



BROADBANDUSA
CONNECTING AMERICA'S COMMUNITIES

BTOP Webinar: CCI Federal Interest

Conference Call and Webinar

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Agenda

1. Opening Remarks
2. Background on Federal Interest Requirements
 - Percy Robinson, Acting Chief Counsel, Federal Assistance Law Division, Office of the General Counsel
3. Presentation on Federal Interest
 - Aimee Meacham, Director, BTOP Program Services
4. Q&A





Background on Federal Interest Requirements





Federal Interest





Objective:
Understand Federal Interest obligations for BTOP grant projects and the scope of the documentation requirement.





Agenda

- Background on the purpose of the requirement
- Scope of the Federal Interest
- Documentation of the Federal Interest
- Recordkeeping and monitoring requirements
- Questions





Federal Interest requirement protects taxpayer investment in BTOP award funds

- Recipients and subrecipients hold all real and personal property acquired or improved with BTOP funds in trust for the public purposes of the grant
- The Federal Interest applies to the following
 - **Real property:** land and improvements, structures, and appurtenances
 - **Fixtures:** personal property that is legally considered part of the realty
 - **Personal property:** tangible and intangible property except for supplies
- The Federal Interest does not apply to acquisitions of services (e.g., legal, accounting, project management)
- Grant recipients play a key role in ensuring that the taxpayer investment is protected and maintained throughout the useful life of the property





Federal Interest requirements apply to recipients or subrecipients that acquire or improve property

- All recipients and subrecipients that acquire or improve property, in whole or in part, with BTOP funds must comply with the Federal Interest requirement
- While the Federal Interest exists, recipients and subrecipients shall not
 - Sell, lease, transfer, assign, convey, hypothecate, mortgage, or otherwise convey any interest in the BTOP-funded property without the prior written approval of the Grants Office
 - Use the BTOP Property for purposes other than the purposes for which the award was made without the prior written approval of the Grants Office
- Federal Interest lasts for the estimated useful life of the property, per the BTOP Useful Life Schedule





Amount of Federal Interest is based on the percentage of Federal participation in project

- If the recipient or subrecipient obtains permission to dispose of property before the Federal Interest expires, it may be required to reimburse the Government for its share
 - EXCEPTION: If equipment becomes worth less than \$5,000, the recipient may freely dispose of it
- The amount of the Federal Interest is computed as the percentage of the then current fair market value of the BTOP Property attributable to NTIA's participation in the BTOP project

For Example:

Suppose the award is \$7 million and the required match is \$3 million, so the Federal participation in the project is 70%. The recipient uses \$100,000 in Federal and/or matching funds to purchase 5 pieces of \$20,000 equipment for the project. At time of purchase, the Federal Interest in the equipment is $70\% * \$100,000 = \$70,000$. Later, suppose the value of each unit declines to \$10,000. The Federal Interest in the equipment is now $70\% * \$50,000 = \$35,000$.

- Recipients may not designate which property is purchased with Federal funds and which is purchased with cash match





Recipients with construction projects must document the Federal Interest

YES or NO

KEY QUESTIONS



Is the award a BTOP Infrastructure or Comprehensive Community Infrastructure project?



Is the award a Public Computer Center project with a construction component consisting of more than minor alteration activities such as the installation of cabinetry, doors, and furniture; the replacement or repair of wallboard and ceilings; rough-ins for plumbing or electrical work; painting; wallpapering; and carpeting?

If **EITHER** answer is "YES"

Recipients and subrecipients must execute and file in the appropriate office(s) documentation of the Federal Interest with respect to property acquired or improved, in whole or in part, with Federal or cash matching funds





Required documentation for Federal Interest depends on the type of property

- **Covenant of Purpose, Use, and Ownership** to be filed in the real property records in the jurisdiction in which the real property is located
 - For leases, easements, and other less-than-fee-simple interests, recipient may include acknowledgement of Federal Interest and right of assignment in the agreement with landowner instead of filing covenant
- **UCC-1 Form** to be completed for fixtures and personal property
 - File the form for fixtures with the appropriate real property records of the jurisdiction where the real property is located and renew for as long as its useful life
 - File the form for Personal Property with the appropriate state office in accordance with the state's codification of the Uniform Commercial Code (UCC), Article 9 and renew for as long as its useful life
 - Maintain copies of all new or updated UCC-1 documentation
 - For capital leases (e.g., certain IRUs), recipient can include acknowledgement of Federal Interest and right of assignment in the agreement with lessor instead of filing UCC-1
- **Attorney Certification(s)** from counsel, licensed by the state within which the filings were made, that the Covenant and/or UCC documentation has been properly executed and recorded or filed





Recipients must ensure that recordkeeping is timely and documented with the Grants Office

- Federal Interest documentation must be recorded or filed as soon as reasonably possible following any purchase, lease, or other acquisition or improvement of real property, fixtures, or personal property
- Recipients and subrecipients must also timely file continuation statements for fixtures and personal property for the duration of the Federal Interest
- At closeout or upon request, recipients or subrecipients must provide the Grants Office with
 - Copy of the instruments reflecting the documentation of the Federal Interest with the recording or filing stamp and information clearly visible
 - Attorney's certification(s)





NTIA and Commerce Office of General Counsel monitors and reviews Federal Interest documentation for recipients and subrecipients

Resources

- Federal Interest Fact Sheet
 - Attachment A: Sample Covenant of Purpose, Use, and Ownership
 - Attachment B: UCC-1 Instructions and Sample Format for Equipment List
 - Attachment C: Sample Attorney Certification
- BTOP Useful Life Schedule
- Uniform Administrative Requirements, 15 CFR §§ 14.30-37 & 24.31-34





Questions

