

DEPARTMENT OF COMMERCE**CFDA 11.300 INVESTMENTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT FACILITIES****CFDA 11.307 ECONOMIC ADJUSTMENT ASSISTANCE****CFDA 11.010 COMMUNITY TRADE ADJUSTMENT ASSISTANCE****I. PROGRAM OBJECTIVES**

The Economic Development Administration (EDA) awards grants through its Public Works and Economic Development (Public Works) program to assist the Nation's most distressed communities: (1) revitalize and expand their physical and economic infrastructure and (2) provide support for the creation or retention of jobs for area residents by helping eligible recipients with their efforts to promote the economic development of their local economies. The primary goal of these awards is the creation of new, or the retention of existing, long-term private sector job opportunities in communities experiencing significant economic distress as evidenced by high unemployment, underemployment, low per capita income, outmigration, or a special need arising from actual or threatened severe unemployment or severe changes in local economic conditions. Public Works grants may include construction and related activities, such as acquisition, design and engineering, and related machinery and equipment.

The objective of EDA's Economic Adjustment Assistance program is to address the needs of communities experiencing adverse economic changes that may occur suddenly or over time, including, but not limited to, those caused by military base closures or realignments, depletion of natural resources, Presidentially-declared disasters or emergencies, or international trade. Economic Adjustment Assistance awards may be used to develop a Comprehensive Economic Development Strategy (CEDS) or other strategy to alleviate long-term economic deterioration or a sudden and severe economic dislocation, or to fund a project implementing that CEDS or other strategy, including grants for construction and grants for Revolving Loan Funds (RLFs). EDA grants to capitalize or recapitalize RLFs are most commonly used for business lending, but may also fund public infrastructure or other authorized lending purposes if specifically allowed for in the terms and conditions of the recipient's award.

The Community Trade Adjustment Assistance (Community TAA) program aims to help create and retain jobs by providing assistance to communities, including cities, counties, or other political subdivisions of a State or a consortium of political subdivisions of a State, including District Organizations of Economic Development Districts, that have experienced, or are threatened by, job loss resulting from international trade impacts to create and retain jobs. Grants under the Community TAA program may be used to support a wide range of technical, planning, and infrastructure projects to help communities adapt to pressing trade impact issues and diversify their economies.

II. PROGRAM PROCEDURES

In nearly all cases, a recipient of a Public Works, Economic Adjustment Assistance, or Community TAA grant is required to provide a matching share. The required matching share varies on a grant-by-grant basis and is set forth in the grant award. Prior to EDA approving the matching share, the recipient must demonstrate to EDA's satisfaction that the matching share is committed to the project, available as needed, and not conditioned or encumbered in any way that would preclude its use consistent with the requirements of the grant award. EDA has greater discretion to award grants under supplemental appropriations for natural disasters at investment rates up to and including one hundred (100) percent.

Section 302 (42 USC 3162) of the Public Works and Economic Development Act of 1965, as amended (PWEDA, 42 USC 3121 *et seq.*), sets forth a CEDS requirement for Public Works and Economic Adjustment Assistance grants, except for planning projects (i.e., strategy grants) under the Economic Adjustment Assistance program. Pursuant to section 214 of PWEDA (42 USC 3154), EDA may waive the CEDS requirements for Economic Adjustment projects located in regions designated as "Special Impact Areas." If a project is located in a designated "Special Impact Area," such designation will be specified in the grant award documents.

RLF recipients must manage RLFs in accordance with an RLF Plan approved by EDA. The RLF Plan must be approved by the RLF recipient's governing board prior to the initial disbursement of EDA funds. RLF recipients are responsible for ensuring that borrowers are aware of and comply with applicable Federal statutory and regulatory requirements.

Source of Governing Requirements

The Public Works and Economic Adjustment Assistance programs are authorized by PWEDA. The Community TAA program was established under the Trade and Globalization Adjustment Assistance Act of 2009 (Subtitle I, Part III, of the American Recovery and Reinvestment Act of 2009 (ARRA), Pub. L. No. 111-5). The Community TAA program was funded under the Supplemental Appropriations Act for Fiscal Year 2009 (Pub. L. No. 111-32).

All regulatory section citations contained herein refer to EDA's regulations as codified at 13 CFR Chapter III, including program regulations for CFDA 11.300 at 13 CFR part 305, CFDA 11.307 at 13 CFR part 307, and CFDA 11.010 at 13 CFR part 313.

Some grants awarded under CFDA 11.300 or CFDA 11.307 may have been funded, in whole or in part, by funds appropriated by ARRA. CFDA 11.010 is not considered an ARRA program because funding was not provided by ARRA.

EDA published a final rule on January 27, 2010, in the *Federal Register* (75 FR 4529) to amend some of its regulations, namely the Trade Adjustment Assistance for Firms (TAA) regulations and the Revolving Loan Fund (RLF) regulations. The technical revisions to a few of the TAA definitions were made to help better align EDA's responsibilities in implementing the TAA program under the Trade Act. EDA also made a number of changes to the RLF regulations to implement the Department of Commerce's Office of Inspector General's audit recommendations and to improve the administration and effectiveness of the RLF program.

Availability of Other Program Information

Other program information is available on the Internet at <http://www.eda.gov>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Activities Allowed*

The grant budget and grant agreement will specify the purpose or use of funds, which include the following:

- a. Activities that can be funded under the Community TAA program include the development of a strategic plan to assist the community in adjusting to trade impact, or a construction or non-construction project to implement a previously developed strategic plan approved by EDA. Such implementation assistance may include: (1) infrastructure improvements, such as site acquisition, site preparation, construction, rehabilitation, and equipping of facilities; (2) market or industry research and analysis; (3) technical assistance, including organizational development such as business networking, restructuring or improving the delivery of business services, or feasibility studies; (4) public services; (5) training; and (6) other activities justified by the EDA-approved strategic plan (13 CFR section 313.7).
- b. Construction grants made under CFDA 11.300 or CFDA 11.307 can be made for the acquisition or development of land and improvements for use for a public works, public service, or development facility. Construction grants can also be made for the acquisition, design and engineering, construction, rehabilitation, alteration, expansion, or improvement of such a facility, including related machinery and equipment (42 USC 3141; 42 USC 3149; and 13 CFR sections 305.2(a) and 307.3).
- c. RLF grants (CFDA 11.307) may be made for the establishment or recapitalization of an RLF, usually for business lending, but RLF grants may also fund public infrastructure or other authorized purposes involving lending if specifically allowed for in the terms and conditions of the recipient's award (42 USC 3149; and 13 CFR section 307.7).

- d. Other activities that can be funded under the Economic Adjustment Assistance program (in addition to grants for construction and RLFs) are grants for CEDS (or other strategy) development and grants for CEDS (or other strategy) implementation, which include market or industry research and analysis, technical assistance, public services, training, and other activities as justified by the strategy which meet applicable statutory and regulatory requirements (42 USC 3149; and 13 CFR section 307.3).
- e. A recipient of an Economic Adjustment Assistance grant may directly expend the grant funds or, with prior EDA approval, may redistribute such grant assistance in the form of (i) a subgrant to another eligible recipient that qualifies for an Economic Adjustment Assistance award or (ii) a loan or other appropriate assistance to non-profit and private for-profit entities (42 USC 3154c; 13 CFR section 309.2).
- f. A recipient of a Public Works grant may directly expend the grant funds or, with prior EDA approval, may redistribute such grant assistance in the form of a subgrant to another eligible recipient to fund required components of the scope of work approved for the project (42 USC 3154c; 13 CFR section 309.1).

2. *Activities Unallowed*

RLF capital (as defined in 13 CFR section 307.8) may not be used to:

- a. Acquire an equity position in a private business (13 CFR section 307.17(b)(1)).
- b. Subsidize interest payments on an existing RLF loan (13 CFR section 307.17(b)(2)).
- c. Provide the equity contribution required of borrowers under other Federal loan programs (13 CFR section 307.17(b)(3)).
- d. Enable an RLF borrower to acquire an interest in a business unless there is a sufficient justification and documentation showing the need for RLF financing (13 CFR section 307.17(b)(4)).
- e. Provide RLF loans to a borrower for the purpose of investing in interest-bearing accounts or other investments not related to the RLF (13 CFR section 307.17(b)(5)).
- f. Refinance existing debt unless (i) the RLF recipient sufficiently demonstrates in the loan documentation a “sound economic justification” for the refinancing (e.g., the refinancing will support additional capital investment intended to increase business activities); for this purpose, reducing the risk of loss to an existing lender(s) or lowering the cost of financing to a borrower shall not, without other indicia, constitute a

“sound economic justification”; or (ii) RLF capital will finance the purchase of the rights of a prior lien holder during a foreclosure action which is necessary to preclude a significant loss on an RLF loan (13 CFR section 307.17(b)(6)).

C. Cash Management

1. Unless otherwise specified in a special award condition, the method of payment for an award for an infrastructure construction project is generally through reimbursement (using SF-271, *Outlay Report and Request for Reimbursement for Construction Programs*) for costs incurred. Prior to disbursing grant funds for an infrastructure construction project, EDA also must receive an invoice from the recipient. EDA may approve the disbursement of funds prior to the tender of all construction contracts if the recipient can demonstrate that a severe hardship will result without such approval (13 CFR sections 305.9(b) and 307.6(b)).
2. The method of repayment for revolving loan funds is on a reimbursement basis i.e., when an obligation is incurred by the RLF recipient at the time of loan approval and loan announcement. An RLF recipient must request a disbursement only to close a loan or disburse RLF funds to a borrower. The RLF recipient must disburse the grant funds to a borrower within thirty (30) days of receipt of the funds. Any grant funds not disbursed within the thirty (30) day period must be returned to EDA. An RLF recipient is required to submit a written request for continued use of grant funds beyond a missed disbursement deadline. The amount of disbursed grant funds cannot exceed the difference, if any, between the RLF capital and the amount of a new loan, less the amount, if any, of the matching share required to be disbursed concurrent with the grant funds. However, RLF income held to cover eligible administrative expenses need not be disbursed in order to draw additional grant funds (13 CFR section 307.11).

D. Davis-Bacon Act

All laborers and mechanics employed by contractors or subcontractors on construction projects receiving EDA grant assistance under Public Works and Economic Adjustment Assistance grants shall be paid at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (42 USC 3212; 13 CFR section 302.13; **Section 1606 of ARRA**).

F. Equipment and Real Property Management

Except as otherwise authorized by EDA, property acquired or improved with EDA grant assistance cannot be used to secure a mortgage or deed of trust or in any way collateralized or otherwise encumbered. An encumbrance includes but is not limited to easements, rights-of-way or other restrictions on the use of any property (13 CFR sections 314.6(a) and 313.11).

G. Matching, Level of Effort, Earmarking**1. Matching**

The required matching share varies on a grant-by-grant basis and is set forth in the grant award (42 USC 3144-3146; 13 CFR sections 300.3 and 301.5; 19 USC 2371e; 13 CFR section 313.6(d); 19 USC 2371d; and 13 CFR section 313.7(d)).

2. Level of Effort – Not Applicable**3. Earmarking – Not Applicable****L. Reporting****1. Financial Reporting**

- a. SF-269, *Financial Status Report* – Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* – Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Applicable
- d. SF-272, *Federal Cash Transactions Report* – Not Applicable
- e. SF-425, *Federal Financial Report* – Applicable

2. Performance Reporting – Not Applicable**3. Special Reporting**

The following reporting requirements pertain to RLF recipients only.

- a. Form ED-209, *Semi-Annual Report for EDA-Funded RLF Grants (OMB No. 0610-0095)*—For the period ending March 31, 2010, and all subsequent reporting periods ending September 30 and March 31, all EDA RLF recipients must submit an electronic Form ED-209 through EDA’s Revolving Loan Fund Management System (RLFMS) (13 CFR section 307.14(a)).

Key Line Items – The following line items contain critical information on the ED-209:

ED-209

- (1) *Total Active Loans (Section I.A)*
- (2) *Current RLF Capital Base (Section III.C)*

- (3) *Current Balance Available as a Percentage of RLF Capital Base (Section III.D)*
 - (4) *Amount of RLF Income Earned during this Reporting Period (Section V.C)*
 - (5) *Percentage of RLF Income used for Administrative Expenses during this Reporting Period (Section V.C)*
- b. Form ED-209I, *RLF Income and Expense Statement (OMB No. 0610-0095)* – For the period ending March 31, 2010, and all subsequent semi-annual reporting periods ending September 30 and March 31, those RLF recipients electing to use either 50 percent or more (or more than \$100,000) of RLF income to cover all or part of an RLF’s administrative expenses in that same semi-annual period must submit an electronic Form ED-209I through EDA’s Revolving Loan Fund Management System (13 CFR sections 307.14 (a) and (c)).

Key Line Items – The following line items contain critical information:

- (1) *RLF Income*
 - (2) *Expenses Charged to RLF Income (2.a through 2.l)*
 - (3) *Total Expenses (sum of 2.a through 2.l)*
 - (4) *Net RLF Income (1 minus 3)*
 - (5) *Cumulative Net RLF Income*
 - (6) *Expenses as % of RLF Income (3/1)*
 - (7) *For the current reporting period, provide an estimate of projected RLF Income and the percentage expected to be used for RLF administrative expenses.*
- 4. Section 1512 ARRA Reporting** – Applicable (for projects funded by ARRA)
- 5. Subaward Reporting under the Transparency Act** – Applicable for projects under CFDA 11.300 and CFDA 11.307 that are not funded by ARRA. (NOTE: Because RLFs represent longstanding agreements and, therefore, are not new awards within the meaning of OMB’s guidance, subawards under RLFs will not be not subject to this reporting.)

N. Special Tests and Provisions

1. Increases to RLF Capital Base and Capital Utilization

Compliance Requirements – RLF income includes all interest earned on outstanding loan principal, interest earned on accounts holding idle RLF funds, loan fees and other loan-related earnings. RLF income does not include repayment of RLF loan principal and any interest remitted to the U.S. Treasury pursuant to a sequestration of excess funds. When an RLF recipient receives proceeds on a defaulted RLF loan, such proceeds shall be applied in the following order of priority: (1) first, towards any costs of collection; (2) second, towards outstanding penalties and fees; (3) third, towards any accrued interest to the extent due and payable; and (4) fourth, towards any outstanding principal balance (13 CFR sections 307.8 and 307.12(c)).

RLF income may fund administrative expenses, provided the following conditions are met: (1) the RLF income and the administrative expense are earned in the same 6-month reporting period; (2) RLF income that is not used for administrative expenses during the 6-month reporting period must be made available for lending activities; (3) RLF income cannot be withdrawn from the RLF capital base in a subsequent reporting period for any use other than lending without the prior written consent of EDA; and (4) the recipient completes an *RLF Income and Expense Statement* if required by EDA's regulations (13 CFR sections 307.12(a) and 307.14(c)).

The RLF capital base is defined as the value of RLF assets administered by the recipient. It is equal to the amount of grant funds used to capitalize (and, if applicable, re-capitalize) the fund, plus the matching funds committed to the RLF at the time of award (and any subsequent additions, but not withdrawals), plus RLF income added to the fund less loan losses. The RLF capital must be used for the purpose of making RLF loans that are consistent with the recipient's RLF Plan (13 CFR section 307.17(a)).

The portion of the RLF capital base that is not loaned out must be made available for lending. Generally, EDA requires recipients to have at least 75 percent of the RLF's capital base loaned or committed at any given time. The following exceptions apply:

- a. An RLF recipient that anticipates making large loans relative to the size of its RLF capital base may propose an RLF Plan that provides for maintaining a capital utilization percentage greater than 25 percent; and
- b. EDA may require an RLF recipient with an RLF capital base in excess of \$4 million to adopt an RLF Plan that maintains a proportionately higher percentage of its funds loaned (13 CFR section 307.16(c)).

EDA requires the recipient to sequester "excess funds" if RLF capital loaned or committed falls below 75 percent of the total RLF capital, or alternatively, below the capital utilization standard specified in the RLF Plan (if applicable), in two consecutive reporting periods (13 CFR section 307.16(c)). "Excess funds" can be calculated by taking the difference between the actual value of cash and investments on hand (e.g., that portion of the capital base that is not loaned out or committed) and the allowable value of

cash and investments on hand. The allowable value of cash and investments is equal to: $((100\% - (\text{minus}) \text{ capital utilization standard}) \times (\text{multiplied by}) \text{ RLF capital base})$.

For example, an RLF with a capital base of \$1,000,000, a capital utilization standard of 75 percent, and \$500,000 in capital loaned or committed would calculate its excess cash as follows:

$\$1,000,000 \text{ RLF capital base} - \$500,000 \text{ loaned/committed} = \$500,000 \text{ cash/investments}$

$\text{Allowable cash/investments} = (100\% - 75\%) \times \$1,000,000 \text{ capital base} = \$250,000$

$\text{Excess cash} = \$500,000 \text{ actual cash/investments} - \$250,000 \text{ allowable} = \$250,000$

EDA also requires the recipient to remit the Federal share of the interest earned on sequestered funds to the U.S. Treasury on a quarterly basis (13 CFR section 307.16(c)). For example, if the recipient is required to sequester \$250,000 in an interest-bearing account, the quarterly interest accruing on this account is \$2,500, and the Federal share of the RLF award is 50 percent, the recipient would be required to remit \$1,250 to the U.S. Treasury for that quarter.

Audit Objective – Determine whether (1) all the conditions for RLF income to be used to fund administrative expenses were satisfied; (2) RLF income not used for administrative expenses was added to the RLF capital base and made available for lending; (3) repayments of principal on RLF loans were made available for re-lending; and (4) the recipient is meeting its capital utilization standard and, if not, whether it is fulfilling EDA’s requirements related to sequestration of excess funds and remittance of the Federal share of the interest to the U.S. Treasury.

Suggested Audit Procedures

- a. Verify that the amounts recorded in the financial records include RLF income and repayments of principal on RLF loans.
- b. Ascertain that if RLF income was not used for administrative expenses, it was added to the RLF capital base.
- c. Ascertain if all funds arising from repayments of principal on RLF loans were made available for re-lending.
- d. Verify that any “excess funds” have been sequestered, as required, and that the recipient is properly accounting for the Federal share of the interest accruing on these funds and remitting this amount to the U.S. Treasury on a quarterly basis.

2. Loan Requirements

Compliance Requirements – The following requirements apply to RLF loans:

- a. The standard loan documentation must include, at a minimum, the (1) loan application, (2) loan agreement, (3) board of directors' meeting minutes approving the RLF loan, (4) promissory note, (5) security agreement(s), (6) deed of trust or mortgage (if applicable), (7) agreement of prior lien holder (if applicable), and (8) signed bank turn-down letter demonstrating that credit is not otherwise available on terms and conditions that permit the completion or successful operation of the activity to be financed. EDA will permit the RLF recipient to accept alternate documentation only if such documentation is allowed in the recipient's EDA-approved RLF Plan (13 CFR section 307.15(b)(2)).
- b. An RLF recipient must make loans to implement and assist economic activity only within its EDA-approved lending area, as defined in the special terms and conditions of the grant award and the EDA-approved RLF Plan (13 CFR section 307.18).

Audit Objective – Determine whether (1) the required standard loan documents are complete for the RLF loans; (2) the RLF recipient's financed activity is located in an EDA-approved lending area; and (3) there is loan documentation to support that credit was not otherwise available to the borrower.

Suggested Audit Procedures

Test a sample of RLF loan files to ascertain if:

- a. All required standard loan documents are complete and in the file.
- b. The financed activity is located in an EDA-approved lending area.
- c. The RLF recipient documents in the RLF loan file that credit was not otherwise available to the borrower.

3. Addition of Lending Areas; Merger of RLFs

- a. An RLF recipient may add an additional lending area to its existing lending area to create a new lending area only with EDA's prior written approval (42 USC 3149 and 13 CFR section 307.18(a)).
- b. EDA may provide written approval for an RLF recipient with more than one EDA RLF grant to merge its RLFs into a single RLF. If EDA approves this merger, EDA will determine a new grant rate for the resulting RLF (42 USC 3149 and 13 CFR section 307.18(b)(1)).
- c. EDA may provide written approval for multiple RLF recipients to merge their EDA RLFs into a single RLF. If EDA approves this merger, EDA will determine

a new grant rate for the resulting RLF, all applicable RLF grant assets of the discharging RLF recipient(s) will transfer to the surviving RLF recipient as of the merger's effective date, and the surviving RLF recipient will become fully responsible for administration of the RLF grant assets transferred and fulfill all surviving RLF grant requirements and any other conditions reasonably requested by EDA (42 USC 3149 and 13 CFR section 307.18(b)(2)).

Audit Objectives – Determine, if applicable, whether (1) EDA has provided prior written approval to an RLF recipient, permitting it to (1) create a new lending area or (2) merge two or more of its EDA-funded RLFs into one surviving RLF; or (2) EDA has provided prior written approval to two or more RLF recipients to consolidate their EDA-funded RLFs into one surviving RLF.

Suggested Audit Procedures

Verify that the RLF recipient has evidence of EDA's prior written approval for the creation of a new lending area or the merger of RLFs.

4. RLF Loan Portfolio Sales and Securitizations

With prior approval from EDA, an RLF recipient may enter into a sale or a securitization of all or a portion of its RLF loan portfolio, provided it: (1) uses all the proceeds of any sale or a securitization to make additional RLF loans; and (2) requests EDA to subordinate its interest in all or a portion of any RLF loan portfolio sold or securitized (42 USC 3149; and 13 CFR section 307.19).

Audit Objectives – In the event an RLF recipient has sold or securitized RLF loans, verify whether it (1) received EDA's prior approval; and (2) used all the proceeds from the sale or securitization to make additional RLF loans.

Suggested Audit Procedures

- a. Verify that the RLF recipient has a written record demonstrating EDA's approval to sell or securitize all or a portion of its RLF loan portfolio.
- b. Ascertain that all the proceeds from the sale or securitization (net of reasonable transactions costs) were used to make additional RLF loans.

IV. OTHER INFORMATION

For purposes of completing the Schedule of Expenditures of Federal Awards (SEFA), each EDA RLF grant (CFDA 11.307) should be shown as a separate line item calculated as follows:

1. Balance of RLF loans outstanding at the end of the recipient's fiscal year, *plus*
2. Cash and investment balance in the RLF at the end of the recipient's fiscal year, *plus*

3. Administrative expenses paid out of RLF income during the recipient's fiscal year; *plus*
4. The unpaid principal of all loans written off during the recipient's fiscal year; *and then multiply this sum (1+ 2 +3+4) by*
5. The Federal share of the RLF. The Federal share is defined as the Federal participation rate (or the Federal grant rate), as specified in the grant award. Note that some RLFs have received EDA's permission to co-mingle funds from one or more EDA RLF grants. If this is the case, the Federal share will be the weighted average of the Federal grant rates of the EDA RLF grants used to capitalize the fund. The Federal grant rates for each EDA RLF can be found in the respective grant awards.

As an example, if a recipient received two EDA RLF grants that were subsequently co-mingled—one for \$500,000 with a \$500,000 match, and the second for \$500,000 with a \$250,000 match, with the outstanding balance of RLF loans equaling \$2,000,000, a cash and investment balance of \$225,000, allowable administrative expenses paid out of RLF income of \$50,000, and no write-offs for the year—the Federal Awards Expended calculation would be as follows:

$$(\$2,000,000 + \$225,000 + \$50,000) \times [(\$500,000 + \$500,000) \div (\$1,000,000 + \$750,000)] = \$1,300,000$$

For the purposes of calculating federal expenditures, RLF recipients are not permitted to factor in an allowance for bad debt.

A note showing the figures used in this calculation should be included in the SEFA.

DEPARTMENT OF COMMERCE

CFDA 11.555 PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS GRANT PROGRAM

I. PROGRAM OBJECTIVES

The Public Safety Interoperable Communications (PSIC) Grant Program is a one-time formula-based, 5-year matching grant program intended to enhance interoperable communications for voice, data, and/or video signals. This program provides public safety agencies with the opportunity to achieve meaningful and measurable improvements to the state of public safety communications interoperability through the full and efficient use of all telecommunications resources.

II. PROGRAM PROCEDURES

Section 3006 of the Deficit Reduction Act of 2005 (Pub. L. No. 109-171), as amended by Section 2201 of Pub. L. No. 110-53 and Section 4 of the Call Home Act of 2006, Pub. L. No. 109-459, directed the National Telecommunications and Information Administration (NTIA), in consultation with the Department of Homeland Security (DHS), to establish and implement a grant program to assist public safety agencies in the planning and coordination associated with, the acquisition of, deployment of, or training for the use of interoperable communications systems that:

- utilize reallocated public safety spectrum for radio communications;
- enable interoperability with communications systems that can utilize reallocated public safety spectrum for radio communication; or
- otherwise improve or advance the interoperability of public safety communications systems that utilize other public safety spectrum bands.

States and Territories are required to submit an Investment Justification (IJ) for each proposed PSIC Investment (project). Up to 10 Investment Justifications will be accepted per State or Territory. A portfolio review of each State's or Territory's Investment Justifications will include a statewide Investment summary, which will include the following:

- Summary of PSIC Investments;
- Summary of how the Investments collectively relate to the statewide strategy/plan—the Statewide Communications Interoperability Plan (SCIP);
- Description of the process used to identify, prioritize, and select Investments included in the Investment Justification; and
- Description of the stakeholders involved in the evaluation and selection of proposals.

These Investments should strongly align with the goals and gaps set forth in the SCIP and the PSIC criteria. The statewide Investment summary of a State's or Territory's IJs must cumulatively account for the total amount of PSIC funding allocated to the State or Territory, not including any funds (up to 5 percent) already dedicated to statewide planning efforts. Each IJ must be a separate and unique project from any efforts currently under way. For example, a State may use its funding to support an existing statewide communications system; however, this funding must be a unique component of this system that does not receive funding from another federal grant program.

The Department of Commerce, through the NTIA, is authorized to make grants only through the end of fiscal year 2012. The PSIC grant has been awarded to the 50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands. The Governor of each State and Territory has designated a State Administrative Agency (SAA), which applied for and administers the funds under the PSIC Grant Program. A recipient must be a public safety agency that is a State, local, or tribal government entity or nongovernmental organization authorized by such entity, whose sole or principal purpose is to protect safety of life, health, or property (Pub. L. No. 109-171, Section 3006(d)(1), 120 Stat. at 24).

The PSIC Grant Program period of performance began on October 1, 2007 and continues until September 30, 2011, unless specifically granted an additional 1-year extension until September 30, 2012 by the Assistant Secretary of Commerce for Communications and Information.

A special condition has been placed on each grant award indicating that the applicant cannot drawdown, obligate, or expend Federal funds until approval of the SCIP and IJs. From the period between October 1, 2007 and the approval in early 2008, applicants can (at their own risk) incur matching costs associated with the acquisition, deployment, and management and administration (M&A) of the interoperability project. As of early 2009, all PSIC grantees have received approval for their SCIPs and IJs.

The PSIC Grant Program encourages the development and implementation of voluntary consensus standards for interoperable communications to the greatest extent possible. Public safety agencies may also use PSIC funds for interim- or long term Internet Protocol-based interoperable solutions.

Source of Governing Requirements

The PSIC Grant Program is authorized by Section 3006 of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, as amended by Section 2201 of Pub. L. No. 110-53; Section 4 of the Call Home Act of 2006, Pub. L. No. 109-459; and Pub. L. No. 111-96, 123 Stat. 3005 (2009).

Availability of Other Program Information

Other program information is available on the Internet at <http://www.ntia.doc.gov/psic>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

Funds may be used for the following activities:

1. Planning and coordination associated with the use of interoperable communications equipment, software and systems.
2. Acquisition of interoperable communications equipment, software and systems. Acquisition activities may also include technical and financial planning, as well as procurement and system design activities.
3. Deployment costs of interoperable communications equipment, software and systems. Deployment activities may also include the development of deployment procedures for use and the establishment of service level agreements for its use.
4. Training for the use of interoperable communications equipment, software, and systems, both technical and operational (Pub. L. No. 109-171, Section 3006(a)(1), as amended by Section 2201 of Pub. L. No. 110-53, 121 Stat. 537).

G. Matching, Level of Effort, Earmarking

1. Matching

SAAs must provide, from non-federal sources, not less than 20 percent of the costs of acquiring and deploying the interoperable communications systems funded under the grant program (Pub. L. No. 109-171, Section 3006(c), 120 Stat. at 24). The SAA is required to track and report the 20 percent matching requirement for acquisition, deployment, and management and administrative costs.

- a. A match is not required for each Investment, as long as the aggregated State-level costs associated with the overall acquisition, deployment, and management and administrative cost categories have met the minimum 20 percent matching requirement.
- b. Costs for planning and coordination and training activities do not require a match.
- c. As provided in 48 USC 1469a, the requirement for local matching funds under \$200,000 (including in-kind contributions) is waived for the

Territorial governments in Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

2. **Level of Effort** – Not Applicable
3. **Earmarking** – Not Applicable

H. Period of Availability of Federal Funds

All PSIC grant funds that are not expended by September 30, 2011 must be returned to the U.S. Treasury (Section 3006 of the Deficit Reduction Act of 2005, Public Law No. 109-171, Section 3006(a)(2), 120 Stat. at 24 (2006)) unless specifically granted an additional 1-year extension until September 30, 2012 by the Assistant Secretary of Commerce for Communications and Information (Pub. L. No. 111-96, 123 Stat. 3005 (2009)).

L. Reporting

1. **Financial Reporting**
 - a. SF-269, *Financial Status Report* – Applicable
 - b. SF-270, *Request for Advance or Reimbursement* – Not Applicable
 - c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
 - d. SF-272, *Federal Cash Transactions Report* – Not Applicable
 - e. SF-425, *Federal Financial Report* – Applicable
2. **Performance Reporting** – Not Applicable
3. **Special Reporting** – Not Applicable
4. **Section 1512 ARRA Reporting** – Not Applicable
5. **Subaward Reporting under the Transparency Act** – Applicable

IV. OTHER INFORMATION

The PSIC Grant Program is closely related to the DHS Homeland Security Grant Program (CFDA 97.067). The auditor should be certain that the allowable expenditures under the awards for each of these grant programs are properly allocated and that the specific requirements of each program are followed.

DEPARTMENT OF COMMERCE

CFDA 11.557 BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM

I. PROGRAM OBJECTIVES

The Broadband Technology Opportunities Program (BTOP) is intended to facilitate the deployment of broadband infrastructure in the United States, enhance broadband capacity at public computer centers, and promote sustainable broadband adoption projects. The expansion of broadband deployment, availability, and adoption funded by BTOP projects is designed to provide communities an opportunity to develop and expand job-creating businesses and institutions, spur technological and infrastructural development, and stimulate long-term economic growth and opportunity.

II. PROGRAM PROCEDURES

Section 6001 of the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. No. 111-5, 123 Stat. 115, February 17, 2009) directed the National Telecommunications and Information Administration (NTIA) within the Department of Commerce (DOC), to establish a grant program to assist eligible entities to implement broadband initiatives that spur job creation, stimulate long-term economic growth and opportunity, narrow gaps in broadband deployment and adoption, and support public safety agencies.

BTOP funds are available through three categories of eligible projects: (1) Infrastructure; (2) Public Computer Centers; and (3) Sustainable Broadband Adoption. NTIA funded BTOP awards through two rounds of funding: (1) Round 1 Notice of Funds Availability (Round 1 NOFA), which opened on July 14, 2009 and closed August 14, 2009; (2) Round 2 Notice of Funds Availability (Round 2 NOFA), which opened February 16, 2010 and closed March 15, 2010. The Round 2 NOFA was extended, under a limited reopening from June 1, 2010 to July 1, 2010, to accept applications from public safety entities that received waivers from the Federal Communications Commission (FCC) to operate public safety broadband networks over the 700 MHz spectrum (700 MHz Reopening NOFA). NTIA awarded all three categories of projects during both funding rounds. Eligible entities for BTOP funds include: States, local governments, or any agency, subdivision, instrumentality, or political subdivision thereof; the District of Columbia; U.S territories and possessions; Indian tribes (as defined in Section 4 of the Indian Self-Determination and Education Assistance Act (25 USC 450(b))); native Hawaiian organizations; non-profit organizations; for-profit organizations; limited liability companies; and cooperative or mutual organizations.

The Infrastructure category includes two types of grants: (1) Broadband Infrastructure (BI), established under the Round 1 Notice of Funds Availability (Round 1 NOFA); and (2) Comprehensive Community Infrastructure (CCI) category, established under the Round 2 NOFA. The Infrastructure category funds projects that deploy new or improved broadband Internet facilities (e.g., laying new fiber-optic cables or upgrading wireless towers) and connect “community anchor institutions,” such as schools, libraries, hospitals, and public safety facilities. These networks help ensure sustainable community growth and provide the foundation for enhanced household and business broadband Internet services. In addition, the Infrastructure

700 MHz Reopening NOFA funds projects that deploy 700 MHz interoperable public safety broadband networks and expand broadband capacity for 700 MHz public safety broadband networks.

The Public Computer Centers (PCC) category funds projects from both the Round 1 NOFA and the Round 2 NOFA that provide broadband access to the general public or a specific vulnerable population, such as low-income, unemployed, aged, children, minorities, and people with disabilities. PCC projects create, upgrade, or expand public computer centers, including those at community colleges that meet a specific public need for broadband service, including, but not limited to, education, employment, economic development, and enhanced service for health-care delivery, children, and vulnerable populations.

The Sustainable Broadband Adoption (SBA) category funds innovative projects that promote broadband demand, including projects focused on providing broadband education, awareness, training, access, equipment, or support, particularly among vulnerable population groups where broadband technology has traditionally been underutilized.

Recipients may be subject to different rules depending upon whether they received Round 1 or Round 2 awards.

Source of Governing Requirements

This program is authorized by Section 6001 of ARRA. The program and its compliance requirements are described in the Round 1 NOFA, 74 FR 33104 (July 9, 2009); the Round 2 NOFA, 75 FR 3792 (January 22, 2010); and the 700 MHz Reopening NOFA, 75 FR 27984 (May 19, 2010).

Availability of Other Program Information

NTIA has published a program-specific audit guide to assist auditors with for-profit audits of the BTOP program. The BTOP Program-Specific Audit Guide is available at <http://www2.ntia.doc.gov/compliance>.

The Round 1 NOFA is available on the Internet at http://www.ntia.doc.gov/frnotices/2009/FR_BBNOFA_090709.pdf.

The Round 2 NOFA is available on the Internet at http://www.ntia.doc.gov/frnotices/2010/FR_BTOPNOFA_100115.pdf.

The 700 MHz Reopening NOFA is available on the Internet at http://www.ntia.doc.gov/frnotices/2010/FR_BTOPApplicationReopening_05132010.pdf

DOC Pre-Award Notification Requirements for Grants and Cooperative Agreements, 66 FR 49917 (Feb. 11, 2008) (DOC Pre-Award Notification) are available at http://oam.eas.commerce.gov/docs/Grants/Preaward_FRN2008.pdf

Recipient Guidance, including fact sheets with specific guidance (e.g., Davis-Bacon, Federal interest) is available at: http://www2.ntia.doc.gov/files/BTOP_Recipient_Handbook.pdf.

DOC Financial Assistance Standard Terms & Conditions (DOC Standard Terms)

<http://oam.eas.commerce.gov/docs/GRANTS/DOC%20STCsMAR08Rev.pdf>

DOC ARRA Award Terms

<http://oam.eas.commerce.gov/docs/ARRA%20DOC%20Award%20Terms%20Final%205-20-09PDF.doc.pdf>

Other program information is available on the Internet at <http://www2.ntia.doc.gov/>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Activities Allowed – Infrastructure Projects*

- a. Constructing or improving facilities required to provide broadband services; and either:

- (1) For Round 1 Recipients:

- (a) Leasing facilities required to provide broadband services, if such lease qualifies as a capital lease, under generally accepted accounting principles (GAAP), for no more than the first 5 years after the date of the first advance of project funds (ARRA, Section 6001(g); Round 1 NOFA, Section V.D.2.a); and
- (b) Indirect costs associated with the construction, deployment or installation of facilities and equipment used to provide broadband service provided they are included as a line item in the recipient's budget (ARRA, Section 6001(g); Round 1 NOFA, Section V.D.2.a); or

- (2) For Round 2 Recipients:

- (a) Long-term leasing (for terms greater than one year) of facilities required to provide broadband services, including indefeasible right-of-use (IRU) agreements; and
- (b) Indirect costs associated with the construction, deployment, or installation of facilities and equipment used to provide

broadband service (ARRA, Section 6001(g); Round 2 NOFA, Section V.E.2.a).

- b. For 700 MHz Recipients, in addition to the Round 2 activities cited in Paragraph A.1.a.2 the following activities are allowed:
- (1) Acquiring broadband radio access network components, such as antennas, base station nodes, transceivers, amplifiers, and remote radio heads;
 - (2) Hardening of existing cell sites, such as installing backup power and enhancing security measures; and
 - (3) Leasing wireline or wireless network infrastructure to facilitate broadband connectivity for a 700 MHz public safety broadband network, including backhaul from cell sites and any associated installation charges paid to a vendor (ARRA, Section 6001(g); 700 MHz Reopening NOFA, Section I.C).

2. *Activities Allowed – PCC Projects*

- a. Acquiring broadband-related equipment, instrumentation, networking capability, hardware and software, and digital network technology for broadband services, including the purchasing of word processing software, computer peripherals such as mice and printers, and computer maintenance services and virus-protection software;
- b. Developing and providing training, education, support, and awareness programs or web-based resources, including compensation for qualified instructors, technicians, managers, and other employees essential for these types of programs;
- c. Facilitating access to broadband services, including, but not limited to, making public computer centers accessible to the disabled;
- d. Installing or upgrading broadband facilities on a one-time, capital improvement basis in order to increase broadband capacity;
- e. Constructing, acquiring, or leasing a new facility, provided that the recipient explains why it is necessary to construct, acquire, or lease a new facility to facilitate public access to broadband services or expand computer center capacity; and
- f. Indirect costs associated with eligible project activities (ARRA, Section 6001(g); Round 1 NOFA, Section V.D.3.b; Round 2 NOFA, Section V.E.3.a).

3. *Activities Allowed – SBA Projects*

- a. Acquiring broadband-related equipment, instrumentation, networking capability, hardware and software, and digital network technology for broadband services;
- b. Developing and providing training, education, support, and awareness programs, as well as web-based content that is incidental to the program's purposes, including reasonable compensation for qualified instructors for these types of programs;
- c. Conducting broadband-related public education, outreach, support, and awareness campaigns;
- d. Implementing programs to facilitate greater access to broadband service, devices, and equipment; and
- e. Indirect costs associated with eligible project activities (ARRA, Section 6001(g); Round 1 NOFA, Section V.D.3.c; Round 2 NOFA, Section V.E.4.a)

4. *Activities Allowed – All BTOP Projects*

In addition to the activities cited in paragraphs A.1, A.2, and A.3, the following activities are allowed for all Round 1 and Round 2 recipients:

- a. Undertaking such other projects and activities the Assistant Secretary finds to be consistent with the purposes for which BTOP is established; and
- b. Pre-application expenses, which include expenses related to preparing an application, in an amount not to exceed five percent of the award, if the expenses are incurred after the publication date of the NOFA, which was July 9, 2009 for Round 1 recipients, January 22, 2010 for Round 2 recipients, and May 13, 2010 for Round 2 700 MHz recipients; and for Round 1 recipients prior to the date on which the application was submitted or for Round 2 recipients prior to the date of issuance of the grant award from NTIA. Lobbying costs and contingency fees are not reimbursable (ARRA, Section 6001(g); Round 1 NOFA, Section V.D.2.a; Round 2 NOFA, Sections V.E.2.a, V.E.3.a, and V.E.4.a).

5. *Activities Unallowed – Infrastructure Projects*

- a. For Round 1 Recipients, broadband facilities leased under the terms of an operating lease.

- b. For Round 1 and Round 2 Recipients:
- (1) Operating expenses of the project, including fixed and recurring costs;
 - (2) Costs incurred prior to the date on which the application was submitted with the exception of eligible pre-application expenses (See 4.b. above, which limits eligible pre-applications expenses for Round 1 to those eligible expenses before the application is submitted, but for Round 2 includes the period up to the date of award issuance);
 - (3) Acquisition of an affiliate, including the acquisition of the stock of an affiliate;
 - (4) Purchasing or leasing any vehicle other than those used primarily in construction or system improvements;
 - (5) Merger or consolidation of entities; or
 - (6) Acquiring spectrum as part of an FCC auction or in a secondary market acquisition (Round 1 NOFA, Section V.D.2.b; Round 2 NOFA, Section V.E.2.b).

6. *Activities Unallowed – SBA Projects*

For Round 1 and Round 2 Recipients, constructing or leasing broadband facilities and infrastructure (Round 1 NOFA, Section V.D.3.d; Round 2 NOFA, Section V.E.4.b).

D. Davis-Bacon Act

Contractors and subcontractors are required to pay prevailing wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor to laborers and mechanics in compliance with the Davis-Bacon Act. Recipients must review the weekly certified payroll documentation they receive from their subrecipients, contractors, and subcontractors on an ongoing basis. Recipients must maintain, in their files, the original Davis-Bacon Act payroll records they prepare for themselves, as well as those prepared by subrecipients, contractors, and subcontractors. (40 USC 3141 *et seq.*; **ARRA Section 1606**; Round 1 NOFA, Section X.G; Round 2 NOFA, Section X.G; 29 CFR sections 3.3 and 3.4).

F. Equipment and Real Property Management

Under the terms and conditions that govern BTOP grant awards, recipients and subrecipients of awards for construction, including Round 1 and Round 2 Infrastructure awards and PCC awards involving construction, must execute and record appropriate documentation of NTIA's undivided equitable reversionary interest (the "Federal

Interest”) in all real or personal property, whether tangible or intangible, that it acquires or improves, in whole or in part, with Federal funds (“BTOP Property”). Recipients of SBA and PCC awards without construction are not required to do so, although the Federal Interest nevertheless applies to the BTOP Property under these programs.

The recipient shall execute a security interest or other statement of NTIA’s interest in real property including broadband facilities and equipment acquired or improved with Federal funds acceptable to NTIA, which must be perfected and placed on record in accordance with local law. Documentation of the Federal Interest is to be perfected and recorded/filed in accordance with state and/or local law concurrent with or as soon as possible following any purchase, lease or other acquisition of BTOP Property and, unless otherwise approved in writing by the Grants Officer, not later than the date on which the BTOP financial assistance award is officially closed-out

During the pendency of the Federal Interest, the recipient or subrecipient shall not:

- (1) sell, lease, transfer, assign, convey, hypothecate, mortgage, or otherwise convey any interest in the BTOP Property without the prior written approval of the Grants Officer; or
- (2) use the BTOP Property for purposes other than the purposes for which the award was made without the prior written approval of the Grants Officer.

Although, recipients may not sell or lease any portion of the award-funded broadband facilities or equipment during their useful life, except as otherwise approved by NTIA (*e.g.*, fiber, tower, antennae, switches), NTIA may grant a waiver of this requirement. However, Round 1 recipients may not receive a waiver on any sale or lease until after the tenth year from the date of issuance of the grant unless NTIA were to waive this 10-year prohibition. NTIA’s useful life schedule is available at http://www2.ntia.doc.gov/files/fact_sheet_useful_life_schedule_082510_v1.pdf. Nothing in this section is meant to limit Infrastructure recipients from leasing facilities to another service provider for the provision of broadband services, nor is this restriction meant to restrict a transfer of control of the recipient (Round 1 NOFA, Sections V.E. and IX.C.2; Round 2 NOFA, Sections V.F.d and IX.C.2).

G. Matching, Level of Effort, Earmarking

1. Matching

Recipients must provide, from non-Federal sources, not less than 20 percent of the total allowable project cost, unless the Assistant Secretary grants a waiver allowing a lesser percentage. Recipients’ award documents and approved budget contain the specific percentage of non-Federal matching funds that they must provide to the project. The non-Federal share, whether cash or in-kind, is expected to be paid out at the same general rate as the Federal share, unless an exception is provided in the award document (ARRA, Section 6001(f); Round 1 NOFA, Section V.C.4.b; Round 2 NOFA, Section V.C.1; Round 2 NOFA, Section V.C.1).

2. Level of Effort – Not Applicable

3. Earmarking – Not Applicable

H. Period of Availability of Federal Funds

Recipients must substantially complete their projects no later than 2 years, and projects must be fully completed no later than 3 years, following the date of the issuance of the award (Round 1 NOFA, Sections IV.B.6 and V.C1.b; Round 2, NOFA, Section IV.F.).

J. Program Income

Recipients' projects that generate program income during the grant period shall spend such income as follows:

For Round 1, recipients must add program income to the award to further eligible project objectives, including reinvestment in project facilities.

For Round 2, recipients must spend their program income in one of the following ways: (1) add program income to the total project to conduct additional activities that will further eligible project objectives, including (a) reinvestment in project facilities, (b) funding BTOP compliance costs, and (c) paying operating expenses of the PCC or SBA project; or (2) use program income to finance the non-Federal share of the project (Round 1 NOFA, Section V.E; Round 2 NOFA, Section V.F).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* – Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* – Applicable (if required by special award condition)
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Applicable (if specified by DOC)
- d. SF-272, *Federal Cash Transactions Report* – Not Applicable
- e. SF-425, *Federal Financial Report*) – Applicable

2. Performance Reporting

- a. Infrastructure Projects must report on the following:
 - (1) *Infrastructure Quarterly Performance Report (OMB No. 0660-0037)* – All Infrastructure recipients are required to complete a quarterly performance report for each quarter after the first quarter after award issuance. These reports are due 30 days after the end

of the calendar quarter and include project indicators and budget execution details.

Key Line Items – The following line items contain critical information:

4. Network Build Process:
 - i. Indicator – *New Network Miles Deployed*
 - ii. Indicator – *New Network Miles Leased*
 - iii. Indicator – *Existing Network Miles Upgraded*
 - iv. Indicator – *Existing Network Miles Leased*
 - v. Indicator – *Number of New Towers*

 6. Subscriber Data:
 - i. Subscriber Type – *Community Anchor Institution*
(a) *Total Subscribers Served (Middle Mile Projects)*
 - ii. Subscriber Type – *Residential/Household*
(a) *Total Subscribers Served (Last mile)*
 - iii. Subscriber Type – *Business*
(a) *Total Subscribers Served (Last Mile)*
- (2) *Infrastructure Annual Performance Report (OMB No. 0660-0037)*
All Infrastructure recipients are required to complete an annual performance report within 30 days of the end of every calendar year.

Key Line Items – The following line items contain critical information:

1. Average Cost:
 - i. Cost Indicator – *Average Cost Per New Mile*
- b. PCC Projects must report on the following:
- (1) *PCC Quarterly Performance Report (OMB No. 0660-0037)* – All Public Computer Center recipients are required to complete a quarterly performance report. These reports are due 30 days after the end of the calendar quarter and include project indicators and budget execution details.

Key Line Items – The following line items contain critical information:

4. Key Indicators
 - i. Indicator – *New workstations installed and available to the public*
- (2) *PCC Annual Performance Report (OMB No. 0660-0037)* – All Public Computer Center recipients are required to complete an annual performance report within 30 days of the end of every calendar year.

Key Line Items – The following line items contain critical information:

3. Project Indicators:
 - i. Indicator – *Number of PCCs Established*
 - ii. Indicator – *Number of PCCs Improved*
- c. SBA Projects must report on the following:
 - (1) *SBA Quarterly Performance Report (OMB No. 0660-0037)* – All SBA recipients are required to complete a quarterly performance report. These reports are due 30 days after the end of the calendar quarter and include project indicators and budget execution details.

Key Line Items – The following line items contain critical information:

4. Project Indicator:
 - i. Indicator – *New Subscribers: Households, Businesses and Community Anchor Institutions*
- (2) *SBA Annual Performance Report (OMB No. 0660-0037)* – All SBA recipients are required to complete an annual performance report within 30 days of the end of every calendar year.

Key Line Items – The following line items contain critical information:

3. Training Provided:
 - i. Indicator – *Total Number of Participants Completing Training*
- 3. Special Reporting** – Not Applicable
- 4. Section 1512 ARRA Reporting** – Applicable

5. Subaward Reporting under the Transparency Act – Not Applicable

N. Special Tests and Provisions

1. Nondiscrimination and Interconnection Obligations

Compliance Requirements – Recipients of Infrastructure projects must commit to nondiscrimination and interconnection obligations that include: (1) adherence to principles contained in the FCC’s Internet Policy Statement (FCC 05-151, adopted August 5, 2005), which can be found at http://fjallfoss.fcc.gov/edocs_public/attachmatch/FCC-05-151A1.pdf, or any subsequent ruling or statement; (2) not favoring any lawful Internet application or content over others; (3) displaying any network management policies in a prominent location on the service provider's web page and providing notice to customers of changes to these policies; (4) connecting to the public Internet directly or indirectly, such that the project is not an entirely private, closed network; and (5) offering interconnection, where technically feasible, without exceeding current or reasonably anticipated capacity limitations, at reasonable rates and terms to be negotiated with requesting parties.

These conditions apply for the useful life of the recipient’s facilities used in the project and not to any existing network arrangements at the time of the award. The useful life schedule is available at http://www2.ntia.doc.gov/files/fact_sheet_useful_life_schedule_082510_v1.pdf. For Round 1 recipients, the conditions apply to any contractors or subcontractors of recipients and subrecipients that operate the network facilities for the infrastructure project. (Round 1 NOFA, Section V.C.2.c; Round 2 NOFA, Section V.D.3.b).

Audit Objective – Determine whether the recipient is adhering to nondiscrimination and interconnection obligations.

Suggested Audit Procedure

- a. Verify that the recipient has, in effect, written interconnection, nondiscrimination, and network management policies (submitted to NTIA at the time of application).
- b. Verify that the recipient displays its network management policies in a prominent location on its primary website and has provided notice to customers of changes to these policies. For this purpose, prominent means that a link to these policies and notices must be available within one-click from the main page.
- c. For Round 1 recipients, determine whether the recipient has included nondiscrimination and interconnection requirements in any of its subaward or service contracts to deploy or operate the network facilities under the BTOP award.

- d. Verify that the recipient has a written outreach policy that advertises availability and ensures provision of a public Internet connection, rather than just a connection to its own services, using media of general distribution. This policy must contain reasonable advertisement and monitoring of, as well as timely response to, enforcement actions associated with complaints received by recipient regarding its rates. To the extent that a recipient's interconnection rates are incorporated into its BTOP award, it should not charge rates higher than those rates.
- e. Verify that the recipient maintains a publicly available list of all Points of Interconnection associated with its BTOP network, including latitude/longitude, nearest street address, and elevation (if relevant).
- f. Verify that the recipient maintains a standardized method for parties to make inquiries and request service. Verify that the recipient responds to all such requests in a reasonable period of time (typically not more than 10 business days).

2. Duplicate Federal Funding for Broadband Projects

Compliance Requirements – A BTOP recipient must not duplicate activities that would result in unjust enrichment as a result of support for non-recurring costs through another Federal program for service in the area or duplicate funds that the recipient received under Federal Universal Service support programs administered by the Universal Service Administration Company ("FCC USF Programs"), grant or loan programs administered by RUS, or any other federal program (ARRA Section 6001(h)(2)(D); Round 2 NOFA Section IX.C.5.e).

Audit Objective – Determine whether the recipient is receiving support from FCC USF Programs that duplicate BTOP award funds expended for recipient's BTOP funded project.

Suggested Audit Procedures

- a. Verify that an SBA or PCC recipient does not receive BTOP funds to pay for any discounted portion of telecommunications services or internet connections for which it receives support from FCC USF Programs.
- b. Verify that an Infrastructure or a PCC recipient does not contribute, as part of its match, internal connections or other equipment-related non-recurring costs that were funded by FCC USF Programs.

DEPARTMENT OF COMMERCE

CFDA 11.558 STATE BROADBAND DATA AND DEVELOPMENT GRANT PROGRAM

I. PROGRAM OBJECTIVES

The State Broadband Data and Development Grant (SBDD) Program is intended to collect, verify, display and update State-level broadband availability information, and to fund Initiatives that coalesce and support increased availability and adoption activities at tribal, State, regional, and local levels.

II. PROGRAM PROCEDURES

Section 6001(l) of the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. No. 111-5, 123 Stat. 115, February 17, 2009) authorizes the National Telecommunications and Information Administration (NTIA), within the Department of Commerce, to expend up to \$350 million pursuant to the Broadband Data Services Improvement Act (BDIA)

(47 USC 1301 *et seq.*) to (1) develop and maintain a comprehensive, interactive, and searchable nationwide inventory map of existing broadband service capability and availability in the United States that depicts the geographic extent to which broadband service capability is deployed and available throughout each State and (2) fund State-led initiatives for planning and other activities that support the increased availability and adoption of broadband services. Section 106 of the BDIA directed the Secretary of Commerce to establish the SBDD Program and to award grants to eligible entities to develop and implement initiatives to collect broadband availability information and to implement programs to improve broadband services and adoption within the State.

Under the SBDD program, which implements both the BDIA and ARRA provisions, each of the 50 States, the District of Columbia, and the U.S. Territories of Guam, Puerto Rico, Virgin Islands, American Samoa, and the Northern Mariana Islands (States) may designate one eligible entity from that State to apply for funding. The designated entity may be (1) an agency or instrumentality of the State, a municipality or other subdivision (or agency or instrumentality of a municipality or other subdivision) of a State; (2) a nonprofit organization (pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986); or (3) an independent agency or commission in which an office of a State is a member on behalf of the State.

In addition to collecting and verifying data, as required by NTIA, recipients must agree to make the data publicly accessible, clearly presented, and easily understood by the public, governmental entities, and the research community. Recipients also agree to cooperate with NTIA and the Federal Communications Commission's (FCC) national broadband mapping efforts and to submit all of their collected data to NTIA for use by NTIA in developing and maintaining the national broadband map.

Applications that meet the broadband mapping purposes will also be considered for funding to assist with projects that relate to broadband planning and other uses enumerated in BDIA, such

as identifying barriers to the adoption of broadband, the creation of local technology planning teams, and the establishment of computer ownership and Internet access programs.

Source of Governing Requirements

This program is authorized by ARRA and the BDIA. The program and its compliance requirements are described in the Notice of Funding Availability (NOFA) (74 FR 24545, July 8, 2009).

Availability of Other Program Information

The NOFA is available on the Internet at http://www.ntia.doc.gov/frnotices/2009/FR_BroadbandMappingNOFA_090708.pdf. Other program information is available on the Internet at <http://www.ntia.doc.gov/sbdd>

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Activities Allowed – Data Activities*
 - a. Collecting and verifying broadband-related data within the State, including, but not limited to, data at the address-level or higher on broadband availability, technology, speed, price, infrastructure, Average Revenue Per User (ARPU), and, in the case of wireless broadband, the spectrum used, across the State; and adoption data related to community anchor institutions;
 - b. Developing, maintaining, and updating a State-wide broadband map or other display mechanism; and
 - c. Presenting and updating collected broadband-related data to NTIA for national broadband map (NOFA, Section II. B.).
2. *Activities Allowed – Broadband Planning and Other Activities*
 - a. Assessing and tracking broadband service deployment in the State;
 - b. Collaborating with State-level agencies, local authorities and other constituencies to identify and address broadband challenges in the State;
 - c. Creating and facilitating a local technology planning team in each county or designated region in a State;

- d. Developing a tactical business plan for achieving stated project goals, with specific recommendations for online application development and demand creation;
 - e. Collaborating with broadband service providers and information technology companies to encourage deployment and use, through the use of local demand aggregation, mapping analysis, and the creation of market intelligence to improve the business case for providers;
 - f. Establishing programs to improve computer ownership and Internet access for unserved areas and areas in which broadband penetration is significantly below the national average;
 - g. Collecting and analyzing detailed market data concerning the use and demand for broadband service and related information technology services; and
 - h. Facilitating information exchange regarding the use and demand for broadband services between public and private sectors (47 USC 1304(e); NOFA, Section II. B).
3. *Activities Unallowed*

Award funds may not be used for any construction purposes (NOFA, Section V.E.1).

G. Matching, Level of Effort, Earmarking

1. Matching

Awardees must provide a non-federal contribution of at least 20 percent toward the total allowable project cost. Cash and in-kind contributions may both count toward satisfying the non-federal matching requirement. In-kind contributions may include the ascertainable fair market value of data previously collected and related to the BDIA-eligible uses under this program. Applicants must provide a basis for estimating fair market value of the previously collected data. In addition, certain pre-award costs, as specified in the notice of award, may be credited towards the matching requirement (47 USC 1304(c)(2); NOFA, Section V.A).

The requirement for local matching funds under \$200,000 is waived for the Territorial governments in Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands (48 USC 1469a).

2. **Level of Effort** – Not Applicable
3. **Earmarking** – Not Applicable

H. Period of Availability of Federal Funds

The period of availability for funds allocated to broadband mapping purposes will be five years from the date of award. The period for broadband planning and other purposes also will be up to 5 years from the date of award.

L. Reporting**1. Financial Reporting**

- a. SF-269, *Financial Status Report* – Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* – Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* – Not Applicable
- d. SF-272, *Federal Cash Transactions Report* – Not Applicable
- e. SF-425, *Federal Financial Report* – Applicable

2. Performance Reporting – Not Applicable**3. Special Reporting** – Not Applicable**4. Section 1512 ARRA Reporting** – Applicable**5. Subaward Reporting under the Transparency Act** – Not Applicable