Automated Standard Application for Payments (ASAP) account, effective immediately, and imposing a Corrective Action Plan (CAP) on the program in order to bring the project back into compliance with the terms and conditions of the award.

NTIA may also recommend that NOAA suspend NHA's award effective March 15, 2013, if NHA fails to satisfactorily fulfill the requirements of the CAP. We require NHA's complete CAP response by March 1, 2013, to allow the Program Office to review the response.

Should NHA's award be suspended, NOAA will not process any pending or future requests for advance payment or reimbursement for payment. Costs incurred during a suspension period are allowable only under the conditions specified in 15 C.F.R. § 14.62(c). In the case of delinquent financial or progress reports, a debt will be established representing the amount drawn down during the period covered by the report.

REASON FOR ASAP SUSPENSION: The American Recovery and Reinvestment Act of 2009 (Recovery Act) provided \$4.7 billion to NTIA to establish BTOP. NTIA published Notices of Funds Availability (NOFAs) in July 2009 and January 2010 to implement the Recovery Act's

statutory provisions and to guide two application rounds for grant funding. Consistent with the Recovery Act's directives, both NOFAs required applicants to demonstrate that their project would be substantially completed within two years of the grant award start date and fully completed by the end of the award period. Under the NOFAs, a project is considered substantially completed when the recipient has met 67 percent of the project milestones and received 67 percent of its award funds.

To monitor compliance with these requirements, NTIA has reviewed NHA's ASAP disbursements, quarterly Performance Progress Reports (PPRs), and quarterly Federal Financial Reports (FFRs) to gauge whether NHA's project is on track to meet award milestones and deadlines. NTIA's review indicates that NHA's project performance is significantly lagging its baseline projections and did not reach the thresholds specified in the NOFA.

NTIA is concerned that NHA has made limited progress to date relative to the nearly \$8 million of Federal funds expended on the project. Despite receiving its Finding of No Significant Impact (FONSI) on February 13, 2012, only 60 out of 517 miles of new fiber, 145 of 865 miles of leased fiber, and no community anchor institution (CAI) connections were reported in your Fourth Quarter 2012 PPR.

NTIA also has significant concerns about NHA's ability to complete the project on time and with the remaining funds available. Based on recent monitoring calls, it is apparent that NHA needs to re-evaluate the current plan for implementing the project and delivering the benefits as proposed in the grant award. The current plan calls for the subrecipient, eCare Nevada (eCare) to provide funding for the project and bring the experience and expertise for deployment of the broadband network. Specifically, eCare was to provide \$5,327,550 in matching funds. Additionally, on August 1, 2011, NOAA approved a proposed route modification that increased the projected cost of the project by \$3,012,268, with the understanding that eCare would bear the costs required to fully complete the network. It is NTIA's understanding that without a partner that can provide funding, NHA may be unable to meet the statutory match requirement under the BTOP award.

The NHA/eCare subrecipient agreement defines eCare's role in the project as managing the network construction vendor and operating the broadband network services once construction is complete. NHA has informed NTIA that eCare can no longer fulfill its match and other subrecipient commitments. While NHA has worked in good faith with eCare to resolve the matter, to date, NHA has not been successful in negotiating a viable plan with eCare for completing the project. As of the most recent monitoring calls, NHA does not have a plan to address the gap in funding and in the oversight and management of the broadband network. To protect federal funds, NOAA and NTIA need assurance that NHA can successfully complete the project and deliver the benefits of the grant award.

RESULT: As a result, NOAA is suspending NHA's Treasury ASAP account effective immediately. A suspension of NHA's ASAP account means that any requests for funds through ASAP will be rejected until such time as the suspension may be lifted. NHA's account may

remain suspended until NTIA and NOAA determine that NHA's response to the CAP meets the terms and conditions of the award.

REQUIRED CORRECTIVE ACTION: NHA must address the items below to come back into compliance with the terms and conditions of its award and to implement its project within its remaining award term. Upon receipt of these items, NTIA will evaluate the sufficiency of NHA's response with respect to fulfilling the requirements of its award terms and conditions. Please respond immediately to your NTIA Program Officer and/or NOAA Grants Specialist.

- 1) **Performance Progress:** Nearly \$8 million of NHA's \$19.6 million dollar award has been drawn down to date, but minimal progress has been made toward completing your project.
 - A. Please provide a description of what activities have been completed and paid for under the award.
 - B. Please provide a description of what materials (*e.g.*, fiber, conduit, electronics) have been paid for under the award, and specify where these materials are currently located.
 - C. Please attach a spreadsheet comparing NHA's approved budget with actual expenditures to date. For each budget category, provide a description of what specific activities or purchases still need to be completed with the remaining funds.

- 2) **Budget and Match:** NHA's subrecipient, eCare, committed to provide the \$8.3 million in non-Federal cost share funding needed to complete the project. However, NHA recently informed NTIA that eCare cannot fulfill its subrecipient requirements and that an alternate partner and match source will need to be identified as NHA cannot fund the match itself.
 - A. Please provide a narrative describing NHA's efforts to identify a new partner and source of match, the entity or entities selected to provide the funds, the type of funding being provided (*e.g.*, loan, equity investment), and any impact this change may have on the implementation and operation of the network.
 - B. Please attach a copy of NHA's agreement with the new partner and match source(s) and any other documentation relevant to the arrangement between NHA and the new partner and match source(s).
 - C. Please explain what role – if any – eCare will continue to play in completing the award.

- 3) **Schedule:** Given NHA's limited progress to date, there is significant work that needs to be completed to fulfill NHA's commitments under the award.
 - A. Please provide an updated project schedule outlining how NHA plans to complete the network by the award end date of July 31, 2013. If this is no longer feasible and NHA plans to request a no cost extension through September 30, 2013, NHA may submit a schedule based on that timeframe. The schedule should include all necessary steps to complete the network (including but not limited to agreements,

permits, procurements, construction, testing, and operational readiness activities), as well as interdependencies between these activities. This schedule should also tie back to the remaining budget projections requested above.

B. Please explain which entity will be responsible for day-to-day maintenance and updates to this schedule going forward.

4) **Project Oversight and Organizational Capacity:** Since NHA will not construct or operate the new network itself, a strong project oversight plan is essential.

A. Please provide a description of NHA's plan for overseeing the entities involved in the project. The plan should address how NHA will ensure that project schedules, financial obligations (*e.g.*, timely payment of vendors), and compliance requirements (*e.g.*, allowable costs, Davis Bacon, Federal interest and inventory management) are met.

B. Please attach an organizational chart outlining all entities that will be involved in the implementation and operation of the network going forward and the responsibilities of each entity (including which entities have oversight of other entities, if applicable).

Please provide all necessary information to address these CAP items no later than March 1, 2013. Failure to respond to this CAP in a timely or comprehensive manner may result in the immediate suspension and/or termination of your award. If you have any questions on how to complete the information, please contact your Federal Program Officer, Max Fainberg. Thank you for your cooperation and assistance.

Sincerely,



Larry Jenkins, BTOP Grants Officer
NOAA Grants Management Division

cc. Alan Conway, NOAA
Laura Dodson, NTIA
Max Fainberg, NTIA
Aimee Meacham, NTIA
Andrew Nobleman, NOAA
Arlene Simpson Porter, NOAA
Anthony G. Wilhelm, NTIA