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# INTERNET FOR ALL

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## Middle Mile Grant Program Frequently Asked Questions



U.S. Department of Commerce  
National Telecommunications and Information Administration



## Version Control

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## Document Review and Approval History

Date	Action	Approved By

*The below guidance is for informational purposes only and is intended solely to assist grantees in better understanding the NTIA Middle Mile Grant Program and the requirements set forth in the Notice of Funding Opportunity (NOFO) for this program. The guidance does not and is not intended to supersede, modify, or otherwise alter applicable statutory or regulatory requirements, or the specific requirements set forth in the NOFO. In all cases, statutory and regulatory mandates, and the requirements set forth in the NOFO, shall prevail over any inconsistencies contained in the below guidance.*

## 1.0 Environmental and Historical Preservation Requirements

### 1.1 *Can recipients purchase long-lead materials or equipment prior to the environmental assessment?*

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) or equivalent document, 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 six-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 environmental 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;
- Administrative costs;
- Pre-award application costs and/or required consultation activities;
- Purchase of applicable or conditional insurance and/or funds used to secure land or building leases, including right-of-way easements.

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 an initial six-month expenditure plan. The initial six-month expenditure plan is due in advance of any infrastructure funds drawn down from ASAP and will be reviewed by the Federal Program Officer, who will make recommendations to the Grants Officer (who has final approval authority) to ensure all proposed procurement funds are reasonable and necessary to ensure that the project completion deadline requirements are met. 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 documents 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 SAC requirements 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 environmental decision document and applicable consultations are complete and approved.

## *1.2 What is the difference between a Categorical Exclusion (CATEX) and an Environmental Assessment (EA)?*

The National Environmental Policy Act (NEPA) requires the federal government to understand the potential impacts of its actions on the human environment before it takes them, so that it can make an informed decision. The NEPA process begins when a federal agency develops a proposal to take a major federal action. These actions are defined at [40 CFR 1508.1.](#), and generally include expenditures of federal funds over which the federal government retains control, issuance of federal permits, activities involving federal lands, and federal rulemaking. [Title 40 Part 1508](#) A Categorical Exclusion (CATEX) is a category of actions that a federal agency has determined does not have a significant impact to the human environment, and it is therefore excluded from the need to develop a detailed environmental analysis. The reason for the exclusion is generally detailed in 40 CFR 1508.1(d). A CATEX does not exempt an action from NEPA review; rather, it is one form of environmental review under NEPA. An agency may apply a CATEX to a proposed action after the agency has carefully reviewed and determined that the action fits within the category of actions encompassed by the CATEX. In making this determination, the agency must also consider whether extraordinary circumstances apply, which can indicate that a normally excluded action might have a significant environmental effect. Thus, a CATEX does not eliminate environmental review of a proposed action but reduces paperwork and delay and allows an agency to efficiently focus its resources on proposed actions with the greatest potential for significant environmental effects.

If an action does not fit within an agency's CATEXs or an agency has determined that a CATEX is not appropriate to apply to the action due to extraordinary circumstances, then an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) must be developed. The EA determines whether or not a federal action has the potential to cause significant environmental effects; an EIS is required for projects that have the potential to cause

significant impacts to the environment. Each federal agency has adopted its own NEPA procedures for the preparation of EAs.

Generally, the EA includes a brief discussion of:

- The purpose and need for the Proposed Action
- Alternatives to meet the purpose and need for the Proposed Action, including the No Action Alternative (as required by section 102(2)(E) of NEPA)
- A description of the affected environment
- The environmental impacts of the proposed action and alternatives
- A listing of agencies and persons consulted.

Based on the EA, the following actions can occur:

- If the agency determines that the action will not have significant environmental impacts, the agency will issue a Finding of No Significant Impact (FONSI). A FONSI is a document that presents the reasons why the agency has concluded that there are no significant environmental impacts projected to occur upon implementation of the Proposed Action.
- If the agency determines that the environmental impacts of a proposed action will be significant, an Environmental Impact Statement (EIS) is prepared.

NTIA has developed EA guidance, available [here](#).

### *1.3 If a recipient is upgrading or switching out equipment on previously constructed infrastructure are they required to provide EHP documentation?*

Yes. NEPA requires Federal agencies to undertake an assessment of and consider in their decision making the environmental effects of their proposed actions prior to making a final decision and implementing the action. The information required to complete an assessment for a project is generally commensurate with the complexity of the project and sensitivity of resources impacted. In the case of installing or replacing equipment, information about where and how the equipment would be installed, as well as the ages of buildings or other structures impacted, is generally sufficient for NTIA to make a determination regarding whether or not a CATEX, described above, can be applied to the action.

## 2.0 Procurement

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### *2.1 If an awardee has already conducted due diligence and have already vetted contractors for prequalification, can a competitive bidding solicitation be initiated with the vetted contractors?*

Non-Federal entities that opt to use a prequalified list of vendors to solicit goods and services for purposes of implementing Federally funded projects must ensure that the vendor selection process is properly documented, and any evaluation of the prequalified list is fully reconcilable and consistent with the non-Federal entity's procurement measures. All non-federal entities must follow local, State, and Federal procurement regulations, in accordance with the Federal procurement standards contained in §200.317-327.

### *2.2 What is an adequate number of firms required for a prequalified lists of vendors?*

According to 2 CFR § 200.319(e), "the non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period."

While there is no set number, the recipient should take all appropriate measures to ensure that the use of a prequalified list of vendors does not unfairly exclude any vendor from freely and competitively bidding on any solicitation provided by the recipient and funded by the Federal grant funds in accordance with 2 CFR § 200.319(a).

While there is no set number, the recipient should take all appropriate measures to ensure that the use of a prequalified list of vendors does not unfairly exclude any vendor from freely and competitively bidding on any solicitation provided by the recipient and funded by the Federal grant funds in accordance with 2 CFR § 200.319(a).

### *2.3 If awardees have existing master services agreements (MSA) and contracts that were competitively bid and followed procedures consistent with CFR, may the MSAs or contracts be used and not require a new bid process?*

Recipients are always encouraged to pursue procurement methods that will provide the lowest reasonable cost for necessary project purchases. The utilization of existing MSA's to acquire project components is encouraged if it results in the lowest price for the recipient. However, recipients are still required to follow the CFR procurement [requirements](#) in regard to soliciting pricing from multiple qualified vendors.

### 3.0 Six Month Expenditure Plan

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#### *3.1 Will awardees be reimbursed for purchases made prior to the six-month expenditure plan approval if purchases are made it is after the period of performance begins?*

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 an initial six-month expenditure plan. The initial six-month expenditure plan is due in advance of any infrastructure funds draw down from ASAP and will be reviewed by the Federal Program Officer, who will make recommendations to the Grants Officer (who has final approval authority) to ensure all proposed procurement funds are reasonable and necessary to ensure that the project completion deadline requirements are met. All contracts must contain early termination clauses with termination costs clearly specified.

#### *3.2 What costs are allowable in the six-month expenditure plan?*

Subject to the Grants Officer's approval of the Recipient's six-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 environmental 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;
- Administrative costs;
- Pre-award application costs; 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.

### 3.3 *When is the revised six-month expenditure plan due?*

A revised six-month expenditure plan is due within 30 days of NTIA's issuance of an EHP decision document.. The revised six-month expenditure plan must outline how the Recipient plans on expending the remaining budget costs related to construction-type activities. This plan should be submitted via email to the Federal Program Officer who will review it and provide recommendations to the Grants Officer for final approval to ensure that the proposed activities and expenditures are reasonable and necessary. The Federal Program Officer must review and recommend, and the Grants Officer must approve, the revised 6-month expenditure plan prior to fund drawdowns through ASAP.

For those projects to which NTIA has applied a CATEX, the NTIA CATEX memo will serve as documentation that EHP requirements for a project have been met and will trigger the requirement for a revised expenditure plan, which is due within 30 days after receipt of the NTIA CATEX determination. For those awards for which an EA is required, the revised expenditure plan would be required 30 days after publication of a FONSI (see above for definition). For those grant awards that NTIA has determined may develop separate EHP analyses for certain project components, a revised six-month expenditure plan will be required when the final EHP decision document is completed. In other words, the recipient would not be required to submit a revised six-month expenditure plan until NTIA has issued a final EHP determination for all of the project components. For those recipients that are required to complete an EIS, the requirement to submit a revised six-month expenditure plan will occur 30 days after receipt of NTIA's publication of a Record of Decision (ROD).

## 4.0 Reporting

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### 4.1 *Is there a template for reporting available? When are reports due?*

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.

Reports are due no later than 30 calendar days following the end of each reporting period. A final SF-425 and Performance Progress Report (Closeout) must be submitted within 120 days after the expiration of the period of performance. Subrecipients are required to submit their final performance report to the pass-through entity within 90 calendar days unless an extension has been granted.

All SF-425 and Performance Progress Reports must, at minimum, comply with the reporting requirements and contain all information and certifications specified in the NOFO.

## 5.0 General

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### 5.1 *If recipients earn any program income during the performance period, will it be applied using the deductive method under 2 CFR 200.307 (e), or is there an option to use the additive method?*

§ 200.307 Program income discusses the use of program income (e) with 3 points. These are:

(1) **Deduction.** Ordinarily program income must be deducted from total allowable costs to determine the net allowable costs. Program income must be used for current costs unless the Federal awarding agency authorizes otherwise. Program income that the non-Federal entity did not anticipate at the time of the Federal award must be used to reduce the Federal award and non-Federal entity contributions rather than to increase the funds committed to the project.

(2) **Addition.** With prior approval of the Federal awarding agency (except for IHEs and nonprofit research institutions, as described in this [paragraph \(e\)](#)) program income may be added to the Federal award by the Federal agency and the non-Federal entity. The program income must be used for the purposes and under the conditions of the Federal award.

(3) **Cost sharing or matching.** With prior approval of the Federal awarding agency, program income may be used to meet the cost sharing or matching requirement of the Federal award. The amount of the Federal award remains the same.

## 6.0 Build America Buy America (BABA)

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### 6.1 *Are for-profits subject to BABA requirements?*

Note that BABA only applies to “non-Federal entities” receiving Federal financial assistance for an infrastructure project under Section 70912(4) of the Infrastructure Act. As elaborated in OMB M-22-11, under the definition in 2 CFR § 200.1, “non-Federal entities” means “States, local governments, territories, Indian tribes, Institutions of Higher Education (IHE), and nonprofit

organizations.”<sup>1</sup> OMB M-22-11 goes on to explain that “for-profit organizations are not considered non-Federal entities” for the purposes of the guidance.<sup>2</sup> Thus, these BABA requirements only apply to MMG recipients that are non-Federal entities, and do not apply to recipients that are for-profit organizations. Whether BABA applies to a specific subrecipient or subcontractor depends on whether BABA applies to the primary tier recipient, (*i.e.*, if the recipient is a non-Federal entity, BABA applies to that award and all subrecipients and subcontractors under that award.)

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<sup>1</sup> OMB Memorandum M-22-11, *Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure*, 3 (Apr. 18, 2022), <https://www.whitehouse.gov/wp-content/uploads/2022/04/M-22-11.pdf>.

<sup>2</sup> *See id.*