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

October 26, 2011

Barbara Goodson
BTOP Award Authorized Organization Representative
State of Louisiana – Board of Regents
1201 North 3rd Street, Claiborne Building
Baton Rouge, LA 70804-9095

Re: State of Louisiana Board of Regents (Louisiana) (NT10BIX5570046) – Notice of Termination of Award

Upon acceptance of a grant from the U.S. Department of Commerce (Grant Award No. NT10BIX5570046), your organization agreed to comply with requirements specified in the terms and conditions of the award. On September 20, 2011, you were advised of serious issues regarding deficiencies in your corrective action plan (CAP) submitted on September 9, 2011, and that due to these CAP deficiencies, your award would be terminated in 30 days unless your organization submitted a revised CAP by October 14, 2011.

The National Telecommunications and Information Administration (NTIA) has thoroughly reviewed your October 14, 2011 CAP response and has determined that your response is deficient in addressing our concerns regarding project benefits, compliance with schedule completion, and project sustainability. Your inability to adhere to the approved construction plan and project implementation schedule described in your grant award and failure to develop a viable and sustainable alternative in your October 14, 2011 CAP response continue to place you in material noncompliance with the terms and conditions of your award. As a result, your award is terminated immediately.

REASON FOR TERMINATION: Prior to this Notice of Termination, NTIA and the National Oceanic and Atmospheric Administration Grants Officer (NOAA) provided you with a number of opportunities to take corrective action with respect to your award deficiencies. Enclosed is "Chronology of Major Events and Meetings" that summarizes each attempt to correct the delays and other deficiencies with your project. NOAA awarded a grant to Louisiana for a project that proposed to construct new fiber infrastructure for the purpose of delivering high-speed broadband service to community anchor institutions (CAIs), as well as unserved and underserved communities in the state. Louisiana, however, proved unable to execute its original project proposal to construct new facilities. During NTIA's site visit in March 2011, staff raised concerns that a project that should have been twelve months along in its implementation was already at least nine months behind schedule.

On May 17, 2011, NOAA sent a letter requesting that Louisiana submit a CAP response by June 1, 2011, to address issues with the lack of progress under the project, and requiring specific information, such as a preliminary construction schedule, to provide NTIA with sufficient assurances that the project could be completed during the period of performance. NTIA and NOAA thoroughly reviewed your June 1, 2011 response and on June 13, 2011, NOAA

responded stating that your initial CAP response was insufficient. Instead of addressing our concerns directly, the CAP response stated that fewer miles than originally planned would be constructed and you provided no further detail on precisely on what timetable the construction would occur, alluding only to a series of bid packages that would be implemented concurrently to address the significant schedule delays. Because the response was deemed insufficient, NOAA and NTIA once again requested additional detail to provide us with some type of assurance that Louisiana could make up for the schedule delays. Louisiana provided a response on June 14, 2011, once again indicating that at least twelve requests for proposal (RFPs) would need to be released, attaching a project schedule, and stating that the agreed-upon project benefits would be contingent on last-mile providers offering competitive services to community anchor institutions.

On July 6, 2011, NTIA staff conducted an advanced site visit with key officials from the Louisiana Board of Regents (BOR) and Department of Administration (DOA) staff to offer direct assistance to cure the deficiencies with the implementation plan, and in the alternative to ascertain what enforcement action might be required to ensure taxpayer dollars were not wasted if the project could not continue. During the site visit NTIA staff learned of additional impediments threatening the implementation of the project. On July 12, 2011, NOAA sent another letter to Louisiana requiring specific information by July 20, 2011 in an attempt to prevent the project from being suspended or terminated. On July 20, 2011, Louisiana notified NTIA that the project engineering contractor failed to meet the schedule deadline and did not produce the required deliverables. Alternatively, Louisiana then proposed significant modifications to the project to exclude the construction component and to make up for its schedule delays by pursuing an alternative design centered on the purchase of indefeasible rights-of-use agreements (IRUs) from private providers. Due to the fact that Louisiana had now abandoned its original project proposal plan, NOAA suspended the U.S. Treasury Automated System Application for Payment (ASAP) authorization for the award on August 2, 2011 and required your organization to submit a detailed plan describing the viability and adequacy of the proposed IRU approach by September 9, 2011.

On Friday, September 9, 2011, NOAA and NTIA received Louisiana's CAP response entitled "Request for Alternative Design," requesting permission to replace the current network design of the project, which called for the construction of new fiber infrastructure to deliver high-speed broadband service to unserved and underserved areas of the state, with an approach centered on the purchase of existing fiber infrastructure through IRU arrangements with private broadband service providers. However, Louisiana did not adequately address the multiple concerns raised by NOAA and NTIA in previous correspondence. Specifically, the response did not provide sufficient detail, such as a comprehensive implementation schedule or an adequate business plan, to evaluate the proposal. As a result, on September 20, 2011, NOAA issued a 30-day Notice of Termination and required your organization to submit a revised CAP by October 14, 2011.

NTIA has thoroughly reviewed your October 14, 2011 response and has recommended to NOAA that it terminate your award immediately. The CAP response is deficient in addressing NTIA's concerns regarding the delivery of promised project benefits, compliance with schedule completion, and project sustainability. NTIA has concluded that your response lacks specificity

and detail; contains information gaps and incomplete analyses; and therefore, is insufficient to adequately evaluate the technical feasibility and financial viability of the proposal.

Specifically, the IRU plan does not include milestones related to pre-deployment readiness, such as environmental and historic preservation requirements, major deployment activities, or details to support an accelerated timeline for meeting quarterly key performance indicators such as miles deployed, CAIs connected, or interconnection agreements negotiated or executed with last mile and other wholesale service providers. In addition, the CAP response outlines a solutions-based procurement approach that leaves key determinants to be provided by entities responding to its IRU RFP and therefore does not provide the details required for NTIA to evaluate the benefits to CAIs not directly associated with the Louisiana Optical Network Initiative (LONI), unserved and underserved communities, or tribal entities defined in the original grant award. Finally, the CAP response does not include information related to the methodology used for revenue projections related to fiber leases; cash flow analysis, other than income related to LONI; business model details; and general financial support. The CAP response lacks a clear and reasonable business plan and does not address viability and sustainability concerns raised by NTIA.

In addition, the IRU approach included multiple RFP procurements that would not be executed until February 2012, a full two years into the award period when the project is required to be substantially complete. For these reasons, NTIA does not find the proposed IRU approach to be an acceptable and viable alternative to achieve the project benefits it approved when making the award. Furthermore, the pattern of schedule delays, uncertainties and contingencies demonstrate a lack of management ability and control by Louisiana to get this project built on schedule and on budget. Finally, had the material you submitted in your October 14, 2011 CAP response been offered as the original Louisiana BTOP grant application, NTIA would not have recommended your project to the NOAA Grants Office for funding in 2010.

RESULT: As a result, pursuant to 15 C.F.R. § 24.43(a)(3), your award is terminated immediately due to material noncompliance with the terms and conditions of the award.

Costs that you incur after termination of your award are not allowable unless the NOAA Grants Office and NTIA expressly authorize them. Other costs resulting from the obligations, which Louisiana properly incurred before the effective date of termination, may be allowable under certain circumstances if such costs were necessary and not reasonably avoidable. *See* 15 C.F.R. § 24.43(c).

Your award is hereby terminated. Consideration of this adverse action may be used in future funding decisions for your organization.

Sincerely,

Arlene Simpson Porter
Director, NOAA Grants Management Division

Enclosure

cc: Lawrence Strickling
Anthony Wilhelm
Laura Dodson
Scott Woods
Aimee Meacham
Raul Gonzalez
Alan Conway

Award Details:
Award Number: NT10BIX5570046
Award Status: Accepted – Payments Suspended
Program Officer: Scott Woods, 202-482-1713
Program Office: National Telecommunications and Information Administration (NTIA)
Award Period: 02/01/2010 - 01/31/2013
Project Title: Louisiana Broadband Alliance
Recipient Name: Louisiana Board of Regents
Grants Specialist: Raul Hernandez

Chronology of Major Events and Meetings for Louisiana's Award

Date	*Event*	*Summary*
March 17	BTOP Site Visit	BTOP staff identified project as nine months behind schedule without a strong deployment plan in place.
April 28	Letter from A. Wilhelm to Louisiana Board of Regents (BOR) and Department of Administration (DOA)	Letter requested formal response by May 13, 2011 regarding BOR and DOA operational and fiduciary roles and written plan to address 9-month delay in project schedule.
May 2	NTIA Recommendation of ASAP Reimbursement-Only Status	NTIA requested that the Grants Office place Louisiana's ASAP account on a reimbursement-only status, pursuant to 15 C.F.R. § 24.12, until Louisiana "submits a viable plan to ensure that it can complete the project within the award period." In addition, NTIA requested that the Grants Office place Louisiana under a Corrective Action Plan (CAP), pursuant to 15 C.F.R. § 24.12(c) until it demonstrated that it has executed on the revised project plan for a period of no less than six months.
May 17	CAP Letter sent to BOR	CAP Letter sent due to lack of formal response to April 28, 2011 letter; NTIA/NOAA require response to CAP by June 1, 2011 to provide five items: 1) Construction schedule and deployment plan with narrative on overcoming existing significant delays; 2) Description of proposed project modifications (if any); 3) Clarification of private provider role and DOA plans to address concerns regarding grant-funded network; 4) Confirm BOR/DOA commitment to complete the project within the 3-year grant performance period; and 5) Conformation to deliver specific services (with T&C's, prices), connections to 83 CAIs, 38 points of interconnection (POIs), and 910 new network miles per application and grant award.
May 26	BTOP Staff Conference Call with BOR and DOA	Conference call to discuss CAP and BOR's CAP Response.

Date	*Event*	*Summary*
June 1	DOA Response to Grants Office CAP Letter	Response provides: • An explanation of BOR and DOA roles with organizational charts; • A Memorandum of Understanding (MOU) between BOR and DOA; BOR states that 910 new miles will not be needed – only about 800 miles required, states further that connections to CAIs will not be directly provided by grant-funded network and that private sector last mile providers will provide these services; • A plan to separately award 12 construction bid packages for the middle mile infrastructure; only commits to complete the construction of the fiber that will provide middle mile connectivity within the grant period; and • The state cannot guarantee specific rates, conditions, and prices of the last mile service providers.
June 13	NOAA CAP Reply Letter sent to BOR/DOA	Letter from NOAA that response received to initial CAP request is insufficient. It requests additional information in three areas: 1) BOR & DOA Roles and Responsibilities and adherence to BTOP Award Requirements; 2) Schedule Delay – additional information to evaluate the effectiveness of the plan to be substantially complete (67%) by January 31, 2012 and fully complete by January 31, 2013; 3) Delivery of Project Benefits – how the middle mile benefits can be met with 800 miles rather than 910 miles of fiber, as originally proposed, and how the 800 miles of middle mile fiber will ensure that service is available to CAIs, residents, and businesses. • BOR Response requested by June 17, 2011
June 14	Response by BOR to CAP Reply Letter (dated June 13, 2011)	BOR/DOA Response Letter: 1) Notes that DOA Office of Information Technology (OIT) will provide IT project oversight to ensure that implementation of the BTOP grant will not be in direct competition with private providers; 2) Attaches project schedule showing 12 Requests for Proposals (RFPs) for construction/deployment of project; and 3) States that planned project benefits will be contingent on last mile providers to provide the services to CAIs.

Date	*Event*	*Summary*
July 6	Follow-up Site Visit by BTOP Staff	Site visit conducted by A. Wilhelm, L Dodson, and S. Woods; meetings with BOR and DOA key personnel. The project team informed BTOP staff that the construction design plans, which are required to initiate the RFP process, were further behind schedule.
July 12	NOAA Letter to BOR	Letter from NOAA states/confirms that NTIA staff "uncovered additional problems with the project implementation and construction schedule that raise questions about the continued viability of the project" and that BOR staff stated that failure of the design contractor to deliver plans due on July 14, 2011 would likely jeopardize the viability of the project. Letter requests expedited response by July 20, 2011 to include activities to insure that the critical milestone is met and confirmation that the revised project schedule can be met.
July 20	BOR Letter to NOAA & NTIA	BOR informs NOAA and NTIA that the engineering contractor (GEC) did not meet schedule and required deliverables. Project representatives stated that all work on the construction plan was suspended and, moreover, stated their intention to pursue the IRU option. Project representatives provided a new IRU project schedule and set a milestone date of September 7, 2011 to advise NTIA of the viability of this approach.
July 27	NTIA Recommendation of ASAP Suspension	NTIA requested that NOAA suspend Louisiana's ASAP account until it completes the review and evaluation of the viability and adequacy of Louisiana's proposed IRU approach or until such reasonable time that Louisiana formulates an acceptable plan to implement its project within its remaining award term and deliver the benefits associated with the award.
August 2	NOAA Suspension Letter to BOR	Letter from NOAA notifies BOR of suspension of ASAP authorization and further corrective actions required including: 1) Delivery of project benefits; and 2) Compliance with award terms and conditions.
August 8	BOR Outline of Private Service Provider Meeting	BOR provided BTOP staff with a chart that outlined the planning process/goals for Service Provider Meeting.

Date	*Event*	*Summary*
August 15	BOR Public Meeting with Private Telecom Service Providers	S. Woods (NTIA) attended meeting in Baton Rouge, LA with approximately 20 private telecom service providers, BOR, and DOA personnel to discuss conceptual feasibility of IRU approach.
August 31	BTOP Staff Conference Call with BOR and DOA	Discussed feedback from private provider meeting and overview of next steps.
September 1	E-mail from BTOP Staff to BOR/DOA	Email provided feedback on Alternative Design Approach and specifically stated that the plan should address details in the following five areas: 1) Program goal; 2) Budget; 3) Schedule; 4) Organizational capability and technical feasibility; and 5) Sustainability.
September 9	CAP Response and Alternative Design Request Submitted by BOR	CAP Response from BOR describing Alternative Design or IRU approach. Response includes high level description of new plan, new project schedule with new structure and milestones; survey of service providers that would provide IRUs (not specified); list of CAIs and chart describing procurement strategies.
September 20	NOAA 30-Day Notice of Termination of Award	Letter from NOAA informing BOR that NOAA and NTIA timely received the CAP response entitled "Request for Alternative Design," stating that the response did not adequately address the multiple concerns raised by NOAA and NTIA in previous CAP correspondence, and noting the award will be terminated due to material noncompliance with the terms and conditions of the award, unless BOR provided a revised CAP response by October 14, 2011 that comprehensively addressed all of the concerns identified in the prior CAPs.
October 7	BOR Response to Suspension Letter	BOR provided draft response to CAP on Alternative Design Approach.
October 11	BOR Submission of Draft CAP Response in Question and Answer Format	BOR provided second draft response to CAP on Alternative Design Approach.

Date	*Event*	*Summary*
October 14	BOR Final Submission of CAP Response with Appendices A-G and Attachments 1-2	BOR provided Final CAP Response and Alternative Design Approach.