

Special Award Conditions

Award Number: NT10BIX5570046

Amendment Number: 7

1) 30-Day Notice of Termination of Award

Upon acceptance of a grant from the U.S. Department of Commerce, your organization agreed to comply with requirements specified in the terms and conditions of the award. The National Oceanic and Atmospheric Administration (NOAA) previously received notice from the National Telecommunications and Information Administration's (NTIA) Program Office that you had not complied with these terms and conditions. Therefore, on August 2, 2011, NOAA suspended your U.S. Treasury Automated System Application for Payment (ASAP) authorization for the award and required your organization to submit a detailed corrective action plan (CAP) response by September 9, 2011.

REASON FOR TERMINATION: On Friday, September 9, 2011, NOAA and NTIA timely received your organization's CAP response entitled "Request for Alternative Design," in which permission was requested to replace the current network design of the project with an approach centered on purchasing indefeasible rights-of-use (IRUs). However, this CAP response does not adequately address the multiple concerns raised by NOAA and NTIA in previous correspondence.

The August 2, 2011 letter from the NOAA Grants Office required your organization to provide a CAP response with specific details regarding the delivery of project benefits to the citizens of Louisiana, including infrastructure-based broadband connections to community anchor institutions (CAIs), points of interconnection, and service to unserved and underserved areas within the proposed funded service area (PFSA), including tribal areas. Instead, your organization included only conceptual and non-specific responses to program concerns regarding project benefits, sustainability, network design and implementation, and project completion schedule. This CAP response does not include sufficient information for NOAA and NTIA to evaluate whether the planned IRU approach would meet the goals and objectives of the BTOP award to Louisiana. In addition, NOAA and NTIA have serious concerns regarding the proposed organizational structure and business model of the proposed IRU approach.

RESULT: As a result, NOAA intends to terminate your organization's award due to material noncompliance with the terms and conditions of the award, unless you provide a revised CAP response no later than October 14, 2011 that comprehensively addresses all of NTIA's and NOAA's concerns noted below. Costs resulting from obligations incurred during a suspension or after termination of an award are not allowable. Other costs are allowable only under the conditions specified at 15 C.F.R. 24.43(c).

At this time, your ASAP authorization will remain suspended. This action means that any requests for funds through ASAP will continue to be rejected. In addition, while the suspension remains in effect, NOAA will not process any pending or future requests for advance payment or reimbursement for payment. 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.

Consideration of this adverse action may be used in future funding decisions for your organization. Please respond immediately to your NTIA Program Officer and/or NOAA Grants Specialist.

REQUIRED CORRECTIVE ACTION: Louisiana must submit a detailed plan describing the viability and adequacy of the proposed IRU approach or formulate an acceptable and viable plan to implement its project within its remaining award term. Outlined below are the deficiencies in the current CAP response that must be addressed. NOAA and NTIA must receive the revised CAP response by October 14, 2011.

1. Delivery of Project Benefits. The CAP response fails to specify how programmatic benefits would be achieved under the proposed IRU approach and does not provide sufficient data or supporting detail. While the response lists the underserved parishes, tribal areas, and CAIs and refers to planned project activities, the response does not provide sufficient detail regarding how unserved and underserved areas, including tribes, will benefit from the broadband network. This makes it impossible for NTIA to evaluate the adequacy of the revised approach or evaluate its specific impact to unserved and underserved areas in Louisiana. In particular:

a. The CAP response does not specify the proposed IRU network footprint, fiber availability in each parish, and middle mile capacity to be delivered. Nor does it specify connection/transmission speeds and pricing data.

b. The CAP response does not provide specific details regarding interconnection agreements with last mile providers.

c. The CAP response includes no discussion of the impact on higher education CAIs, specifically with the proposed expansion of the Louisiana Optical Network Initiative (LONI).

2. Compliance with the award term ending February 28, 2013. The CAP response does not sufficiently support the viability of the revised network IRU approach to provide the required assurance that the project can be successfully completed by February 2013.

a. As noted above, it is still unclear how CAIs, tribes, and end-users would be served under the proposed IRU approach.

b. The CAP response does not address the specific requests to "define the project phases or route segments ... and when the broadband infrastructure will be in service." High-level block diagrams are insufficient for the agencies to review and evaluate network design and adequacy.

c. The submitted project plan is focused on the state's procurement tasks, does not address network implementation, and raises questions regarding project timeline achievability and overall performance. Furthermore, a detailed project implementation plan would not be available for the IRU approach until at least February 2012, the start of the third and final year of the award's period of performance. When the Request for Proposal (RFP) would be released and service providers would have an opportunity to respond with specific details of the availability of dark fiber.

d. The CAP response provides only general information on sustainability. It fails to address the specific operating relationships with last mile and other providers participating in the project. Nor does it address how such providers would provide last mile access to customers. There is insufficient information regarding financial relationships between these providers, as well as end-users, to perform an analysis of the project's financial viability.

Your organization must provide all additional information necessary to address these CAP items by October 14, 2011. Please work with your FPO, if you have any questions or require any additional clarification. Failure to respond in a timely or comprehensive manner will result in the termination of the award due to material noncompliance.

Due Date: 10/14/2011