



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic And Atmospheric Administration
Office of Acquisition and Grants

September 21, 2011

Chairman Stephen Fulford
North Florida Broadband Authority (NFBA)
1500 Mahan Drive, Suite 250
Tallahassee FL 32308-5177

Re: Broadband Technology Opportunities Program (BTOP) NFBA Comprehensive
Community Infrastructure (CCI) Program, Grant Award # NT10BIX5570023

Dear Chairman Fulford:

Thank you for your time and effort in preparing for our August 24-25, 2011 site visit. During the visit, the site visit team reviewed programmatic, financial and grants management deficiencies that NFBA was to address as part of its response to the Corrective Action Plan (CAP) letter of August 18, 2011. Addressing these issues quickly and comprehensively is essential to ensuring that your BTOP grant-funded project is compliant with award terms and conditions, is completed on time, and is able to deliver the benefits described in the final award agreement.

Since the issuance of the August 18, 2011 CAP letter and your recent CAP response submission received on September 7, 2011, the Department has received serious allegations regarding the administrative operations of your award. Due to the serious nature of the allegations submitted to the Department, NTIA has recommended that the National Oceanic and Atmospheric Administration (NOAA) Grants Office suspend your award immediately so that the Department may have the opportunity to review these allegations and to determine whether to allow the continuance of the award.

In addition, the NOAA Grants Office received notice from the NTIA Program Office that you have not complied fully with the terms and conditions of the grant award, as noted below. NTIA has determined that your response to the CAP is insufficient in several areas and requires additional information. We require your response addressing the requirements of the CAP detailed below by October 10, 2011 to allow the Program Office to review the response and to request and receive any clarifications as needed.

RESULT: As a result, NOAA will place your award on suspension beginning on September 21, 2011. Under the award suspension, your ASAP authorization will remain suspended and all work must cease. The only costs that you will be allowed to incur on an agency review basis only are those costs related to work needed to address the CAP items set forth below. Your complete CAP response must be received by October 10, 2011. At that point, NTIA will review your CAP response submission and will reevaluate your suspension status. 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 the suspension may be used in future funding decisions for your organization.

REQUIRED CORRECTIVE ACTION: Please work with your NTIA Program Officer and/or NOAA Grants Specialist to provide additional information to satisfy your CAP requirements. The specific CAP deficiencies are as follows:

1. **Vendor Oversight**

NTIA and NOAA continue to have concerns about NFBA's oversight of its primary contractors: Government Services Group (GSG), Nabors, Giblin, and Nickerson (NGN), and CST Tallahassee LLC (CST)—

- a. On page 4 of your response, you state that GSG merely implements the direction it receives from the NFBA Board, that GSG does not act independently of the NFBA Board and the NFBA Board does not always accept GSG's recommendations.
 - i. Please confirm and document that there are no situations where GSG can act independently of the NFBA Board. NTIA seeks such clarification because it was previously informed by NFBA that GSG could act independently with regard to termination of vendors, as in the August 3, 2011 letter submitted to Rapid Systems by Robert Sheets regarding the removal of Lazaro Sanchez from the NFBA project. While NTIA understands that Mr. Sheets informed Chairman Fulford of this action, NFBA informed NTIA that Mr. Sheets was not required to do so.
 - ii. On page 7 of your response, you state that the General Manager is responsible for the Board Administration and overall Program Administration. The responsibility to oversee and hold vendors accountable to the Board lies with the General Manager. Please explain what authority the General Manager (GSG) has to carry out the above responsibilities.
- b. On page 6, NFBA states that the Chairman of the Board of Directors is the primary signatory for all obligations and contracts entered into by the Board.
 - i. For NFBA's response to Question 3 of Waste, Fraud, and Abuse allegations, NFBA included a copy of the Keenwire and Airwire termination agreement as part of the appendices. Why did Mr. Sheets sign the Keenwire termination agreement? Why did Mr. Lien sign the Airwire termination agreement? Please provide the board's authorization for these specific actions.
- c. On page 6, NFBA states that the Operations Committee has direct responsibility for oversight of the performance of the General Manager and its contract performance. Please explain how GSG's performance is reviewed and what metrics it is measured against, if any. Also, please provide the remedies

(contractual or otherwise) that are available to the Operations Committee and/or the NFBA Board to address any concerns regarding GSG's performance.

- d. Please clarify who drafted the GSG contract with NFBA. Please explain why the GSG contract does not contain the required contract provisions of 15 C.F.R. §24.36(i), including, but not limited, to—
- i. Termination for cause and/or convenience of the recipient (all contracts over \$10,000 must contain this provision)
 - ii. Equal Employment Opportunity provisions (all contracts over \$10,000 must contain this provision)
 - iii. Compliance with Section 103 and 107 of the Contract Work Hours and Safety Standards Act
 - iv. Notice of awarding agency requirements and regulations pertaining to reporting and intellectual property
 - v. Retention of documents requirements
 - vi. Violation/breach of contract provisions?
- e. You state that all work authorizations above \$25,000 must be approved by the NFBA Board of Directors following a positive recommendation by the Operations Committee. Please provide an explanation regarding how work authorizations of \$25,000 and less are approved, and by whom.
- f. You state that the NFBA Board has a separate contract with Nabors, Giblin, and Nickerson (NGN) to serve as legal counsel. Does NGN currently represent, or has it previously represented, CST, GSG or Meridian Community Services Group as legal counsel? If the answer is yes, please describe when and how such legal representation was established with each entity, along with the nature of that representation, and when it was terminated, if applicable.
- g. On page 6 of your response, you state that a Board Special Master has been appointed to resolve disputes and independently evaluate the performance of the General Manager and their relationships with all other vendors on the project.
- i. Please clarify how this “Special Master” process has been implemented and communicated to NFBA’s vendors.
 - ii. Has the process be utilized by any vendors?
 - iii. What is the process of the “Special Master” for independently evaluating the performance of the General Manager and their relationships with the vendors on the project? Has the “Special Master” engaged in a review of the General Manager’s performance to date?
 - iv. How does the responsibility of the “Special Master” relating to the evaluation of the performance of the General Manager differ from the responsibilities of the Operations Committee relating to the oversight of the performance of the General Manager?

2. Allegations of Waste

- a. With regard to question No. 7, is NFBA aware of any other allegations made by Mr. Thurow beyond those listed? It is NTIA's understanding that Mr. Thurow raised various concerns with NFBA's counsel, to which NGN responded to Mr. Thurow in writing on June 7, 2011. Did NGN, as NFBA's counsel, communicate Mr. Thurow's concerns to the entire Board during a board meeting? If not, why not?
- b. On page 7 and on page 11 under the heading "Addressing Issues," NFBA states that Mr. Thurow has been removed as Operations Committee Chairman. During NTIA's July 27, 2011 visit, NTIA understood that Mr. Thurow was no longer the Chairman of the Operations Committee because his term expired, not through an action by the NFBA. Please clarify the circumstances under which Mr. Thurow was removed as Chairman of the Operations Committee.
- c. On page 11 of your response, you state that NFBA "[w]ill adopt the non-interference policy which clearly identifies roles and responsibilities and prohibits interference by and individual Board member." Please clarify for NTIA what the "Non-Interference" policy is, how it is intended to operate, and who drafted the policy. Please provide a copy of such policy.
- d. With respect to Question 12, on page 32, the NFBA response states that both Robert Sheets and Lisa Blair are shareholders in Meridian Community Services Group. In our July 27, 2011 meeting, it was noted that Lisa Blair, provided information to scope the RFP for a compliance vendor (your response in Question 6 provides details on this issue). Please describe what, if any, involvement Meridian has had in the BTOP project, including, but not limited to, drafting or providing RFP language.
 - i. As part of the response to Question 6, it was noted that the GM knew all the firms that submitted and worked with CST because it was a subcontractor for the FRBA award. If CST was formed in May, 2010, how long had the GM worked with CST at that point in the process? Did the GM also disclose its previous relationship with Lisa Blair and/or Meridian?
- e. Please provide copies of the physical invoices received and paid with or to be paid with BTOP funds. Please match the appropriate work order to the invoices.

3. Sustainability

- a. On page 3 of your response, NFBA describes the increased role of Jacobs as the project manager. As a consequence, the role of GSG will be reduced going forward. GSG's contract amendments indicate that its rate was increased due to its increased role in the project. Please explain how GSG's contract will be

modified to reflect its reduced role in the project. Will the Jacobs contract also need to be modified accordingly?

4. Document Fiscal Oversight Measures and Detailed Spending Activity as of July 30, 2011

- a. Your response at pages 1-3 and the accompanying flow chart outline the procedure for the receipt and processing of invoice payments. All steps regarding the reviewing of invoices, proof of delivery, approval of invoices, inputting of authorized invoices into an accounts payable system, etc., are all handled by vendors, mainly GSG, and NFBA appears to have no role in these functions. NFBA's role appears to be limited to the signing of the checks that have been presented to it by its vendor, GSG. Please provide a response addressing how NFBA will take a more active oversight role in the review and approval of invoices, including whether it reviews the underlying documentation supporting vendor requests for payment for services rendered or for goods delivered.

Please provide additional information to address these CAP items no later than October 10, 2011, and work with Chris Holt if you have any questions or require any additional clarification. Failure to respond to this CAP in a timely or comprehensive manner may result in additional enforcement action being taken. Thank you for your cooperation and assistance.

Sincerely,



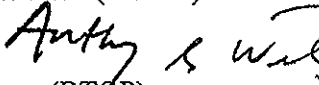
Alan Conway
NOAA Grants Officer

cc: Anthony Wilhelm, NTIA
Doug Kinkoph, NTIA
Chris Holt, NTIA
Aimee Meacham, NTIA
Larry Jenkins, NOAA
Arlene Simpson-Porter, NOAA
Kathleen McKevitt, DOC OIG



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

Memorandum for: Arlene Simpson-Porter, Director, Grants Management Division
Alan Conway, Grants Officer
National Oceanic and Atmospheric Administration (NOAA)

From: Anthony G. Wilhelm, Ph.D., Director 
Broadband Technology Opportunities Program (BTOP)

Subject: North Florida Broadband Authority (NFBA) Ubiquitous Middle Mile
(CCI) Program (NT10BIX5570023) – Request for Award Suspension

Date: September 21, 2011

NFBA has experienced a number of financial controls and grants management issues on its project. As a result, NTIA has serious concerns regarding the project's management, internal controls, and vendor oversight.

Since the issuance of the August 18, 2011 CAP letter and NFBA's recent CAP response submission received on September 7, 2011, the Department has received serious allegations regarding the administrative operations of the NFBA award. Due to the serious nature of the allegations submitted to the Department, NTIA recommends that the NOAA Grants Office suspend the NFBA award immediately so that the Department may have the opportunity to review these allegations and to determine whether to allow the continuance of the award.

In addition, NFBA remains non-compliant with the terms and conditions of its awards based on its September 7, 2011 CAP response. NTIA continues to have concerns about NFBA's internal financial controls, contractor oversight, and project schedule. Under the DOC Uniform Administrative Requirements at 15 C.F.R. § 24.43, as a remedy for noncompliance, the Grants Office may "[w]holly or partly suspend or terminate the current award for the grantee's or subgrantee's program..." 15 C.F.R. § 24.43(a)(4). Under that rule, such action is warranted where the grantee "materially fails to comply with any term of an award." 15 C.F.R. § 24.43(a). In this instance, NFBA's inability to exhibit adequate internal financial controls, develop a sufficient oversight plan for its subrecipients and vendors, and adhere to a project implementation schedule as described in its grant award constitute such material noncompliance.

Accordingly, I request that the NOAA Grants Office place NFBA's award on immediate suspension, as such action is necessary to protect the government's interest. See 15 C.F.R. § 24.36. We request such action so that NTIA and the NOAA Grants Office will have the ability to prevent possible waste, fraud or abuse of funds for its awards.