

FORM CD-450 (REV. 10/18)	U.S. DEPARTMENT OF COMMERCE <input checked="" type="checkbox"/> GRANT <input type="checkbox"/> COOPERATIVE AGREEMENT FEDERAL AWARD ID NUMBER 54-08-12205
FINANCIAL ASSISTANCE AWARD	
RECIPIENT NAME Logan, County of	PERIOD OF PERFORMANCE 03/01/2022 - 02/28/2023
STREET ADDRESS 300 Stratton St Ste 101	FEDERAL SHARE OF COST \$19,678,779.52
CITY, STATE ZIP Logan, WV 25601-3924	RECIPIENT SHARE OF COST \$5,448,000.00
AUTHORITY Section 905(d) of Public Law 116-260	TOTAL ESTIMATED COST \$25,126,779.52
CFDA NO. AND NAME 11.031 Broadband Infrastructure Program	
PROJECT TITLE: Logan & Mingo Counties Fiber to the Premises Project	
<p>This Award Document (Form CD-450) signed by the Grants Officer constitutes an obligation of Federal funding. By signing this Form CD-450, the Recipient agrees to comply with the Award provisions checked below and attached. Upon acceptance by the Recipient, the Form CD-450 must be signed by an authorized representative of the Recipient and returned to the Grants Officer. If not signed and returned without modifications by the Recipient within 30 days of receipt, the Grants Officer may unilaterally withdraw this Award offer and de-obligate the funds.</p> <p><input checked="" type="checkbox"/> DEPARTMENT OF COMMERCE FINANCIAL ASSISTANCE STANDARD TERMS AND CONDITIONS</p> <p>R & D AWARD</p> <p>FEDERAL-WIDE RESEARCH TERMS AND CONDITIONS, AS ADOPTED BY THE DEPT. OF COMMERCE</p> <p><input checked="" type="checkbox"/> SPECIFIC AWARD CONDITIONS</p> <p><input checked="" type="checkbox"/> LINE ITEM BUDGET</p> <p><input checked="" type="checkbox"/> 2 CFR PART 200, UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS, AS ADOPTED PURSUANT TO 2 CFR § 1327.101</p> <p>48 CFR PART 31, CONTRACT COST PRINCIPLES AND PROCEDURES</p> <p>MULTI-YEAR AWARD. PLEASE SEE THE MULTI-YEAR SPECIFIC AWARD CONDITION.</p> <p><input checked="" type="checkbox"/> OTHER(S): GENERAL TERMS AND CONDITIONS for the NTIA BROADBAND INFRASTRUCTURE PROGRAM, February 2022 (see attached)</p>	
SIGNATURE OF DEPARTMENT OF COMMERCE GRANTS OFFICER Yongming Qiu	DATE Digitally signed by YONGMING QIU Date: 2022.02.25 07:56:43 -05'00'
PRINTED NAME, PRINTED TITLE, AND SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL	DATE

Award Number: 54-08-I2205, Amendment Number 0

Federal Program Officer: Yuki Miyamoto-Mendez

Requisition Number: BIP2205

Employer Identification Number: 556000343

Dun and Bradstreet Number: 7863992380000

Recipient ID:

Requestor ID:

Award ACCS Information

Bureau	FCFY	Project-Task	Organization	Object Class	Obligation Amount
61	2022	4844003-000	06-00-0000-00-00-00-00	41-19-00-00	\$19,678,779.52

Award Contact Information

Contact Type	Contact Name	Email	Phone
Administrative	Roscoe Adkins	radkins@lccwv.us	3046872518

NIST Grants Officer:

Yongming Qiu
100 Bureau Drive, MS 1650
Gaithersburg, MD 20899-1650
(301) 975-5437

NIST Grants Specialist:

Natalie Foster
100 Bureau Drive, MS 1650
Gaithersburg, MD 20899-1650
(301) 975-0000

NIST Financial Assistance Award Number: **54-08-I2205**

Amendment: NEW

Recipient: **Logan County, West Virginia**

**NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY
BROADBAND INFRASTRUCTURE PROGRAM
FINANCIAL ASSISTANCE
SPECIFIC 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 54-08-I2205 with Logan County, West Virginia to support the work described in the proposal entitled “Logan & Mingo Counties Fiber to the Premises Project” dated August 17, 2021 and any revisions received during the application review, which is 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:

Roscoe Adkins
County Administrator
Logan County, West Virginia
300 Stratton Street
Logan, West Virginia 25601-3924
Telephone: 304-687-2518
Email: radkins@lccwv.us

3. NTIA Contact Information:

Federal Program Officer

Yuki Miyamoto
National Telecommunications and Information Administration
US Department of Commerce
Office of Public Safety Communications
Broadband Infrastructure Program
(202) 657-9660
Email: [ymiyamoto@ntia.doc.gov](mailto:y Miyamoto@ntia.doc.gov)

NIST Financial Assistance Award Number: **54-08-I2205**

Amendment: NEW

Recipient: **Logan County, West Virginia**

4. NIST Contact Information:

Grants Officer:

Yongming Qiu

National Institute of Standards and Technology

100 Bureau Drive, Mail Stop 1650

Gaithersburg, MD 20899-1650

Telephone: 301-975-5437

Email: yongming.qiu@nist.gov

Grants Specialist:

Natalie C. Foster

National Institute of Standards and Technology

100 Bureau Drive, Mail Stop 1650

Gaithersburg, MD 20899-1650

Email: natalie.foster@nist.gov

5. Award Payments:

This award is hereby funded through advanced payments or reimbursement 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 November 12, 2020.

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.

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

\$ 0.00 Max drawdown amount

Explanation:

The total amount of Federal funding is hereby withheld until the requirements identified in Specific Award Condition #20 – Six-Month Expenditure Plan, below, are satisfied.

NIST Financial Assistance Award Number: **54-08-I2205**

Amendment: NEW

Recipient: **Logan County, West Virginia**

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 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: <https://www.fiscal.treasury.gov/asap/>.

7. Period of Performance and Funding Limitations:

The period of performance and budget incorporated into this award cover a **one (1)** year period of performance and provide for a maximum total amount of **\$19,678,780.19** in Federal funding. This award is being fully funded via this award action.

The maximum amount of NIST funding in support of this award will not exceed the amount specified in the award documents, unless otherwise amended in writing by the NIST Grants Officer. The Department of Commerce is not liable for any obligations, expenditures, or commitments which involve any amount in excess of the Federal funds being made available pursuant to this award.

8. Notice of Funding Opportunity – Broadband Infrastructure Program

The Department of Commerce, National Telecommunications Information Administration Notice of Funding Opportunity (NOFO) No. NTIA-Broadband-Infrastructure-Program-21 dated May 19, 2021, is incorporated by reference into this award. It is accessible at:

<https://www.grants.gov/web/grants/search-grants.html?keywords=NTIA-BROADBAND-INFRASTRUCTURE-PROGRAM-21>.

If the application period is closed, select "Closed" or "Archived" Opportunity Status to view the NOFO.

9. Uniform Administrative Requirements, Cost Principles and Audit Requirements:

As indicated on the Form CD-450 for this award, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. Part 200 are incorporated by reference into this award. Through 2 C.F.R. § 1327.101, the Department of Commerce adopted the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. Part 200, which apply to awards in this program. Refer to <https://www.ecfr.gov/on/2022-01-19/title-2/subtitle-A/chapter-II/part-200> and <https://www.ecfr.gov/on/2022-01-19/title-2/subtitle-B/chapter-XIII/part-1327>.

10. 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>.

11. 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 November 12, 2020 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: <https://www.commerce.gov/oam/policy/financial-assistance-policy>

12. Department of Commerce Financial Assistance Standard Terms and Conditions, Section A.01 "Reporting Requirements":

The Recipient must submit a Federal Financial Report (SF-425), and Performance Progress Report on a semi-annual basis for the periods ending March 31 and September 30, or any portion thereof. Due to the March 1, 2022 start date of this award, the recipient is not required to submit financial and performance reports for the period ending March 31, 2022.

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 120 days after the expiration of the period of performance.

All SF-425 and Performance Progress Reports must be submitted to: GReports@nist.gov, with a copy to NTIA at bbinfra@ntia.gov within the prescribed timeframes identified in the terms and conditions of the award.

The Recipient organization name, NIST award number, and reporting period must be included in the email subject line. The Recipient contact information should be included in the body of the message. To the greatest extent possible, SF-425 and Performance Progress Reports should be submitted together in the same email.

NIST Financial Assistance Award Number: **54-08-I2205**

Amendment: NEW

Recipient: **Logan County, West Virginia**

SF-425 and Performance Progress Reports must not be sent directly to NIST/NTIA personnel (e.g. Grants Specialist, Grants Officer, Administrative Assistant, GMD Division Chief, Federal Program Officer, etc.).

Any SF-425 or Performance Progress Reports sent directly to NIST/NTIA personnel will be returned to the sender with instructions on how to submit through the GReports@nist.gov mailbox.

No other correspondence may be sent through this mailbox; timely responses to any other inquiries received in this mailbox are not guaranteed. The mailbox will not be used for any other purpose *except* for purposes identified above.

13. Programmatic Reporting Requirements:

Annual Report Requirements - Not later than **one year** after receiving grant funds under the Broadband Infrastructure Program, and annually thereafter until the funds have been expended, the Recipient will submit to the Assistant Secretary (via email to the NTIA Federal Program Officer a report at bbinfra@ntia.gov with a copy to GReport@nist.gov, with respect to the one-year period immediately preceding the report date (unless the Assistant Secretary has granted an extension) that:

- (a) describes how the covered partnership expended the funds;
- (b) certifies that the covered partnership complied with the requirements of the Act and the Broadband Infrastructure Program, including:
 - (i) a description of each service provided with the grant funds; and
 - (ii) the number of locations or geographic areas at which broadband service was provided using the grant funds; and
- (c) identifies each Subgrantee that received a Subgrant from the covered partnership and a description of the specific project for which grant funds were provided.

Baseline Project Plan - Recipients shall submit baseline project plans and details regarding key outputs and outcomes from their projects within 45 days of the final approvals from NEPA. Federal Program Officers will provide guidance on the format and content of these baseline plans and details for this activity.

14. Department of Commerce Financial Assistance Standard Terms and Conditions Section B.06 Indirect or Facilities and Administrative Costs:

NIST will reimburse the Recipient for indirect or F&A costs in accordance with 2 C.F.R. § 200.414 and Section B.06. of the Department of Commerce Financial Assistance Standard Terms and Condition, dated November 12, 2020.

If an indirect cost rate has not been established, and NIST is identified as the cognizant agency for indirect costs in accordance with 2 C.F.R. § 200.1, “Cognizant agency for

NIST Financial Assistance Award Number: **54-08-I2205**

Amendment: NEW

Recipient: **Logan County, West Virginia**

indirect costs,” within 90 calendar days of the award start date, the Recipient must electronically submit to gmdaudit@nist.gov the documentation (indirect cost rate proposal, cost allocation plan, etc.) necessary to allow NIST to perform an indirect cost rate proposal review. Organizations that have previously established indirect cost rates with NIST must submit a new indirect cost rate proposal for indirect costs within six months after the end of the organization’s fiscal year.

If your submission includes Personally Identifiable Information (PII) or Business Identifiable Information (BII), please send an email to gmdaudit@nist.gov to request a secure link.

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 C.F.R. § 200.414 and in Appendices III-VII to 2 C.F.R. Part 200. For additional guidance on preparing indirect cost proposals, please review the Department of Labor’s Guide for Indirect Cost Determination at: <https://www.dol.gov/oasam/boc/dcd/np-comm-guide.htm>. Section I.B and I.C lists the various types of indirect cost rates and the circumstances under which such rates would apply. The guide also addresses common indirect cost problems and contains useful FAQs.

15. Unfunded Grant Actions Mailbox (UGAM):

Requests for unfunded award actions, which include, but are not limited to, requests for no-cost extension, change in key personnel, change in scope of work, budget revisions, award transfer, and novation, must be submitted to: UGAM@nist.gov, within the prescribed timeframes identified in the terms and conditions of the award.

Unfunded award action requests and related correspondence, including justification to support the request, sent to the mailbox *must* contain the following information in the email subject line: (1) Recipient name; (2) NIST award number; (3) Principal Investigator/Project Director; and (4) Action being requested (e.g. no cost extension, change in key personnel, etc.).

Unfunded award action requests must not be sent directly to NIST personnel (e.g. Grants Specialist, Grants Officer, Administrative Assistant, GMD Division Chief, Federal Program Officer, etc.).

Any requests sent directly to NIST personnel will be returned to the sender with instructions on how to submit through the UGAM@nist.gov mailbox.

No other correspondence may be sent through this mailbox; timely responses to any other inquiries received in this mailbox are not guaranteed. The mailbox will not be used for any other purpose *except* for purposes identified above.

NIST Financial Assistance Award Number: **54-08-I2205**

Amendment: NEW

Recipient: **Logan County, West Virginia**

Requests that are processed will be authorized via a Form CD-451 Amendment to the Financial Assistance Award or a Non-Funded Administrative Change Letter.

16. Contingency Costs:

To the extent provided in the approved budget, contingency costs are generally allowable under the BIP.

The Recipient's use of federal award funds for contingency costs must be pre-approved by the Grants Officer prior to the Recipient drawing down federal award funds for such costs. A Recipient request to draw down federal award funds for contingency costs must be made in writing to the Grants Officer, who shall approve or disapprove the Recipient's request in writing.

17. Change in Funded Project Participant:

Any change to the Covered Partnership approved under this award requires prior written approval by the Grants Officer.

18. No Duplication of Federal Funding:

No federal funds may be used to duplicate costs, services, connections, facilities, or equipment that have been authorized through another federal program. To the extent that a Broadband Infrastructure Program project is later deemed to include duplicate funding from another federal program, the NIST Grants Office and NTIA reserve the right to disallow the costs associated with the duplication of federal funds or service and/or to reallocate the funds to allowable activities within the project.

19. No Overbuilds with Federal Funding:

No federal funds may be used to duplicate costs, services, connections, facilities, or equipment in an area where another broadband service provider has deployed qualifying broadband service. To the extent that a Broadband Infrastructure Program project is later found to use grant funds to deploy broadband infrastructure to an area already receiving qualifying broadband service, the NIST Grants Office and NTIA reserve the right to disallow the costs associated with the services, connections, facilities or equipment and/or to reallocate the funds to allowable activities within the project.

20. Six-Month Expenditure Plan:

The Recipient may not draw down federal award funds until the Grants Officer approves the six-month expenditure plan required by Terms 9 and 10 of the General Terms and Conditions for the NTIA Broadband Infrastructure Program.

NIST Financial Assistance Award Number: **54-08-I2205**

Amendment: NEW

Recipient: **Logan County, West Virginia**

21. Federal and Non-Federal Cost Sharing:

Pursuant to this award, NIST hereby approves the voluntary committed non-federal cost share in the amount of **\$5,448,000.00** per the proposal's budget on the part of the recipient and becomes a binding requirement under subject award (see definition of "voluntary committed cost sharing" in 2 CFR §200.1). The cost sharing ratio for this award is **78.32%** Federal share and **21.68%** Non-Federal share. See 2 CFR §200.306 and Department of Commerce Financial Assistance Standard Terms and Conditions, Section B.03 for the treatment of cost sharing.

22. Subrecipient Monitoring Plan:

The Recipient is required to adhere to the subrecipient monitoring and management standards set forth in 2 CFR §§ 200.331-200.333 and in Department of Commerce Standard Terms and Conditions, Section F.03 (November 12, 2020). Within 30 calendar days of the award start date, the Recipient must submit a subrecipient monitoring plan, sufficient in form and substance to NTIA and to the NIST Grants Officer, that satisfies the requirements contained in 2 CFR § 200.332. The subrecipient monitoring plan must be timely submitted to the NIST Grants Office via UGAM@nist.gov

End of Specific Award Conditions

GENERAL TERMS AND CONDITIONS
for the
NTIA BROADBAND INFRASTRUCTURE PROGRAM

February 2022

Table of Contents

1. Project Management Conference
2. Property Trust Relationship and Public Notice Filings for Grant-Acquired Property
3. Land, Easements, and Rights of Way
4. Eminent Domain
5. Inspection and Testing of Materials
6. Energy Efficiency
7. Requirements During Construction
8. Recipient and Contractor Compliance with Applicable Requirements
9. Environmental Assessment
10. National Historic Preservation Act
11. Scheduling Inspection for Final Acceptance
12. Domestic Preference for Procurements (Buy American)
13. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms
14. Open Network Requirements
15. Prohibition on Use for Covered Communications Equipment or Services
16. Prevention of Waste, Fraud, and Abuse
17. Protection of Whistleblowers

1. Project Management Conference

Shortly after approval of the award, the NIST Grants Officer (on behalf of NTIA) may contact the Recipient to arrange a project management conference. The purpose of the project management conference is to explain to the Recipient its responsibilities for administration of the award, including its responsibilities with respect to the Terms and Conditions of the award and applicable Federal requirements. The Recipient's authorized representative, architect/engineer, financial representative, and possibly the Recipient's legal counsel should attend.

2. Property Trust Relationship and Public Notice Filings for Grant-Acquired Property

In accordance with 2 CFR § 200.316 (Property trust relationship), real property, equipment, and intangible property, that are acquired or improved with a Federal award must be held in trust by the non-Federal entity (*i.e.*, Recipient or Subrecipient) as trustee for the beneficiaries of the project or program under which the property was acquired or improved. This trust relationship exists throughout the duration of the property's estimated useful life, as determined by the Grants Officer in consultation with the Program Office, during which time the Federal Government retains an undivided, equitable reversionary interest in the property (Federal Interest). The non-Federal entity must comply with all use and disposition requirements and restrictions as set forth in 2 C.F.R. §§ 200.310 (Insurance coverage) through 200.316 (Property trust relationship), as applicable, and in the terms and conditions of the Federal award.

The Grants Officer may require a non-Federal entity (*i.e.*, a Recipient or Subrecipient) to execute and to record (as applicable) a statement of interest, financing statement (Form UCC-1), lien, mortgage or other public notice of record to indicate that real or personal property acquired or improved in whole or in part pursuant to a Broadband Infrastructure Program award is subject to the Federal Interest, and that certain use and disposition requirements apply to the property. The statement of interest, financing statement (Form UCC-1), lien, mortgage or other public notice must be acceptable in form and substance to NTIA and to the NIST Grants Officer and must be placed on record in accordance with applicable State and local law, with continuances re-filed as appropriate. In such cases, the NIST Grants Officer may further require the non-Federal entity to provide NTIA and the NIST Grants Officer with a written statement from a licensed attorney in the jurisdiction where the property is located, certifying that the Federal Interest has been protected, as required under the award and in accordance with applicable State and local law. The attorney's statement, along with a copy of the instrument reflecting the recordation of the Federal Interest, must be promptly returned to the Grants Officer. The non-Federal entity may use model documentation made available by NTIA.

Without releasing or excusing the non-Federal entity from these obligations, the non-Federal entity, by execution of the financial assistance award or by expending Federal financial assistance funds (in the case of a subrecipient), authorizes NTIA and/or the NIST Grants Officer to file such notices and continuations as it determines to be necessary or convenient to disclose and protect the Federal Interest in the property. The NIST Grants Officer may

elect not to release any or a portion of the Federal award funds until the non-Federal entity has complied with this provision and any other applicable award terms or conditions, unless other arrangements satisfactory to the NIST Grants Officer are made.

3. Land, Easements, and Rights of Way

The Recipient must disclose all encumbrances to the NIST Grants Officer. The NIST Grants Officer will not accept any encumbrance that interferes with the construction, intended use, operation, or maintenance of the project during its estimated useful life.

4. Eminent Domain

In accordance with Executive Order 13406, "*Protecting the Property Rights of the American People*" (June 28, 2006), the Recipient agrees:

- (a) Not to use any power of eminent domain available to the Recipient (including the commencement of eminent domain proceedings) for use in connection with the Project for the purpose of advancing the economic interests of private parties;
- (b) Not to accept title to land, easements, or other interest in land acquired by the use of any power of eminent domain for use in connection with the Project for such purposes; and
- (c) Any use of the power of eminent domain to acquire land, easements or interests in land, whether by the Recipient or any other entity that has the power of eminent domain, in connection with the Project without prior written consent of the NIST Grants Officer constitutes an unauthorized activity and/or use of funds under the award, and subjects the recipient to appropriate enforcement action by the Grants Officer, including but not limited to the disallowance of award costs and the termination of an award.

5. Inspection And Testing Of Materials

The Recipient shall ensure that all materials and equipment used in the completion of the work shall be subject to adequate inspection and testing in accordance with accepted standards. Materials of construction, particularly those upon which the strength and durability of any structure may depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for intended uses. The Recipient shall ensure that documentation of same is cataloged and retained.

6. Energy Efficiency

The Recipient shall apply, where feasible, sustainable, and energy efficient, design principles for the purpose of reducing pollution and energy costs and optimizing lifecycle costs associated with the construction.

7. Requirements During Construction

During construction, the Recipient is responsible for:

- (a) Ensuring project completion in accordance with approved plans and specifications;
- (b) Monitoring project progress and reporting progress to NTIA and the NIST Grants Officer;
- (c) Providing for required construction permits and adequate construction inspection;
- (d) Promptly paying costs incurred for the project purposes; and
- (e) Monitoring contractors' compliance with Federal, State, and local requirements.

8. Recipient and Contractor Compliance with Applicable Requirements

The Recipient shall comply, and must require each subrecipient or contractor, including lower tier subrecipients or subcontractors, to comply with all applicable Federal, state, and local laws and regulations. The Recipient is responsible for ensuring that all contracts necessary for design and construction of the Project facilities are implemented in compliance with the Terms and Conditions of this Award.

9. Environmental Assessment

The Recipient must comply with all environmental standards and identify to NTIA any impact a proposed infrastructure project may have on the environment. The Recipient may not expend any federal infrastructure funds other than for engineering design, permitting and work related to environmental, historical and cultural reviews, and limited, preliminary procurement funds, as described below, prior to the following:

- The completion of environmental review and issuance of a Record of Consideration (REC), Finding of No Significant Impact (FONSI), or Record of Decision (ROD) (hereinafter “decision documents”) that meets the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*);
- The completion of any required consultations, to include consultations with the State Historic Preservation Office (SHPO) and the appropriate federally recognized Native American tribes, under Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470, *et seq.*) (NHPA), and/or consultations with the U.S. Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act (16 U.S.C. 1531, *et seq.*); and
- Demonstration of compliance with all other applicable federal, state, and local environmental laws and regulations.

Project implementation (site preparation, demolition, construction, ground disturbance, or any other project implementation activities) may not begin prior to the completion of the above activities. The completion of a draft environmental assessment (EA), and completion of any required consultations under Section 106 of the NHPA, must be completed no later than six months after the award date unless a formal request for extension is submitted and approved by the Grants Officer. The

Recipient must comply with all conditions placed on the project as the result of consultation processes.

Subject to the Grants Officer's approval of the Recipient's 6-month expenditure plan (described below), the allowable use of award funds prior to beginning project implementation includes, but is not limited to, activities necessary for the completion of the following:

- Pre-construction project planning, including collecting environmentally-related information;
- Applications for environmental permits;
- Studies such as an Environmental Assessment (EA), and any wetland delineations, biological assessments, archaeological surveys, or other required analyses; and/or
- Required consultation activities.

The allowable use of funds for limited, preliminary procurements prior to beginning project implementation includes, but is not limited to, the initiation of activities necessary to meet the project completion requirements as specified in the award, including the following:

- Purchase or lease of equipment, or entering into binding contracts to do so;
- Purchase of applicable or conditional insurance; and/or
- Funds used to secure land or building leases, including right-of-way easements.

6-Month Expenditure Plan: While this term is in effect, the Recipient shall submit, in advance of any drawdowns of funds from ASAP, a 6-month expenditure plan that presents the proposed planning and design activities and limited, preliminary procurement activities and costs. The 6-month expenditure plan will be submitted electronically to the Grants Officer, who will consult the Federal Program Officer and the Environmental Program Officer to ensure that the proposed activities and expenditures are reasonable and necessary in the context of environmental compliance. The Recipient must submit the 6-month expenditure plan via UGAM@nist.gov. The Grants Officer must approve the 6-month expenditure plan in writing prior to the recipient drawing down federal award funds through ASAP.

The allowable use of preliminary procurement funds is limited; must not result in an irrevocable commitment of resources; and is only allowed after inclusion in and approval of a revised 6-month expenditure plan. All contracts must contain early termination clauses with termination costs clearly specified. All equipment purchased or leased in advance of project implementation and before issuance of the decision document and completion of applicable consultations must be stored in locations other than the proposed project site and where there will be no impact to the environment, human health, or cultural resources (in most cases, this means equipment must be stored in existing warehouses). Under no circumstances will grant funds be drawn down for clearing or excavating land, or demolition or construction of buildings or towers, before all environmental SACs are completed and cleared. This limited, preliminary allowable use of funds for purchases and leases is designed for recipient flexibility and to streamline preparation for project implementation

simultaneously during environmental review and conducting of consultations; the clause, and all applicable restrictions, is lifted once the decision document and applicable consultations are complete and approved.

Once the environmental review has been completed, NTIA will review all documentation and determine whether the review sufficiently addresses all resource areas and whether the project may qualify for approval decision. Projects found to have significant impacts to environmental or historic resources may face de-obligation of funding if impacts cannot be mitigated. The Recipient is required to provide any information requested by NTIA to ensure both initial and ongoing compliance with environmental and historic preservation laws, regulations, and best practices. The Recipient shall notify NTIA within 24 hours upon receipt of any notices of foreclosure; notices for continuing consultation received from the SHPO, Tribal Historic Preservation Office (THPO), USFWS, or other consulting party; or notices of noncompliance received from consulting authorities or regulatory agencies.

Any change to the approved project scope that has the potential for altering the nature or extent of environmental or cultural resources impacts must be brought to the attention of NTIA and will be re-evaluated for compliance with applicable regulatory requirements.

For all ground disturbing activities that occur during project implementation in the vicinity of known archaeological sites or suspected or known burials, the Recipient must ensure that an archaeologist who meets the Secretary of the Interior's Professional Qualification Standards monitors ground disturbance, and if any potential archeological resources or buried human remains are discovered, then the Recipient must immediately cease construction in that area and notify NTIA and the interested SHPO, THPO, and tribes. Such construction activities may then only continue with the written approval of NTIA.

10. National Historic Preservation Act

The Recipient may not expend any federal infrastructure funds other than for engineering design, permitting and work related to environmental, historical and cultural reviews, and limited, preliminary procurement funds prior to the following:

- The completion of any required consultations, to include consultations with the State Historic Preservation Officer (SHPO) and the appropriate federally recognized Native American tribes, under Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470, *et seq.*) (NHPA); and/or
- Demonstration of compliance with all other applicable Federal, State, and local environmental laws and regulations.

Project implementation (site preparation, demolition, construction, ground disturbance, or any other project implementation activities) may not begin prior to the completion of the above activities. The completion of any required consultations under Section 106 of the NHPA must be completed no later than six months after the award date unless a formal request for extension is submitted and approved by the Grants

Officer. The Recipient must comply with all conditions placed on the project as the result of consultation processes.

Subject to the Grants Officer's approval of the Recipient's 6-month expenditure plan (described below), the allowable use of funds for planning and design activities prior to beginning project implementation includes, but is not limited to, activities necessary for the completion of the following:

- Pre-construction project planning, including collecting culturally-related information;
- Applications for cultural resource approvals and/or permits;
- Studies and any archaeological, architectural history, or traditional cultural property surveys, or other required analyses; and/or
- Required consultation activities.

The allowable use of funds for limited, preliminary procurements prior to beginning project implementation includes, but is not limited to, the initiation of activities necessary to meet the project completion requirements as specified in the award, including the following:

- Purchase or lease of equipment, or entering into binding contracts to do so;
- Purchase of applicable or conditional insurance; and/or;
- Funds used to secure land or building leases, including right-of-way easements.

6-Month Expenditure Plan: While this term is in effect, the Recipient shall submit, in advance of any drawdowns of funds from ASAP, a 6-month expenditure plan that presents the proposed planning and design activities and limited, preliminary procurement activities and costs. The 6-month expenditure plan will be submitted electronically to the Grants Officer, who will consult the Federal Program Officer and the Environmental Program Officer to ensure that the proposed activities and expenditures are reasonable and necessary in the context of environmental compliance. The Recipient must submit the 6-month expenditure plan via UGAM@nist.gov. The Grants Officer must approve the 6-month expenditure plan in writing prior to the recipient drawing down federal award funds through ASAP.

The allowable use of preliminary procurement funds is limited; must not result in an irrevocable commitment of resources; and is only allowed after inclusion in and approval of a revised 6-month expenditure plan. All contracts must contain early termination clauses with termination costs clearly specified. All equipment purchased or leased in advance of project implementation and before completion of applicable consultations must be stored in locations other than the proposed project site and where there will be no impact to the environment, human health, or cultural resources (in most cases, this means equipment must be stored in existing warehouses). Under no circumstances will grant funds be drawn down for clearing or excavating land, or demolition or construction of buildings or towers, before all environmental SACs are completed and cleared. This limited, preliminary allowable use of funds for purchases and leases is designed for recipient flexibility and to streamline preparation for project implementation simultaneously during consultations; the clause, and

all applicable restrictions, is lifted once the applicable consultations are complete, and decision document is issued.

Once the consultation activities have been completed, NTIA will review all documentation and determine whether the consultation activities sufficiently address historical and/or cultural resource impacts. Projects found to have significant impacts to environmental or historic resources may face de-obligation of funding if impacts cannot be mitigated. The Recipient is required to provide any information requested by NTIA to ensure both initial and ongoing compliance with environmental and historic preservation laws, regulations, and best practices. The Recipient shall notify NTIA within 24 hours upon receipt of any notices of foreclosure; notices for continuing consultation received from the SHPO, Tribal Historic Preservation Officer (THPO), or other consulting party; or notices of noncompliance received from consulting authorities or regulatory agencies.

For all ground disturbing activities that occur during project implementation in the vicinity of known archaeological sites or suspected or known burials, the Recipient must ensure that an archaeologist who meets the Secretary of the Interior's Professional Qualification Standards monitors ground disturbance, and if any potential archeological resources or buried human remains are discovered, then the Recipient must immediately cease construction in that area and notify NTIA and the interested SHPO, THPO, and tribes. Such construction activities may then only continue with the written approval of NTIA.

Any change to the approved project scope that has the potential for altering the nature or extent of cultural resources impacts must be brought to the attention of NTIA and will be re-evaluated for compliance with applicable regulatory requirements.

11. Scheduling Inspection for Final Acceptance

The Recipient will schedule a final inspection when all construction has been completed, the architect/engineer has conducted a final inspection, and any deficiencies have been corrected. Representatives of the Recipient, the architect/engineer, and the contractor(s) will make the final inspection. The NIST Grants Officer must be given advance notice of the final inspection so that the NIST Grants Officer may participate.

12. Domestic Preference for Procurements (Buy American)

Pursuant to 2 CFR § 200.322, the Recipient should, to the greatest extent practicable under the BIP award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to, iron, aluminum, steel, cement, and other manufactured products). The requirements of 2 CFR § 200.322 must be included in all subawards, including all contracts and purchase orders for work or products pursuant to this program.

13. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms

Pursuant to 2 CFR § 200.321, the Recipient and its subrecipients must take all necessary

affirmative steps (as described in 2 CFR § 200.321) to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

14. **Open Network Requirements**

The Recipient must comply with NTIA's open network requirements, which allows all other broadband service providers to interconnect with networks and other broadband infrastructure deployed using funds from this grant program on fair and non-discriminatory terms and conditions. The requirement to interconnect will apply to Recipients that deploy middle mile networks or submarine cable landing stations and not last mile networks.

- **Interconnection:** Recipients shall allow interconnection to grant-funded facilities at any technically feasible point along the network (without exceeding current or reasonably anticipated capacity limitations). This duty includes, at a minimum, the physical interconnection of the Recipient's facilities to a requesting party's facilities for the exchange of traffic. In addition, Recipients shall connect to the public Internet directly or indirectly and provide requesting parties with an ability to connect to the Internet. Rates and terms for interconnection shall be reasonable and nondiscriminatory.
- **Negotiate in Good Faith:** Recipients shall negotiate in good faith with all requesting parties (*i.e.*, public, private, non-profit, or other parties) making a bona fide request for interconnection or wholesale services.
- **Wholesale Broadband Service:** NTIA encourages Recipients to offer wholesale broadband services at rates and terms that are reasonable and nondiscriminatory.

15. **Prohibition on Use for Covered Communications Equipment or Services**

A Recipient or subrecipient may not use grant funds received under the BIP to purchase or support any covered communications equipment or service (as defined in section 9 of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. 1608)). See also 2 C.F.R. 200.216 (Prohibition on certain telecommunications and video surveillance services or equipment), which also applies to this award.

16. **Prevention of Waste, Fraud, and Abuse**

Consistent with statutory requirements in Section 905(e)(3) of the Consolidated Appropriations Act, 2021, and the principles in 2 CFR part 200, at any time(s) during the grant period of performance, NTIA may direct a Recipient's key personnel to take a Government-provided training on preventing waste, fraud and abuse. Key personnel include those responsible for managing the Recipient's finances and overseeing any contractors, sub-contractors or sub-recipients (for financial matters and/or general oversight related to the grant). NTIA will provide instructions on when and how to take such training(s), and costs incurred by a Recipient relative to the training (*e.g.*, staff time) are eligible for reimbursement pursuant to the NTIA award.

Further, recipients must monitor award activities for common fraud schemes, including but not limited to:

- false claims for materials and labor;
- bribes related to the acquisition of materials and labor;
- product substitution;
- mismarking or mislabeling on products and materials; and
- time and materials overcharging.

Should a Recipient detect any fraud schemes or any other suspicious activity, the grant recipient must contact its assigned NTIA Federal Program Officer and the Department of Commerce, Office of Inspector General Hotline, as indicated at <https://www.oig.doc.gov/Pages/Contact-Us.aspx>, as soon as possible. Additionally, in accordance with 2 CFR § 200.113, an applicant or recipient must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that have received a Federal award are required to report certain civil, criminal, or administrative proceedings to SAM.gov. Failure to make required disclosures can result in any of the remedies described in 2 CFR § 200.339. (*See also* 2 CFR Part 180, 31 U.S.C. § 3321, and 41 U.S.C. § 2313.)

17. Protection of Whistleblowers

The Department of Commerce Financial Assistance Standard Terms and Conditions are incorporated into every NTIA grant award. Section F.05 of these Terms and Conditions states that each award is subject to the whistleblower protections afforded by 41 U.S.C. § 4712 (Enhancement of contractor protection from reprisal for disclosure of certain information).

Generally, this law provides that an employee or contractor (including subcontractors and personal services contractors) of a non-Federal entity may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body information that the employee reasonably believes is evidence of gross mismanagement of a Federal award, subaward, or a contract under a Federal award or subaward, a gross waste of Federal funds, an abuse of authority relating to a Federal award or subaward or contract under a Federal award or subaward, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal award, subaward, or contract under a Federal award or subaward.

Non-Federal entities and contractors under Federal awards and subawards must inform their employees in writing of the rights and remedies provided under 41 U.S.C. § 4712, in the predominant native language of the workforce.

A person that believes they have been the subject of retaliation for protected whistleblowing can contact the Department of Commerce, Office of Inspector General Hotline, as indicated at <https://www.oig.doc.gov/Pages/Hotline.aspx>, or the U.S. Office of Special Counsel, toll free at 1-800-872-9855.

BUDGET INFORMATION - Construction Programs

NOTE: Certain Federal assistance programs require additional computations to arrive at the Federal share of project costs eligible for participation. If such is the case, you will be notified.

COST CLASSIFICATION	a. Total Cost	b. Costs Not Allowable for Participation	c. Total Allowable Costs (Columns a-b)
1. Administrative and legal expenses	\$ 95,846.46	\$	\$ 95,846.46
2. Land, structures, rights-of-way, appraisals, etc.	\$ 5,448,000.00	\$	\$ 5,448,000.00
3. Relocation expenses and payments	\$ 0.00	\$	\$ 0.00
4. Architectural and engineering fees	\$ 768,350.80	\$	\$ 768,350.80
5. Other architectural and engineering fees	\$ 50,000.00	\$	\$ 50,000.00
6. Project inspection fees	\$ 0.00	\$	\$ 0.00
7. Site work	\$ 0.00	\$	\$ 0.00
8. Demolition and removal	\$ 0.00	\$	\$ 0.00
9. Construction	\$ 16,310,334.26	\$	\$ 16,310,334.26
10. Equipment	\$ 2,054,248.00	\$	\$ 2,054,248.00
11. Miscellaneous	\$ 0.00	\$	\$ 0.00
12. SUBTOTAL (sum of lines 1-11)	\$ 24,726,779.52	\$	\$ 24,726,779.52
13. Contingencies	\$ 400,000.00	\$	\$ 400,000.00
14. SUBTOTAL	\$ 25,126,779.52	\$	\$ 25,126,779.52
15. Project (program) income	\$	\$	\$
16. TOTAL PROJECT COSTS (subtract #15 from #14)	\$ 25,126,779.52	\$	\$ 25,126,779.52
FEDERAL FUNDING			
17. Federal assistance requested, calculate as follows: (Consult Federal agency for Federal percentage share.) Enter the resulting Federal share.	Enter eligible costs from line 16c	Multiply X <input style="width: 50px;" type="text" value="78.32"/> %	\$ 19,678,779.52