



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

April 30, 2013

Mr. Patrick Barringer
GovNET, Inc.
7835 E. McClain Drive
Scottsdale AZ 85260

Re: Broadband Technology Opportunities Program (BTOP)
GovNET, Inc. (GovNET)
Grant Award # NT10BIX5570136
Partial Lifting of Suspension

Dear Mr. Barringer:

I am writing to inform you that the National Telecommunications and Information Administration (NTIA) has recommended and the National Oceanic and Atmospheric Administration (NOAA) Grants Office has agreed to partially lift the suspension of the GovNET BTOP award, which will allow GovNET to resume work on its award effective immediately, subject to the terms and conditions discussed below. NTIA and NOAA appreciate GovNET's commitment to the project and its progress toward resolving the issues we previously identified. We intend to continue working with you to resolve any outstanding issues.

REIMBURSEMENT-ONLY STATUS AND REQUEST FOR PAYMENT: GovNET's Automated Standard Application for Payment (ASAP) account will remain on reimbursement-only status to allow NTIA and NOAA to continue to review requests for payment under the award to ensure the effectiveness of GovNET's updated processes for monitoring costs and compliance with approved project activities. After one year, GovNET may submit a request for NTIA and the NOAA Grants Office to re-evaluate whether reimbursement-only status remains reasonably necessary for oversight of the award.

Costs incurred while your award was suspended are allowable only if they were expressly authorized in the notice of suspension or subsequently, or if the conditions specified at 15 C.F.R. § 14.62(c) apply. To request reimbursement for allowable expenses incurred but not yet paid, please submit an Award Action Request (ASAP Drawdown Request), along with a comprehensive list of all outstanding allowable costs, including copies of associated invoices. This list should be accompanied by a short description of each cost relative to each invoice. NOAA and NTIA will then initiate a review to determine the cost allowability of each expense included in GovNET's reimbursement request. After NOAA and NTIA perform their review, the Grants Office will send GovNET a confirmation message listing the costs approved for payment, and GovNET may initiate a drawdown request from the ASAP system.

Before NTIA and NOAA will consider any further requests for funds in addition to this initial request, GovNET must meet Organizational Milestone 1 and Match Milestone 1 below. NTIA and NOAA also will be conducting a site visit in the near future.

DISALLOWED COSTS: NTIA and NOAA have carefully reviewed your September 4, 2012, Corrective Action Plan (CAP) response and supplemental materials regarding the questioned and disallowed costs that NOAA and NTIA identified in the July 19, 2012, CAP letter (“July 19 CAP”). As a result of that review, NTIA and NOAA has made a final determination that (b) (4) of the costs discussed therein are disallowed.

In addition, the following items, which were not identified in the July 19 CAP, are also disallowed:

- (b) (4)
-

As a result of these disallowed costs, NOAA will amend GovNET’s award to reduce the federal award by a total of (b) (4) and reflect a new federal share of (b) (4). GovNET’s required matching share currently remains at \$12,664,258. The match amount will remain the same. 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.

In addition, (b) (4) of costs are not considered allowable at this time, but may become allowable at a later time, as discussed below. This amount includes (b) (4) of costs identified in the July 19 CAP associated with (b) (4)

(b) (4). According to GovNET’s inventory list and reimbursement spreadsheets, an additional (b) (4) not identified in the July 19 CAP, is associated with the unapproved purchases of (b) (4) and at least (b) (4) relates to legal costs or site surveys allocable to these acquisitions. Because these (b) (4) in costs are associated with activities that are not approved as part of the project, they are not allowable at this time. However, these costs may become allowable if GovNET receives approval for its pending and anticipated route modification requests. Accordingly, NTIA intends to monitor GovNET’s route modification requests against these costs. If GovNET does not receive approval for the corresponding changes, the federal share of GovNET’s award may be reduced or GovNET will be required to return the disallowed funds through ASAP.

ORGANIZATIONAL/MANAGEMENT STRUCTURE: Below are the milestones that GovNET must meet to address concerns regarding its financial and grants management capabilities and processes.

Organizational Milestone 1: Within 30 days from the date of this letter, GovNET must implement a management restructuring plan to transition from the current management structure to support:

- Grant oversight and better separation of fiscal duties to ensure that all costs submitted for reimbursement under the award are:
 - Consistent with the approved budget and approved project activities;
 - Reasonable in nature and amount;
 - Allowable under the applicable cost principles;
 - Appropriately documented;
 - Allocable to the BTOP project; and
 - Necessary for the project.
- Avoidance of real or apparent conflicts of interests, in general and specifically in transactions between GovNET and Telink Networks SW LLC (Telink).

As a part of its management restructuring, GovNET must hire a manager to oversee all decisions related to the grant.

To meet this milestone, GovNET must submit a copy of its management restructuring plan as well as an updated organizational chart to the NOAA Grants Office and NTIA.

Organizational Milestone 2: Within 45 days from the date of this letter, GovNET must submit the following to the NOAA Grants Office and NTIA:

- A copy of its updated invoice review and payment process, which should include:
 - Review of project costs against the approved budget and approved project activities;
 - Review of project costs for reasonableness and necessity;
 - Review of project costs for allowability under the applicable cost principles and other terms of the award;
 - Documentation requirements for project costs, including personnel time and contractor invoices; and
 - Clear and adequate allocation of personnel, space, and other costs between Telink Networks SW LLC and GovNET.
- A copy of its updated procurement and purchasing procedures, which should provide for open and free competition to the maximum extent practical, and should include:
 - Cost or price analysis for each purchase;
 - Consideration of lease alternatives where appropriate; and
 - At least three quotes for most purchases that do not go through a request for proposal process.¹
- A copy of its policies related to conflicts of interest, which should include:
 - Clear definitions of conflict of interest; and
 - Policies for addressing potential conflicts of interest.

¹ In rare instances, GovNET may also document that despite its best efforts, it is unable to obtain three quotes. Additionally, towers and facility locations may be unique, so that no alternative seller is available to provide a quote. Such situations require exceptionally close attention to the reasonableness of the costs and any potential conflicts of interest. Additionally, there may be *de minimis* purchases where it would be unreasonable to require quotes.

The current versions of these policies are included in GovNET's Internal Controls, Business Ethics, and Conflict of Interest Policies. These policies and procedures should reflect GovNET's new management and organizational structure.

MATCH: A key component of GovNET's plan for meeting its matching share requirement includes donated leases of rooftop space from Community Anchor Institutions (CAIs) for Community Interconnection Points. NOAA and NTIA understand that GovNET's plan requires it to (a) (b) (4) and to (b) obtain executed leases from additional CAIs who have expressed interest in signing an agreement when the suspension is lifted.

NOAA and NTIA intend to monitor GovNET's compliance with the matching requirement under its award. Accordingly, NTIA and NOAA set forth the milestones below:

Match Milestone 1: Within 45 days from the date of this letter, GovNET must submit to NTIA and NOAA:

1. An updated match matrix.
2. A budget modification request, including an updated SF-424C, budget narrative, and detailed budget spreadsheet. This revised budget should reflect GovNET's revised federal share and its revised matching sources.
3. A report on program income earned to date under the award and a projection of future program income, including anticipated sources.
4. A spreadsheet of CAIs that have signed in-kind leases and CAIs that GovNET anticipates will sign in-kind leases. The spreadsheet should list the following: (a) (b) (4)

Match Milestone 2: Quarterly or as requested by NTIA, until it has secured all of the leases and program income necessary to satisfy the matching requirement under its award, GovNET must submit to NTIA an updated spreadsheet of CAI leases and report on program income under the award. GovNET also must submit an updated match matrix if its plans for other sources of match change.

ENVIRONMENTAL COMPLIANCE: In its September 4 CAP response and follow-up documentation, GovNET has requested approval for four "batches" of proposed changes to the project, including some already-implemented changes described in Batch 1. NTIA's comments on Batches 1 through 3 are listed in Appendix A to this letter.

Under the terms of the award, GovNET must not perform project implementation activities that are not approved as a part of the award-funded project and covered by its Finding of No Significant Impact (FONSI). Additionally, GovNET may not perform any project implementation activities at any site listed in Batches 1 through 4 (including, but not limited to, those in Appendix A) until GovNET receives NTIA and NOAA Grants Office approval to proceed.

GovNET must also meet the following milestones:

EHP Milestone 1: Within **15** days of the date of this letter, GovNET must submit an updated Batch 4 route modification request with the list of CAI sites that are eligible for an exemption from Section 106 of the National Historic Preservation Act (NHPA). This request should include a letter from GovNET's environmental consultant expressing an opinion as to the environmental and cultural impact of adding these sites to the project.

EHP Milestone 2: Within **60** days of the date of this letter, GovNET must provide to NTIA and NOAA a written EHP Communication Plan that explains how it will do the following:

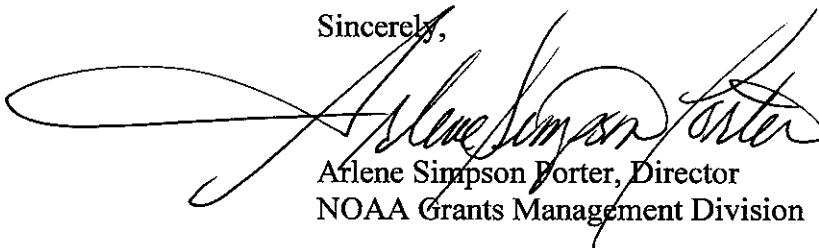
- (a) Place all new and existing employees on notice of the requirement to obtain approval for project changes, and the location where employees can reference the currently approved EHP documentation for the project.
- (b) Place all relevant contractors on notice of the requirement to obtain approval for project changes, and the location where contractors who require this information can reference the currently approved EHP documentation for the project.
- (c) Place all relevant employees and relevant contractor personnel on notice regarding specific EHP requirements that affect engineering or construction, such as construction windows, agave impact requirements, avoidance measures for condors, migratory bird stipulations, and inadvertent discovery procedures. The plan should address the addition of new employees and contractor personnel. The plan should also address the fact that different project sites have different associated EHP requirements.
- (d) Prevent GovNET from implementing unauthorized project changes or incurring costs for them.

Failure to respond adequately to the above items may result in enforcement action, including the suspension or termination of the award. As noted above, costs incurred for work conducted under GovNET's grant award will remain under reimbursement only status. Additional draw down requests beyond that set forth in GovNET's initial draw request will be considered only after NTIA conducts a site visit.

Please note that NTIA and NOAA may submit follow-up questions for you to clarify several of your previous responses and address any additional concerns.

Your Federal Program Officer, Katherine Scott, will be contacting you to schedule a site visit. Please do not hesitate to contact Ms. Scott at kscott@ntia.doc.gov or 202-482-2205 or your NOAA Grants Specialist, Craig Reid at craig.a.reid@noaa.gov or 301-628-1317 if you have any questions or require any additional information.

Sincerely,

A handwritten signature in black ink, reading "Arlene Simpson Porter". The signature is fluid and cursive, with a large loop at the beginning and a long tail that extends to the right.

Arlene Simpson Porter, Director
NOAA Grants Management Division

cc: Anthony Wilhelm, NTIA
Doug Kinkoph, NTIA
Aimee Meacham, NTIA
Andrew Spurgeon, NTIA
Katherine Scott, NTIA
Larry Jenkins, NOAA
Craig Reid, NOAA

Attachment

Appendix A: Comment Matrix on GovNET Route Modification Batches 1-3

Batch	Site	Data Needed	Recommended Action
1	(b) (4)		
1			
1			
2			
2			
2			
2			
2			
2			
2			
2			

(b) (4)

2

3

3

3

Please Note: If any of these changes occur in counties not previously analyzed in the EA then notification to Tribes may be required. Additionally, copies of all three month SHPO reports, as required in the PA and SAC, must be provided to NTIA.