




January 31, 2013

**MEMORANDUM FOR:** Lawrence E. Strickling  
Assistant Secretary for Communications and Information  
National Telecommunications and Information Administration

**FROM:** Ann C. Eilers   
Principal Assistant Inspector General for Audit and Evaluation

**SUBJECT:** Proper Classification and Strengthened Monitoring of  
Subrecipients Are Needed for the Broadband Technology  
Opportunities Program (OIG-13-013-A)

This is our final memorandum on the effectiveness of subrecipient monitoring for the National Telecommunications and Information Administration's (NTIA's) Broadband Technology Opportunities Program (BTOP). As of January 26, 2012, recipients responsible for approximately \$3.8 billion in BTOP awards reported subrecipient awards of \$850 million and vendor payments of \$602 million.

Our audit objectives were to:

- assess whether subrecipients and vendors were properly classified<sup>1</sup> and
- determine whether adequate controls (e.g., reporting, site visits, and subrecipient consultations) were in place to ensure effective subrecipient monitoring and compliance with award terms and conditions.

Appendix A contains the objectives, scope, and methodology for this audit.

On January 18, 2013, we received NTIA's response to our draft memorandum, which acknowledged our recommendations and described the steps that NTIA is taking to address them. Where appropriate, we have modified our final memorandum based on discussions with NTIA officials and this response. The formal NTIA response is included as appendix C. The final report will be posted on the Office of Inspector General's website pursuant to section 8L of the Inspector General Act of 1978, as amended.

In accordance with Department Administrative Order 213-5, please provide us with your action plan within 60 days of the date of this memorandum. The plan should outline the actions you have taken or propose to take to address each recommendation.

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<sup>1</sup> Subrecipients are nonfederal entities that receive Recovery Act funding from recipients to help carry out a portion or scope of work for a project or program. Vendors provide goods/services in support of the award and are not subject to the compliance requirements of the federal program. NTIA, August 18, 2010. *FACT SHEET: Broadband Technology Opportunities Program Subrecipients and Contractors*.  
[http://www2.ntia.doc.gov/files/fact\\_sheet\\_subrecipients\\_and\\_contractors\\_08182010v2.pdf](http://www2.ntia.doc.gov/files/fact_sheet_subrecipients_and_contractors_08182010v2.pdf).

## Background

From the time the President signed the American Recovery and Reinvestment Act of 2009 (Recovery Act)<sup>2</sup> into law, the Department of Commerce Office of Inspector General has provided oversight of NTIA's administration of the \$4.4 billion<sup>3</sup> BTOP program. At the conclusion of the BTOP award process on September 30, 2010, NTIA had awarded 233 grants. Over time, this number has decreased slightly to 225 due to grant cancellations, modifications, and terminations.

As of January 26, 2012, when we initiated this audit, the FederalReporting.gov data extract reported 217 BTOP awards with payments and disbursements greater than \$100,000. We reviewed these awards for this audit. We divided the recipients into subgroups based on whether they made payments and disbursements to subrecipients, vendors, or both (see table I).

Effective monitoring of subrecipients is necessary to ensure that project costs are allowable, allocable, and reasonable and that program goals are achieved. Recipients, rather than NTIA, are directly responsible for the oversight of subrecipients. NTIA, in turn, is responsible for ensuring that recipients effectively oversee their projects. This includes ensuring that the recipient adequately selects subrecipients and has controls in place to effectively and efficiently complete the projects.

Table I. Universe of BTOP Recipients Reviewed

Recipient Category	Reported		Reviewed	
	Awards	Dollars	Awards	Dollars
Projects with no subrecipients or vendors	82	\$967 million	10	\$381 million
Projects where only vendors received payments	81	1.5 billion	20	954 million
Projects where only subrecipients received disbursements	28	408 million	13	232 million
Projects where subrecipients and vendors received disbursements/payments	26	867 million	13	375 million
<b>Total</b>	<b>217</b>	<b>\$3.7 billion</b>	<b>56</b>	<b>\$1.9 billion</b>

Note: All recipients described in table reported awards greater than \$100,000.

Source: [www.FederalReporting.gov](http://www.FederalReporting.gov)

<sup>2</sup> Pub. L. No. 111-5.

<sup>3</sup> The Recovery Act established BTOP with \$4.7 billion. A \$302 million rescission occurred in August 2010, reducing the total funding.

## Findings and Recommendations

While NTIA and the recipients of BTOP awards have taken steps to oversee subrecipients, additional operating procedures should be implemented. Specifically, our audit found the following:

- two of the 56 awards reviewed (4 percent) have a vendor that may not be properly classified,
- eleven of 26 awards<sup>4</sup> reviewed (42 percent) may not be completed on time,
- subrecipient monitoring plans are not in place for 3 of 26 awards reviewed (12 percent),
- seven of 26 subrecipient agreements reviewed (27 percent) do not contain all required provisions, and
- for 15 of 56 awards reviewed (27 percent), recipients are not reporting required information to FederalReporting.gov.

Appendix B breaks down the findings and other matters by recipient category and includes the number of recipients and dollar values for each finding.

### I. Subrecipients May Not Be Properly Classified

Recipients of 2 of 56 awards (4 percent), totaling \$169.7 million, identified entities as vendors—despite evidence that they may be more appropriately classified as subrecipients—based on recipient determinations and/or discussions with NTIA. In the two questioned classifications, single vendors received more than 95 percent of project expenditures, resulting in a great dependency on the vendor for a timely and successful completion of the projects.

Confusion about the classifications *subrecipient* and *vendor* and the use of them interchangeably may lead to inadequate oversight and improper reporting by recipients. Also, failure to properly distinguish between subawarding a grant (to a subrecipient) and procurement (contracting with vendors) could result in inappropriate flow down of requirements to subrecipients and vendors, subjecting the recipient to increased audit risk, particularly if they incorrectly classify a subaward as procurement. An improper identification of an entity as a subrecipient could permit deviation from the Contract Cost Principles and Procedures,<sup>5</sup> permitting incurred costs that are not allowable, allocable, or reasonable. Profit is permitted for vendors but is not permitted for subrecipients.<sup>6</sup> The proper classification of an entity as a subrecipient could identify costs that are not allowable and result in the return of funds to Treasury or the expansion of the projects.

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<sup>4</sup> Throughout the report, findings for 26 awards refer to the reviewed awards that reported subrecipient disbursements.

<sup>5</sup> 48 C.F.R. Part 31.

<sup>6</sup> U.S. Agency for International Development, February 18, 2010. *Profit Under USAID Assistance Instruments*. <http://transition.usaid.gov/policy/ads/300/303sai.pdf>.

## **Recommendation**

1. We recommend that the Assistant Secretary for Communications and Information direct BTOP personnel to review their grants, including the two vendors identified, for subrecipient relationships to help ensure that subrecipients are properly classified. If NTIA determines that the two vendors were improperly identified, NTIA should request that the entities be appropriately classified and funds appropriately accounted for.

## **II. Recipients May Not Complete Projects on Time**

Recipients of 11 of 26 awards (42 percent), totaling \$198.6 million, may not complete their projects by the dates included in the grant awards. BTOP guidelines state that all applicants, regardless of category, must complete the project within 3 years.<sup>7</sup> Recipients cited various reasons for the delays; however, for 4 of the 11 awards (36 percent), delays involved subrecipients (e.g., delays in signing subrecipient agreements and processes used by subrecipients to invoice recipients). If recipients do not meet required deadlines for completing BTOP projects, they will not comply with programmatic and federal grants administration rules and requirements. As such, the projects could be terminated unless a waiver to extend the projects is obtained.

## **Recommendation**

2. We recommend that the Assistant Secretary for Communications and Information direct BTOP personnel to review all projects to make sure they will be completed on time, accelerate those projects at risk of not meeting their 3-year completion dates, and assist the recipients in addressing potential risks to projects or issues delaying their progress.

## **III. Subrecipient Monitoring Plans Are Not in Place, and Subrecipient Agreements Do Not Contain All Required Provisions**

During our audit of the 56 awards, we noted several instances where subrecipient oversight could be strengthened. This includes ensuring that subrecipient monitoring plans are in place and that all required provisions are included in subrecipient agreements.

### ***A. Subrecipient monitoring plans are not in place or are inadequate***

For 3 of 26 awards (12 percent), representing \$14.5 million, subrecipient monitoring plans were not in place. For an additional 2 of 26 awards reviewed (8 percent), totaling \$46.9 million, subrecipient monitoring plans were inadequate—for example, were missing important monitoring steps. OMB Circular A-133, section 400(d)(3), identifies recipient responsibilities to “monitor the activities of subrecipients as necessary to ensure that federal awards are used for authorized purposes in compliance with laws, regulations, and provisions of contracts or grant agreements and that performance goals are achieved.” Although OMB Circular A-133 does not specifically mention using monitoring plans, it is a best practice. Without monitoring plans in place, it is not clear that subrecipient compliance with award terms and conditions is being monitored.

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<sup>7</sup> Broadband Technology Opportunities Program, 74 Fed. Reg. 33104, 33110 (July 9, 2009).

## **B. Recipients did not include required BTOP provisions in subrecipient agreements**

For 7 of 26 recipient awards (27 percent), totaling \$84.3 million, the subrecipient agreements did not contain all required BTOP provisions, such as applicable cost principles, Recovery Act award terms, and audit requirements. Department of Commerce Standard Terms and Conditions J.02.a<sup>8</sup> states that recipients must require all subrecipients to comply with the provisions of awards. Reasons provided by recipients for the lack of these provisions within the agreements included (1) the subrecipient was included in the original grant application and had been through the due diligence process and (2) the recipient was not aware that all provisions needed to be included in subrecipient agreements. If the provisions are not documented within the subrecipient agreement, then the subrecipients may not be complying with the terms and conditions of the award. Failure by recipients to comply with award terms and conditions could result in adverse action being taken against recipients, such as suspension or termination of the grant.<sup>9</sup>

### **Recommendations**

We recommend that the Assistant Secretary for Communications and Information direct BTOP personnel to:

3. work with recipients to ensure that they have effective monitoring mechanisms in place, such as subrecipient monitoring plans, to facilitate sufficient monitoring, and
4. reemphasize to recipients the importance of including all BTOP provisions in subrecipient agreements and the importance of meeting the terms and conditions of the award.

## **IV. Recipients Are Not Reporting All Required Information in FederalReporting.gov**

For recipients that reported no subrecipients or vendors, we noted that (a) 7 of the 10 recipients (70 percent) should have reported vendor payments but did not report any and (b) 2 of the 10 recipients (20 percent) did not report all required vendor payments. These 9 awards comprised \$370 million in grant funds. Additionally, we reviewed 20 awards that reported only vendor payments. Of these, we noted that 6 (30 percent), totaling \$295.2 million, did not report all required vendor payments. The recipients stated that they were unaware of the requirement of OMB M-09-21<sup>10</sup> that all individual payments to vendors greater than \$25,000 must be reported in [www.FederalReporting.gov](http://www.FederalReporting.gov). Consequently, they are not in compliance with Recovery Act reporting requirements associated with transparency, and financial information available to the public is incomplete and/or incorrect.

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<sup>8</sup> U.S. Department of Commerce, March 2008. *Financial Assistance Standard Terms and Conditions*. Washington, D.C.: Department of Commerce, 15.

<sup>9</sup> NTIA, February 2012. *BTOP Recipient Handbook*, Version 2.0, 127.  
[http://www2.ntia.doc.gov/files/Recipient\\_Handbook\\_v1.1\\_122110.pdf](http://www2.ntia.doc.gov/files/Recipient_Handbook_v1.1_122110.pdf).

<sup>10</sup> Office of Management and Budget, June 22, 2009. *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009*, OMB M-09-21. Washington, D.C.: OMB.



## **Recommendation**

5. We recommend that the Assistant Secretary for Communications and Information direct BTOP personnel to notify recipients of the vendor/subrecipient payment reporting requirements to [www.FederalReporting.gov](http://www.FederalReporting.gov) pursuant to OMB M-09-21 and develop procedures to monitor reporting and ensure compliance.

## **Other Matters**

During our audit, we noted other matters not directly related to subrecipient monitoring that we believe warrant attention. These matters include recipients' financial records that are inconsistent with the information available at Recovery.gov and vendor-related issues.

### ***A. Recipients' financial information is not reconciled to Recovery Act website***

For 12 of 56 awards (21 percent), totaling \$349.5 million, recipients' financial information did not agree with information on Recovery.gov for the reporting quarter ending March 31, 2012. As such, recipients were not in compliance with requirements to report correct financial expenditures into [www.FederalReporting.gov](http://www.FederalReporting.gov).<sup>11</sup> This website's information is rolled into [www.Recovery.gov](http://www.Recovery.gov), which makes Recovery Act financial data available to the public. We found various reasons for the inconsistent information (e.g., not including all expenses in the general ledger, improperly recording depreciation, and recipients not being aware of requirements). These deficiencies can result in incorrect financial information being presented to the public, and therefore, recipients are not in compliance with Recovery Act reporting requirements.

## **Recommendations**

We recommend that the Assistant Secretary for Communications and Information direct BTOP personnel to:

6. have grant officers remind recipients of the importance of reconciling financial information that they maintain with expenditures reported on the [www.Recovery.gov](http://www.Recovery.gov) website and
7. provide additional guidance to recipients as to what information should be reported as federal expenditures and the importance of consistency between the reported expenditures and information included in the recipients' financial records.

### ***B. Vendor-related issues***

We noted additional vendor-related concerns, including the recipients' review of vendors for suspension and debarment, failure to compete vendor contracts, and failure to maintain vendor contracts:

- *Vendors are not reviewed for suspension and debarment.* For 33 of 56 awards (59 percent), totaling \$1.2 billion, recipients are not periodically reviewing vendors and/or the principals<sup>12</sup> of these organizations for suspension and debarment. In addition, for 1 of the 56 (2 percent), totaling \$25.7 million, the current principal of a vendor receiving

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<sup>11</sup> OMB, *Implementing Guidance for the Reports on Use of Funds*.

<sup>12</sup> Examples of principals include the owner, proprietor, sole shareholder, or director.

payments on the recipient's award was included on the Excluded Parties List System (EPLS). NTIA informed us that this was not the original contract principal at the time of the award—a change in contract principal had been made while the project was already in process.

According to Executive Order 12549<sup>13</sup> and the OMB Guidelines to Agencies on Governmentwide Debarment and Suspension,<sup>14</sup> a recipient must verify that the person/organization is not excluded or disqualified by (1) checking the EPLS, (2) collecting a certification from that entity, or (3) adding a clause or condition to the covered transaction with that entity. Recipients should also check for suspension and debarment of their vendors periodically throughout the grant term.

A recipient may not enter into a covered transaction if the other party is excluded and may not use the services of an excluded party as a principal under a covered transaction. Recipients may continue covered transactions with an excluded party if the transactions existed before the party was excluded but should consider terminating and may not renew or extend covered transactions.<sup>15</sup>

Recipients were unaware of the requirement to review principals of organizations for suspension and debarment and do not currently check suspension and debarment periodically throughout the grant term. Suspension and debarment actions protect the government from doing business with individuals/companies/recipients who pose a business risk. If recipients are not reviewing vendors for suspension and debarment, they are not adequately protecting taxpayer funds.

- *Not all vendor contracts competed for BTOP grants.* Five of 56 awards (or 9 percent), totaling \$106.6 million, did not compete all vendor contracts awarded for BTOP grants. OMB Circular A-110,<sup>16</sup> section 43, requires that “all procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.” Recipients stated that their understanding from NTIA was that if the recipient had worked with the vendor previously, they did not have to compete the contract. As such, we found that some recipients were not in compliance with federal regulations mandating open and free competition. Some recipients also noted that contracts could not be competed based on the goods or services received (e.g., contracts for lines and pole leases in one county), which we deem reasonable.
- *Recipients do not maintain vendor contracts.* For 3 of 56 awards (or 5 percent), totaling \$17.8 million, recipients did not provide vendor contracts. This implied that they have not maintained them. Department of Commerce regulations require that services under financial assistance awards have contracts that contain certain provisions.<sup>17</sup> Without a contract, recipients are not in compliance with departmental regulations and therefore

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<sup>13</sup> Exec. Order No. 12,549, 51 Fed. Reg. 6370 (Feb. 21, 1986).

<sup>14</sup> 2 C.F.R. § 180.300.

<sup>15</sup> 2 C.F.R. § 180.315.

<sup>16</sup> Although OMB Circular A-110 applies only to awards to institutions of higher education, hospitals, and other nonprofit organizations, 15 C.F.R. § 24.36 includes a similar requirement for awards to state and local governments.

<sup>17</sup> 15 C.F.R. §§ 14.48, 24.36.

may not be able to ensure that the procurement, receipt, and payment for goods and services comply with laws, regulations, and the provisions of the agreements.

### **Recommendations**

We recommend that the Assistant Secretary for Communications and Information direct BTOP personnel to:

8. encourage recipients to review vendors and their principals for suspension and debarment throughout the life of the grant,
9. encourage recipients to promote proper competition in the vendor selections, and
10. communicate to recipients the importance of maintaining vendor contracts.

### **Summary of Agency Response and OIG Comments**

In responding to our draft memorandum, NTIA acknowledged our recommendations and described the steps they are taking to address them. We acknowledge that NTIA has dedicated significant efforts to strengthening subrecipient monitoring and look forward to the action plan that NTIA will submit to respond to the memorandum.

We would like to express our thanks to your staff for courtesies shown to us during our audit. Please direct any questions regarding this audit to Chris Rose, Senior Auditor, Recovery Act Task Force, at (202) 482-5558 or [crose@oig.doc.gov](mailto:crose@oig.doc.gov), and refer to the memorandum title in all correspondence.

cc: Anthony Wilhelm, Program Director, BTOP  
Aimee Meacham, Director, Program Services, BTOP  
Kathy Smith, Chief Counsel, NTIA  
Milton Brown, Audit Liaison, NTIA



## **Appendix A**

### **Objectives, Scope, and Methodology**

We conducted our audit from January 2012 through October 2012 under the authority of the Inspector General Act of 1978, as amended, and Department Organization Order 10-13, dated August 31, 2006. We performed all work at the Department of Commerce headquarters.

Our audit's objectives were to (1) assess whether all subrecipients and vendors were properly classified and (2) determine whether adequate controls (e.g., reporting, site visits, and subrecipient consultations) were in place to ensure effective subrecipient monitoring and compliance with award terms and conditions. We tested the accuracy and reliability of grantees' reported results with the grantees' financial management system and related source documents for subrecipient reported information. We determined that the data were sufficiently reliable for the purposes of this report.

We interviewed both NTIA officials and BTOP award recipients. We also reviewed laws, regulations, policies, procedures, and supporting documentation, including:

- the Department of Commerce Financial Assistance Standard Terms and Conditions and Pre-Award Notification Requirements for Grants and Cooperative Agreements,
- subrecipient monitoring guidance, policies and procedures produced by NTIA and selected recipients,
- application grant files, progress reports, and corrective action plans,
- subrecipient agreements, and
- supporting documentation (requests for proposals and responses and selection committee criteria and scores) for vendors and subrecipients.

After conducting preliminary tests, the audit team focused on projects with subrecipients. The audit team conducted the following tests:

- a risk and dollar value sample of projects to verify that project partners were properly classified as subrecipients or vendors, so that all qualifying expenses were reported, and
- a random sample of projects with subrecipients or subrecipients and vendors, to verify that procurement standards were followed for all projects with subrecipients, verify compliance with Executive Order 12549 (suspension and debarment), and determine whether adequate controls were in place to ensure effective subrecipient monitoring and compliance with award terms and conditions.<sup>18</sup>

We performed our work in accordance with generally accepted government auditing standards. These standards require that we plan and perform our audit to obtain sufficient, appropriate evidence that provides a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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<sup>18</sup> We have recently learned that one grant recipient is under investigation for matters unrelated to this audit.

**Appendix B**  
**Summary of Findings by Recipient Category per Table I**

Audit Findings	No Subrecipients or Vendors		Only Vendors		Only Subrecipients		Subrecipients and Vendors		Total	
	No.	Dollars (in millions)	No.	Dollars (in millions)	No.	Dollars (in millions)	No.	Dollars (in millions)	No.	Dollars (in millions)
Finding I	1	\$ 99.7	1	\$ 70					2	\$169.7
Finding II					6	\$56.1	5	142.5	11	198.6
Finding III.A					3	14.5			3	14.5
Finding III.B					3	49.5	4	34.8	7	84.3
Finding IV	9	370	6	295.2					15	665.2
Other matters										
A	3	62.5	3	168	2	19.3	4	99.7	12	349.5
B1*			1	25.7					1	25.7
B2	1	26	1	50.6	2	16.2	1	13.8	5	106.6
B3					1	13.8	2	4.0	3	17.8

Source: Dollar values are calculated based on award amounts in the [www.FederalReporting.gov](http://www.FederalReporting.gov) data extract.

\*Findings B1, B2, and B3 refer to the three bulleted paragraphs in section B under Other Matters.

## Appendix C Agency Response



UNITED STATES DEPARTMENT OF COMMERCE  
The Assistant Secretary for Communications  
and Information  
Washington, D.C. 20230

JAN 18 2013

The Honorable Todd J. Zinser  
Inspector General  
United States Department of Commerce  
1401 Constitution Avenue, N.W.  
Washington, DC 20230

Dear Mr. Zinser:

This letter responds to your December 13, 2012, draft report *Proper Classification and Strengthened Monitoring of Subrecipients Are Needed for the Broadband Technology Opportunities Program* (Draft Report). The National Telecommunications and Information Administration's (NTIA) monitoring processes and tools serve a valuable function in our oversight of the Broadband Technology Opportunities Program (BTOP), a \$4 billion grant program authorized by the American Recovery and Reinvestment Act of 2009 (Recovery Act). I appreciate that your office recognizes NTIA has taken steps, such as conducting extensive site visits, issuing considerable guidance and providing substantial training, to assess and monitor recipients' operating procedures, including classifying and monitoring subrecipients.

Ultimately, recipients are responsible for classifying subrecipients and vendors, and properly monitoring any subrecipients, because NTIA's contractual relationship is with the recipient, not any subrecipient. As the Office of Inspector General (OIG) emphasized, NTIA is responsible for monitoring recipient grant compliance and each recipient, in turn, is responsible to NTIA for monitoring its subrecipients' compliance.

As noted in previous reports, NTIA has implemented a rigorous monitoring and oversight plan for BTOP grants. This oversight includes multiple reviews of recipients' adherence to their subrecipient monitoring requirements, including performance report reviews, risk assessment analysis, and site visit feedback. In addition, NTIA has provided recipients with repeated guidance regarding the BTOP subrecipient monitoring requirement. This guidance ranges from the BTOP Recipient Handbook and fact sheets, which are readily available on the BTOP website, to compliance training during recipient workshops and webinars.

We acknowledge your recommendations and, as outlined below, we are taking steps to address them.

### ***Review Subrecipient Relationships and Implement Review Procedures to Classify Subrecipients***

The Draft Report recommends that NTIA review BTOP grants for subrecipient relationships and implement review procedures to help recipients properly classify subrecipients. In the event that

NTIA determines that vendors were improperly identified, the Draft Report recommends that NTIA assist recipients to appropriately classify entities under their awards. NTIA has taken a number of steps to educate recipients about properly classifying and distinguishing subrecipients and vendors. In addition to the guidance provided in OMB Circular A-133, section 210, NTIA has provided detailed instructions, a checklist, and frequently asked questions on its website since August 2010. This guidance emphasizes the importance of proper classification for recipients to remain in compliance with procurement and reporting requirements, Recovery Act reports, and financial audits. NTIA also works with the NOAA and NIST Grants Offices to revisit classifications for any award where the recipient requests an award modification.

As noted above, however, the recipient is responsible for determining whether to classify an entity as a subrecipient or vendor under the criteria in OMB Circular A-133. For the two recipients referenced in the Draft Report, NTIA staff reviewed each of those situations with the recipients early in the award period and reached mutual conclusions as to how to classify them. For these particular awards, the vendors providing services are design and build construction firms that can be replaced with other vendors if the contract terms are not met.

#### ***Review Projects for Three-Year Completion and Assist Recipients to Address Potential Risks***

The Draft Report recommends that NTIA review all BTOP projects to ensure they will be completed on time. Where needed, the Draft Report recommends that NTIA accelerate projects and assist recipients in addressing potential risks to projects or issues delaying their progress.

BTOP staff regularly evaluate projects' progress against the completion of goals established in their awards and baseline projections. Staff also evaluates quarterly report data to consider whether projects are meeting their promised schedules, based on several dimensions, including:

- Federal expenditures
- Match expenditures
- Progress against applicable Key Performance Indicators (Network Miles, Community Anchor Institutions, etc.)

This evaluation provides a granular view of project activities to aid staff in diagnosing progress and trends. In cases where staff identifies a risk, they address the concern with the recipient and report back on the recipient's activities to mitigate the risk (e.g., parallel construction activities, hiring additional personnel). NTIA will continue to monitor projects towards completion and expects the majority of its projects to complete by September 30, 2013.

#### ***Ensure Recipients Have Sufficient Subrecipient Monitoring Plans***

The Draft Report recommends that NTIA: 1) message to recipients that having formal subrecipient monitoring plans in place is a best practice; and 2) reemphasize to recipients the

importance of including all BTOP provisions in subrecipient agreements and the importance of meeting the terms and conditions of the award.

Since the beginning of the program, NTIA has provided guidance outlining the compliance responsibilities of all BTOP recipients for monitoring their subrecipients, as described in OMB Circular A-133, section 400. For example, we included guidance in the BTOP Recipient Handbook regarding the recipient responsibilities for subrecipient and vendor oversight, as well as providing a separate Subrecipient Monitoring Fact Sheet. In addition, NTIA has continuously advised recipients to consider these responsibilities and has emphasized in both the BTOP Recipient Handbook and Subrecipient Monitoring that we consider a written subrecipient monitoring plan, along with regular other monitoring techniques, such as regular communications, compliance training, desk reviews, audit reviews, and site visits to be monitoring best practices. See BTOP Recipient Handbook, available at [http://www2.ntia.doc.gov/files/Recipient\\_Handbook\\_v1.1\\_122110.pdf#page=1](http://www2.ntia.doc.gov/files/Recipient_Handbook_v1.1_122110.pdf#page=1); See also, Subrecipient Monitoring Fact Sheet, available at [http://www2.ntia.doc.gov/files/subrecipient\\_monitoring\\_fact\\_sheet\\_032111\\_final.pdf](http://www2.ntia.doc.gov/files/subrecipient_monitoring_fact_sheet_032111_final.pdf).

During site visits, NTIA asks recipients about steps they have taken to monitor subrecipients. NTIA's BTOP Site Visit Checklist requires staff to discuss the recipients' subrecipient monitoring plan and evaluate the adequacy and likely effectiveness of the plan. If a recipient does not have a written plan, then Federal Program Officers (FPOs) ask other questions to analyze subrecipient monitoring compliance. FPOs also have regular monitoring calls with recipients where subrecipient monitoring is a regular discussion topic.

In February 2012, NTIA released a fact sheet to recipients providing detailed guidance on specific contract provisions that must flow down to all contracts with subrecipients and contractors under their BTOP awards. During site visits, staff often picks a particular procurement and reviews the contracts to ensure the proper flow down terms and conditions are included. For the particular contracts that OIG identified in the Draft Report, NTIA has taken additional steps to notify those recipients that their subrecipient contracts must contain the appropriate terms and conditions. NTIA will also communicate the issues OIG raised in this report with recipients, as a reminder to check for and if applicable, correct these issues for their awards.

***Notify Recipients of Vendor/Subrecipient Payment Reporting Requirements to [www.FederalReporting.gov](http://www.FederalReporting.gov)***

The Draft Report recommends that NTIA notify recipients of the vendor/subrecipient payment reporting requirements to [www.FederalReporting.gov](http://www.FederalReporting.gov) pursuant to OMB M-09-21 and to develop procedures to monitor reporting and ensure compliance.

NTIA will remind BTOP recipients that this information should be included in this quarterly Recovery Act reports.

***Strengthen Internal Controls for Reviewing Required Financial Information and Reports on [www.Recovery.gov](http://www.Recovery.gov)***

The Draft Report recommends that NTIA: 1) work with grant officers to strengthen internal controls with regard to reviewing and reconciling all required financial information and reports included on the [www.Recovery.gov](http://www.Recovery.gov) website; and 2) provide additional guidance as to what information should be reported as federal expenditures and the importance of consistency between the reported expenditures and information included in recipients' financial records.

NTIA requires staff to ask recipients about differences between their Recovery Act financials and SF-425 financials. While the program knows that common reasons for variations include definitional and timing differences between the reports, we typically follow up to better understand the variances. NTIA intends to provide recipients an audit webinar to educate recipients about issues matching their reports with their underlying books and records.

***Establish Internal Controls to Encourage Recipients to Review Vendors and their Principals for Suspension and Debarment***

The Draft Report recommends that NTIA: 1) encourage recipients to review vendors and their principals for suspension and debarment throughout the life of the grant; 2) encourage recipients to promote proper competition in their vendor selections; and 3) ensure that the recipients reviewed in OIG's sample that did not provide vendor contracts maintain vendor contracts in the future.

NTIA continuously emphasizes to recipients the importance of reviewing vendors, subrecipients, and their respective principals for suspension and debarment throughout their BTOP award periods. In November 2012, NTIA informed all BTOP recipients of the Federal government's move to the System for Award Management (SAM), which includes the consolidation of functions from the Central Contractor Registry (CCR) and the Excluded Parties List System (EPLS). NTIA took this opportunity to remind recipients that they should search the EPLS for any entities that are declared ineligible from receiving Federal contracts, assistance, benefits, or certain subcontracts.

NTIA encourages recipients to select contractors and subrecipients in a manner that provides, to the maximum extent practicable, open and fair competition. In guidance available to recipients since August 2010, NTIA advised recipients that any contractor or subrecipient that developed or drafted specifications, requirements, statements of work, invitations for bids, and/or requests for proposals should be excluded from competing for such contracts and subawards. Recipients are also required to perform a cost or price analysis in connection with the award of each contract. Generally, NTIA and the Grants Offices have allowed recipients to use a sole source selection based on a noncompetitive proposal only after the recipient has submitted a cost analysis of the proposal and justified that the award of the contract is infeasible under any other method; however, we permitted recipients to award contracts to partners identified in their applications without a formal procurement process. In fact, NTIA encouraged applicants to describe

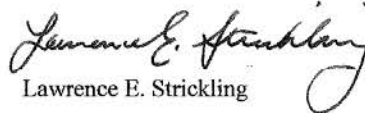


relationships with prospective vendors in their applications. Although the DOC Uniform Administrative Requirement of 15 C.F.R. Parts 14 and 24 allow the Grants Offices to request and review certain contract documents; they do not establish a mandatory approval process for competitive or sole source procurements. Nevertheless, NTIA believes that the due diligence process provided both NTIA and its Grants Offices adequate opportunity to review these proposed relationships prior to award.

NTIA is currently following up on the OIG's finding that three BTOP recipients did not provide vendor contracts upon request. We have verified that the recipients maintained vendor contracts, but those contracts did not contain the appropriate flow down terms and conditions. At this point, recipients have issued most of their contracts, but NTIA has reminded staff of those requirements. Accordingly, NTIA can take appropriate steps to help recipients remain in compliance with departmental regulations.

I look forward to continuing to work with you as NTIA carries out this important program to expand broadband access and adoption in the United States, create jobs, and lay a new foundation for economic growth in America. If NTIA may be of further assistance, please contact Milton Brown, NTIA's Liaison to the OIG, at (202) 482-1853.

Sincerely,

  
Lawrence E. Strickling

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