

**STATE AND LOCAL IMPLEMENTATION GRANT PROGRAM 2.0
FINANCIAL ASSISTANCE
SPECIAL AWARD CONDITIONS**

1. Introduction:

The National Institute of Standards and Technology (NIST), servicing for the National Telecommunications and Information Administration (NTIA), hereby enters into this Grant number 54-10-S18054 with WV Division of Homeland Security and Emergency Management to support the work described in the proposal entitled “The State Of West Virginia will coordinate a program to assist in the implementation of the National Public Safety Broadband Network” dated 12/28/2017, and the revised budget, dated 01/18/2018, all of which are hereby incorporated into this award by reference. Where the terms of this award and the proposal differ, the terms of this award shall prevail.

2. Recipient Contact Information:

Administrative:

Jimmy J. Gianato
Director/Homeland Security Advisor
WV Division of Homeland Security and Emergency Management
Building 1, Room EB
1900 Kanawa Blvd. East
Charleston, WV 25305-0001
Telephone: 304-558-5380
Email: jimmy.j.gianato@wv.gov

3. NTIA Contact Information:

Federal Program Officer:

Yuki Miyamoto
National Telecommunications and Information Administration
US Department of Commerce
1401 Constitution Ave., NW, Ste. 4078
Washington, DC 20230
Telephone: 202-657-9660
Email: ymiyamoto@ntia.doc.gov

4. NIST Contact Information:

Grants Officer:

Dean Iwasaki
National Institute of Standards and Technology
100 Bureau Drive, Mail Stop 1650

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Gaithersburg, MD 20899-1650
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Fax: 301-975-6368
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Grants Specialist:

Shiou Yun Michelle Liu
National Institute of Standards and Technology
100 Bureau Drive, Mail Stop 1650
Gaithersburg, MD 20899-1650
Telephone: 301-975-8245
Fax: 301-975-6368
Email: syliu@nist.gov

5. Award Payments:

This award is hereby funded through advanced payments using the Department of Treasury's Automated Standard Application for Payments (ASAP) system. Payments will be issued in accordance with 2 CFR § 200.305 and the Department of Commerce Financial Assistance Standard Terms and Conditions, B.02, dated March 31, 2017.

Payments for allowable costs may be drawn down as needed by the Recipient enrolled in ASAP. Funds may be requested through ASAP by the authorized Payment Requestor who is the individual designated by the Recipient to access Federal funds.

This award has the following control or withdrawal limits set in ASAP:

- None
- Agency Review required for all withdrawals (see explanation below)
- Agency Review required for all withdrawal requests over \$_____ (see explanation below)
- Maximum Draw Amount controls (see explanation below)
 - \$_____ each month
 - \$_____ each quarter
 - \$_____ Max drawdown amount control

6. Return Payments for Funds Withdrawn through ASAP:

Funds that have been withdrawn through ASAP may be returned to ASAP via the Automated Clearing House (ACH) or via FEDWIRE. The ACH or FEDWIRE transaction may only be completed by the Recipient's financial institution. Full or partial amounts of payments received by a Payment Requestor/Recipient Organization may be returned to ASAP. All funds returned to the ASAP system will be credited to the ASAP Suspense Account. The Suspense Account allows the Regional Financial Center to monitor returned items and ensure that funds are properly credited to the correct ASAP

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account. Returned funds that cannot be identified and classified to an ASAP account will be dishonored and returned to the originating depository financial institution (ODFI). The Payment Requestor/Recipient Organization should notify the NIST Grants Office and provide a reason whenever return payments are made.

It is essential that the Payment Requestor/Recipient Organization provide its financial institution with ASAP account information (ALC, Recipient ID and Account ID) to which the return is to be credited. Additional detailed information is accessible at: <http://www.fms.treas.gov/asap/pay-return2.pdf>.

7. Multi-Year Award and Funding Limitations:

The project period and budget(s) incorporated into this award cover a two-year (2) period for a total amount of \$700,000.00 in Federal funds. However, Federal funding available at this time is limited to \$250,000.00 for this funding period.

Receipt of any prospective funding is contingent upon the availability of funds within the State and Local Implementation Fund (SLIF), satisfactory performance, continued relevance to program objectives and will be at the sole discretion of the Department of Commerce.

The Department of Commerce is not liable for any obligations, expenditures, or commitments which involve any amount in excess of the Federal amount presently available. The recipient will be responsible for any and all termination costs it may incur should prospective funding not become available.

No legal liability will exist or result on the part of the Federal Government for payment of any portion of the remaining funds which have not been made available under the award. Notifications affecting funding or notice of non-availability of additional funding for prospective years will be made only by the Grants Officer. The amendment to obligate prospective funding available shall be made on Form CD-451 (Amendment to Financial Assistance Award) if at all possible prior to the expiration of each year's activities.

The project period for this action is March 1, 2018 through February 29, 2020. The funding period for this action is March 1, 2018 through November 30, 2018. The funding period for this action may be extended through February 29, 2020.

8. Notice of Funding Opportunity (NOFO) - State and Local Implementation Grant Program (SLIGP) 2.0:

The Department of Commerce, National Telecommunications and Information Administration Federal Funding Opportunity Notice No. 2018-NTIA-SLIGP-2 dated September 27, 2017, is incorporated by reference into this award. It is accessible at:

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https://www.ntia.doc.gov/files/ntia/publications/slignp_2.0_nofa_-_final_approved_9-27-2017.pdf

The Recipient shall comply with the requirements found in the SLIGNP 2.0 NOFA under which NTIA announced grants authorized by Section 6302 of the Middle Class Tax Relief and Job Creation Act of 2012, to assist state, regional, local, and tribal governments with planning for a nationwide interoperable public safety broadband network.

9. Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements:

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements as published in the *Federal Register* on December 30, 2014 (79 FR 78390) is incorporated by reference into this award. It is accessible at:

<http://www.gpo.gov/fdsys/pkg/FR-2014-12-30/pdf/2014-30297.pdf>

10. Department of Commerce Financial Assistance Standard Terms and Conditions:

As indicated on the Form CD-450 for this award, the Department of Commerce Financial Assistance Standard Terms and Conditions (ST&C) issued March 31, 2017 are incorporated by reference into this award. The Department's ST&C, as well as a link to 2 CFR Part 200, are accessible at:

http://www.osec.doc.gov/oam/grants_management/policy/default.htm

11. Post-Award Reporting Requirements:

The Recipient must submit a Federal Financial Report (SF-425) and Performance Progress Report on a quarterly basis for the periods ending March 31, June 30, September 30, and December 31, or any portion thereof.

Reports are due no later than 30 calendar days following the end of each reporting period. A final SF-425 and Performance Progress Report must be submitted within 90 days after the expiration of the period of performance.

Reports must be submitted electronically via e-mail to the Grants Specialist and the Federal Program Officer for each calendar quarter that the grant is active, including partial calendar quarters or when no financial / programmatic activity occurs.

Detailed guidance for reporting can be found on Pages 28-29 of the SLIGNP 2.0 Notice of Funding Opportunity at https://www.ntia.doc.gov/files/ntia/publications/slignp_2.0_nofa_-_final_approved_9-27-2017.pdf.

12. Indirect or Facilities and Administrative (F&A) Costs:

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NIST will reimburse the Recipient for indirect or F&A costs in accordance with 2 CFR § 200.414 and Section B.06. of the Department of Commerce Financial Assistance Standard Terms and Conditions, dated March 31, 2017.

If an indirect cost rate has not been established, and NIST is identified as the cognizant agency for indirect costs in accordance with 2 CFR § 200.19, “Cognizant agency for indirect costs,” within 90 days of the award start date, the Recipient must submit to the address listed below documentation (indirect cost rate proposal, cost allocation plan, etc.) necessary to allow NIST to perform the indirect cost rate proposal review.

The requirements for determining the relevant cognizant agency and for developing and submitting indirect (F&A) cost rate proposals and cost allocation plans are contained in 2 CFR § 200.414 and in Appendices III-VII to 2 CFR Part 200.

National Institute of Standards and Technology
Office of Acquisition and Agreements Management
100 Bureau Drive, Stop 1400
Gaithersburg, MD 20899
Attn: Indirect Cost Rate Proposal

13. Opt-in State:

The State of West Virginia opted-in to the FirstNet State Plan. Notwithstanding any activities described in the grant application, the only allowable activities and costs for this award appear on Pages 18-19 of the SLIGP 2.0 Notice of Funding Opportunity at https://www.ntia.doc.gov/files/ntia/publications/sligp_2.0_nofa_-_final_approved_9-27-2017.pdf.

14. Ineligible Costs:

For Opt-in States, funds awarded under the SLIGP 2.0 award may not be used for activities related to:

- Education of the FirstNet and partner network solution, marketing of service, user subscription activities that would fall under FirstNet’s partner’s contractual obligations as publicly described by FirstNet or its partner.
- Any FirstNet or FirstNet Partner fees including user fees and acquisition costs related to FirstNet service or devices.
- Further data collection other than any activities specifically requested in writing by FirstNet.
- User adoption activities, including, but not limited to, the subscription of users.
- Deploying and operating demonstration networks, even for outreach purposes.
- Radio Access Network (RAN) design, engineering and architecture; constructing, operating, maintenance, and improvement costs for a RAN.

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Please note that ineligible costs with SLIGP federal funds are also ineligible to meet matching requirement. All expenses must be allowable, allocable, reasonable, and necessary to the SLIGP 2.0 project.

15. Eligible Pre-Award Expenses:

Pre-award costs may be authorized by the Grants Officer for any allowable and allocable costs incurred exclusively during the period of when the NOFO opened on September 27, 2017 via Grants.gov through the award start date of the SLIGP 2.0 grant.

16. Matching Funds:

Recipient shall provide, from non-federal sources, not less than 20 percent of the total project cost. Matching funds can be in the form of either cash or in-kind contributions consistent with 2 CFR § 200.306. The Recipient may be asked to provide supporting documentation upon request from the Grants Officer or NTIA.

As provided in 48 U.S.C. § 1469a, NTIA waives the requirement for local matching funds under \$200,000 (including in-kind contributions) for the territorial governments in Guam, American Samoa, Northern Mariana Islands, and the U.S. Virgin Islands.

Match Proportionality Requirement:

Pursuant to Section B.03.b of the DOC Standard Terms and Conditions (March 2017), the non-federal share, whether in cash or in-kind, is expected to be paid out at the same general rate as the federal share. Exceptions to this requirement may be granted by the Grants Officer based on sufficient documentation demonstrating previously determined plans for, or later commitment of, cash or in-kind contributions. In any case, the recipient must meet its cost share commitment over the life of the award.

17. Allowable Activities Requested by FirstNet:

Recipients may perform activities to convene stakeholder outreach events to continue planning for NPSBN implementation, as requested by FirstNet. To incur costs to convene stakeholder outreach events, the recipient must receive a request in writing providing either a nationwide blanket request subsequent to March 1, 2018 or an ad hoc request specific to your State from the FirstNet Chief Customer Office (CCO), or any successor office of the CCO. The request may not be verbal, and may not be issued from the FirstNet NPSBN Partner.

Recipients may perform data collection in specific areas identified to be helpful as requested by FirstNet. To incur costs to perform data collection, the recipient must receive a request in writing providing either a nationwide blanket request or an ad hoc request specific to your State from the FirstNet Chief Customer Office (CCO), or any

successor office of the CCO. The request may not be verbal, and may not be issued from the FirstNet NPSBN Partner.

18. Activities to Identify and Document On-going Coverage Needs/Gaps within the State:

Recipients may only perform activities to identify and document on-going needs/gaps within the State for any and all spectrum bands that are part of the Nationwide Public Safety Broadband Network (NPSBN) deployment. Coverage gaps for the NPSBN can be identified by purchasing wireless coverage data analytics from independent private sector firms. With the exception wireless user subscription fees and wireless user equipment and modems, costs to perform crowdsourcing, both public and private, is allowable but only for spectrum bands that are part of the NPSBN.

Drive testing is allowable under the following conditions:

- Recipients must have a documented and reasonable basis for drive testing a part of the State before that activity may commence by identifying the possible gaps via wireless coverage data analytics, crowdsourcing, or stakeholder surveys that identify possible gaps.
- After possible gaps are identified and documented, recipients may perform, or contract with a third party firm to perform, drive testing in those identified and documented areas of the State to better understand the geographic boundaries of the gaps (allowable budget categories may be a factor in deciding who is best suited to perform drive testing).
- Recipients may only perform drive testing for areas where the FirstNet State Plan (or Alternative State Plan) proposed NPSBN coverage within an Initial Operating Capability period that has already occurred for your State.

19. Publication Disclaimers:

Pursuant to Section G.05.j of the DOC Standard Terms and Conditions, the recipient is required to submit a copy(ies) to the funding agency and when releasing information related to a funded project include a statement that the project or effort undertaken was or is sponsored by DOC. The recipient is also responsible for assuring that every publication of material (including Internet sites) based on or developed under an award, except scientific articles or papers appearing in scientific, technical or professional journals, contains the following disclaimer:

This [report/video/etc.] was prepared by [recipient name] using funds under award [number] from the National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce (DOC). The statements,

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findings, conclusions, and recommendations are those of the author(s) and do not necessarily reflect the views of the NTIA, DOC, or FirstNet.

This also applies to videos produced under DOC financial assistance awards.

20. Requirements to Change Key Personnel:

Pursuant to 2 CFR § 200.308, the recipient must obtain prior approval for programmatic changes regarding key persons. For the purposes of the award, key persons include the Authorized Organizational Representative and Single Point of Contact (SPOC as designated by the Governor). The recipient shall request approval to change the individual serving in either of these positions and provide supporting documentation justifying the changes as requested by the Grants Office or Program Office. If the Governor has appointed an individual to serve as the SPOC, then a new designation by the Governor is necessary if that key position is changing during the period of performance.

21. Supplanting of Funds:

The Recipient agrees that federal funds under this award will be used to supplement, but not supplant, state or local funds for the same purpose.

End of Special Award Conditions