Testimony of

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ARRA Broadband Spending

Chairman Walden, Vice Chair Terry, and Members of the Subcommittee:

We appreciate the opportunity to testify today about the current status of the Broadband

Technology Opportunities Program (BTOP) and the Office of Inspector General's (OIG's)

oversight efforts on this important program.

Status of the Broadband Technology Opportunities Program (BTOP)

On February 17, 2009, the President signed the American Recovery and Reinvestment Act of 2009 (Recovery Act) into law,[1] which provided the National Telecommunications and Information Administration (NTIA) approximately $4.7[2] billion to establish BTOP. This competitive grant program provided funds for deploying broadband infrastructure in unserved and underserved areas of the United States, enhancing broadband capacity at public computer centers, improving access to broadband services for public safety agencies, and promoting sustainable broadband adoption projects.

Our testimony this morning, almost two years after the passage of the Recovery Act, will focus on the progress and status of the program, particularly NTIA's efforts to advise and monitor its grants recipients—which necessitate that NTIA take a lead role in monitoring recipients' program compliance and timeliness, as well as detect suspected fraudulent activity—and OIG's role in overseeing NTIA's program administration. This morning's testimony is based on our ongoing BTOP oversight efforts, including compliance and fraud training that we have provided—all of which we detail in the Appendixes.

With this newly established program, NTIA confronted numerous challenges to implementing BTOP. These included:

- Staffing a new program office from scratch, conducting program outreach on the program's objectives, and developing grant rules and processes.

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[1] Pub. L. No. 111-5, § 6001 (2009).
[2] Congress later rescinded $302 million from BTOP funding, per Pub. L. No.111-226, § 302, 124 Stat. 2404 (2010), in part to offset the funding of the $10 billion Education Jobs Fund.

- Conducting two rounds of reviewing more than 2,800 grant applications, performing due diligence on submitted applications, and making awards—in making awards, NTIA focused on areas defined as unserved or underserved with respect to broadband coverage, took into consideration recommendations from states' governor offices, and awarded at least one grant in each state.

- Enlisting assistance from other agencies—which included establishing agreements with the National Technical Information Service to provide information technology support for processing applications; the National Oceanic and Atmospheric Administration and National Institute of Standards and Technology to provide grants management; the Department of Interior to procure program support for project implementation; and the Federal Communications Commission to provide technical assistance to develop a broadband map.

- Contracting with a vendor for program support—by entering into a $99 million contract with Booz Allen Hamilton to provide program administration, application review, communications and outreach, grants administration, post-award technical assistance, and management support; about $21 million remains on the contract to help monitor awards and provide IT support.

- Awarding $4.2 billion in grants—all beginning in February 2009 and culminating in the last grant award in September 2010. NTIA awarded 232 BTOP grants worth approximately $3.9 billion; as required by BTOP, recipients agreed to match federal funds with $1.4 billion, resulting in a total broadband investment of $5.3 billion; also,

NTIA awarded 56 state mapping awards[3] worth approximately $300 million, with recipients providing $76 million in matching funds.

The BTOP awards were made in three major areas: program infrastructure, which included some awards targeting public safety; public computer centers; and sustainable broadband adoption.

- *Program infrastructure awards* represent broadband projects that will provide new or improved broadband services (e.g., laying new fiber optic cables or upgrading wireless towers), utilizing the latest broadband access technology, to consumers in underserved or unserved areas in the country. This infrastructure will connect anchor institutions (e.g., schools, libraries, and medical facilities) with internet connectivity. Among these projects, NTIA awarded 7 grants totaling approximately $382 million for projects to deploy interoperable public safety networks.

- *Public computer center awards* will establish new public computer facilities or upgrade existing ones to provide broadband access to the general public or specific populations, such as low-income individuals, the unemployed, seniors, children, minorities, and people with disabilities.

- *Sustainable broadband adoption awards* fund projects focused on increasing broadband Internet usage and adoption, including among specific populations where broadband technology traditionally has been underutilized. Many projects include digital literacy training and outreach campaigns.

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[3] Since the program's inception, NTIA has awarded a total of $293 million to 56 grantees, one each from the 50 states, 5 territories, and the District of Columbia, or their designees. Grantees will use this funding to support the efficient and creative use of broadband technology to better compete in the digital economy (Broadband USA, "State Broadband Data & Development Program," NTIA website; see http://www2.ntia.doc.gov/SBDD).

BTOP represents the largest and most complex grant program NTIA has ever overseen. The grant awards went to a diverse group of recipients, and conditions surrounding the awards themselves vary widely. Recipients included public entities, nonprofit organizations, tribal entities, and for-profit companies. BTOP represents the first grant program where NTIA has awarded funds to for-profit companies, which represent approximately 20 percent of BTOP awards. The experience levels of the award recipients vary widely: some have extensive federal grant experience while others are first-time federal award recipients. (Table 1 provides an overview of the BTOP awards.)

Table1. BTOP Grant Award Composition

AWARD TYPE			RECIPIENT	
	#	**$**		
Infrastructure	116	$3.1 bil	Government	89
Public Safety 700 Mhz Infrastructure	7	$382 mil	Nonprofit	58
Public Computer Center	65	$200 mil	For Profit	55
Sustainable Broadband Adoption	44	$251 mil	Higher Education	25
	232	**$3.9 bil**	Tribe	5
				232

DOLLAR AMOUNT		OTHER INFO		
>$100 Million	5	Largest Award[1]	$	154,640,000
$25 Million-$100 Million	46	Smallest Award[2]	$	176,400
$10 Million-$25 Million	42			
<$10 Million	139			
	232			

[1] The **largest** BTOP grant is a $154,640,000 award to Los Angeles Regional Interoperable Communications System Authority (LA-RICS) to deploy a 700 MHz public safety mobile broadband network across all of Los Angeles County.

[2] The **smallest** BTOP grant is a $176,400 award to the Santa Fe (New Mexico) Civic Housing Authority offering broadband access and computer training to low-income families, minorities, and disadvantaged youth as well as disabled and elderly Santa Fe residents.
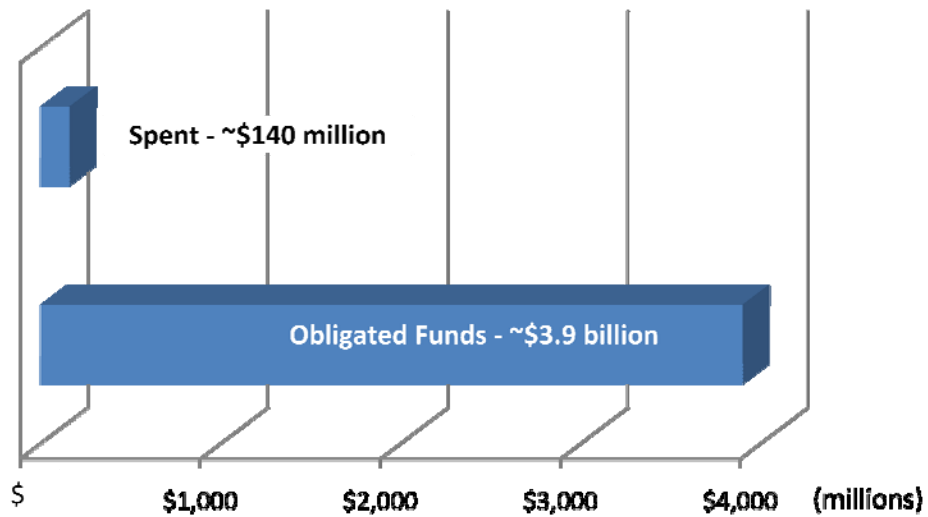
Source: OIG, derived from operating unit data

As a result of the unique and diversified nature of this grants program, NTIA staff will need to

- track the recipients' compliance with grant terms and conditions;

- review quarterly reports on program expenses (financial reports), quarterly Recovery Act reports (including identification of subrecipients and contracts and the number and types of jobs created), and project performance information (such as number of new network miles deployed and number of new public computer centers, found in BTOP program performance reports);

- evaluate how well recipients monitor any award subrecipients; and, most importantly,

- ensure that recipients remain on track to deliver the broadband capabilities to which they have committed.

NTIA also must closely observe how its awardees manage the often complex process of drawing down federal funds. As of December 31, 2010, $3.9 billion had been awarded in BTOP grants between December 2009 and September 30, 2010 (the required end date of awarding BTOP funds). However, only 4 percent of obligated funds had been disbursed. (Figure 1 contrasts spent funds and obligated funds.)

Figure 1. Spent Funds vs Obligated Funds

Source: OIG, derived from operating unit data

The potential for fraud, waste, and abuse will increase substantially over the next 5 years as spending by BTOP grant recipients rises. The uncertainty regarding NTIA oversight funding for FY 2011 and beyond raises significant concerns for the Department about the adequacy of future BTOP oversight.

OIG Oversight to Date

Of the Recovery Act programs managed by the Department's operating units, NTIA's BTOP presents the largest risk. As such, the OIG initiated proactive oversight of BTOP immediately after the passage of the law, including:

- providing guidance to NTIA on the importance of establishing appropriate internal controls;

- participating in pre-award workshops briefing potential applicants about compliance requirements and the Recovery Act's accountability and transparency goals;

- leading post-award workshops briefing recipients on the need for compliance with terms of the award and on fraud prevention; and

- training sessions to BTOP staff and recipients on specific topics such as concerns associated with first-time recipients and subrecipient reporting.

(See Appendix A for a chart enumerating OIG's outreach efforts, for both NTIA-specific training and programs Recovery Act-wide.)

One important way agencies monitor grant recipients is ensuring the recipients comply with the Single Audit Act,[4] which requires certified public accountants to complete an independent audit of recipients' financial statements and review internal controls and compliance with federal award requirements. To improve on this existing process, OIG has helped NTIA develop a compliance supplement and a for-profit audit guide (as for-profit recipient awards are not covered by the Single Audit Act).

We have supplemented our training and outreach with programmatic reviews of BTOP operations. In FYs 2009 and 2010, our work focused on pre- and post-award processes for BTOP. We audited NTIA's implementation of the pre-award review to ensure an effective and fair application and award process. We followed this with an audit of the post-awards operations and processes to assess whether NTIA has appropriate plans in place to monitor BTOP award recipients. As part of our comprehensive Recovery Act oversight efforts we reviewed cross-

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[4] The Single Audit Act Amendments of 1996 established uniform audit requirements for state, local, and tribal governments and nonprofit organizations receiving federal financial assistance.

cutting issues that affect all Department operating units receiving Recovery Act funds. (See

Appendix B for a detailed overview of our FY 2009–2010 BTOP oversight).

NTIA Monitoring of BTOP Awards

According to NTIA, it plans to take a comprehensive award oversight approach for program

monitoring and assessment of its operations. Its monitoring plan involves activities such as desk

reviews, site visits, program report reviews, and drawdown reviews. (See Table 3 for more

detailed BTOP monitoring plans.)

Table 3. NTIA Plans for Monitoring BTOP

NTIA Monitoring Function	Primary Activities
Program Support Provided by the NTIA program office and BTOP senior leadership to assist both the program and recipients address policy, legal, organizational, financial, and technical hurdles that arise during the program	• Technical assistance—to respond to project-specific questions and develop fact sheets and other guidance for posting on NTIA's website • Investigation—of program issues • Policy and guidance— for best practices (e.g., recipients' manual) • Inquiry management—to address questions from nonrecipients • Other—to encourage interagency support and communications
Individual Grant Monitoring Provided by NTIA program office, their support staff, and the grants office to provide regular oversight of the project and grant recipient	• Desk reviews—to monitor activities and reports, as well as recipient progress, compliance with federal requirements, and recipient-reported outcomes • Site visits—by program and grants office staff, to evaluate the current project status and recipient ability to meet goals • Drawdown of funds—to ensure recipients are drawing down funds consistent with progress • Program report reviews—a shared responsibility of the program office and grants office, to review recipient reports (including Recovery Act reports, financial reports, and performance progress reports)
Portfolio Management Provided by NTIA program office and BTOP senior leadership to provide high-level evaluation of performance metrics, evaluate variances between project performance and baseline plan, and resolve issues affecting multiple projects	• Risk assessment—to review potential recipient risks of not achieving intended project objectives • Waste , fraud, and abuse prevention—effective internal controls to ensure funds are used for authorized purposes only • Issue escalation and resolution—to provide additional information (e.g., audit reports) for monitoring as well as any investigative actions • Analyze performance versus plan—to identify corrective actions

Source: OIG, derived from NTIA data

NTIA has completed initial desk reviews and assignment of risk levels for all BTOP awards; site visits will commence in March 2011. To establish monitoring levels for the recipients, NTIA looks at award drawdown amounts, whether the recipient has been placed on a reimbursement-only basis, and desk review findings/unresolved issues. Accordingly, recipients will receive monitoring levels of *standard*, *intermediate*, or *advanced* that establish the oversight level they are to receive. This risk-based approach is reasonable but NTIA, as it carries out oversight, must continually reassess the risks associated with each grantee. NTIA has identified tools to guide performance improvement, should performance issues arise. NTIA's monitoring plans are based on a projected funding level of approximately $20 million for FY 2011.[5]

Current and Future OIG Oversight

Our oversight will continue to monitor BTOP program goal achievement and promote compliance with statutory and programmatic requirements. However, what has been primarily a proactive approach—based on outreach and program-wide issues—will transition to a more strategic approach, including reviews of program-specific issues and reviews stemming from complaints and identified risks.

Using an inherent risk assessment approach, we created a work plan to ensure the overall goals of the Recovery Act are met. We will adapt our plan to circumstances as they arise. Our ongoing and most recent oversight activities reflect this approach: we are currently performing an audit of NTIA's effectiveness in monitoring BTOP awards. This review will include an evaluation of NTIA monitoring efforts of the 232 BTOP awards worth $3.9 billion, including the effectiveness

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[5] The Fourth Continuing Appropriations Act of 2011 (Public Law 111-322) signed by the President on December 22, 2010, provided funding to oversee the projects through March 4, 2011. Oversight was funded at $19.9 million for FY 2011.

of desk reviews and adequacy of site visits. In response to a complaint and request for investigation, we are performing a review of an infrastructure grant award to a San Francisco Bay area recipient.

Future OIG oversight activities will include the following:

- Assess NTIA's oversight of the Booz Allen Hamilton contract that supports BTOP implementation (and audit claims made under the contract);

- Identify high-risk projects to determine whether they are on schedule, stay within costs, and provide appropriate technologies to meet program objectives;

- Submit recipient information to the Recovery Operation Center[6] to screen recipients using risk models to determine where to focus our audit efforts;

- Perform award-specific reviews in response to credible complaints regarding significant issues;

- Review audit reports prepared by independent accountants to determine whether audit findings result in disallowed costs that should prompt return to the Department of Treasury;

- Conduct site visits to observe the performance of BTOP projects (and assess whether the technology implemented is fully operational and meets grant terms); and

- Review programmatic issues, such as recipient match, that will likely impact multiple awards.

Based on our experience with other Department grant programs, our primary concerns include recipient matching funds, especially the existence and availability of the match. BTOP recipients

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[6] The Recovery Operations Center was developed by the Recovery Accountability and Transparency Board to assist in the oversight efforts of Recovery Act funds. The center uses open source records such as GSA's Excluded Parties List System to identify risk factors associated with specific grants.

had a minimum requirement of a 20 percent match to the $3.9 billion awarded—and actually committed over $1.4 billion, or 26 percent, to the total project cost of $5.3 billion.

We are also concerned about the valuation of the matching funds. When the matching share takes the form of equipment (or services other than cash), it is important that the matching share contribution has been valued correctly. For example, equipment should be contributed to a federal award at the lower amount between cost and its fair market value. Equipment cannot include the profit margin normally associated with selling new equipment to the government.

BTOP Grants and Potential Fraud Schemes

OIG foresees the potential for BTOP program fraud within three identified risk categories: *false claims*, *product substitution/substandard product*, and *subcontracting*. We base these BTOP risk categories on our own knowledge and experience in dealing with fraud schemes involving other Department grant programs—in addition to discussions we initiated with the Department of Justice and other OIGs to share experiences and lessons learned from cases involving similar programs. The risk categories are:

1. **False claims.** An entity funded by a government grant often has access to a line of credit allowing for an advance drawdown of project funds. The entity then submits, retroactively, a quarterly report that provides only general information regarding the financial status of the grant and its accompanying line of credit, resulting in very little opportunity for the government to monitor specific claimed expenses. Typical grant fraud schemes involve the charging of expenses not related to grant activities or the charging nonexistent expenses, such as:

- labor for unrelated projects,

- disproportionate overhead,

- nonexistent match funds, or

- unauthorized consulting and legal fees.

2. **Product substitution/substandard products**. As BTOP focuses on infrastructure build-out, we might encounter fraud schemes similar to those commonly found in construction projects such as highways and buildings. Examples of such schemes can include:

   - supplied materials or equipment not meeting the specification requirements for a project;

   - materials supplied from foreign countries where "Made in the USA" is required;

   - cost-cutting design schemes such as burying cable at four feet when the project required six; or

   - departure from the specified construction plan, such as laying 300 miles of cable where 350 was proposed.

3. **Subcontracting.** We anticipate that only a small percentage of subcontractors under BTOP projects will have significant experience in federal contracting—and that there will be little in terms of performance history from which the government can draw when providing oversight of many businesses subcontracting under BTOP grants. We believe risk exists within the subcontracting arena for:

- anticompetitive practices such as price-fixing,

- conflicts of interest, and

- hidden related-party transactions (such as bribes, gratuities, or kickbacks).

In conclusion, Mr. Chairman, for FY 2011 and beyond, BTOP presents challenges to both NTIA and OIG. BTOP's mission is as ambitious as its implementation has proven complex. For the Department to continue effective oversight, OIG and NTIA will require Congress as a steadfast, supporting partner. This concludes my prepared statement, and I will be pleased to respond to any questions you or other Subcommittee members may have.

(OIG-11-019-T)

Appendix A:

OIG Compliance and Fraud Awareness Training Sessions for BTOP

Training	Description	Number of Events	Attendees Trained
Transparency and Accountability in Grants Management	Provided to NOAA and NIST grants management offices, this training outlined the major responsibilities for overseeing grants, provided indicators for high-risk recipients and considerations for monitoring them, performance measurement requirements, and single audit requirements.	3	91
Transparency and Accountability in Broadband Grants	Presented with NTIA program management as part of a workshop roll-out effort to potential applicants and grant recipients, this training provided an overview of the federal government audit requirements.	21	2,383
First-Time Recipient Issues and Subrecipient Monitoring	At the request of NTIA, OIG-provided workshops attended by both program staff and recipients covered specific subjects including first-time recipient issues and subrecipient monitoring.	3	214
Fraud Indicators	Presented with the Department of Justice, the training for NOAA and NIST grants management focused on identifying and avoiding procurement and grant fraud using scenarios or other activity indicators, criminal and civil fraud statutes, and Recovery Act hotline information and whistleblower requirements.	6	144
Fraud Prevention	Provided to BTOP grant recipients, this training offered an overview of fraud prevention techniques, examples of fraud scenarios, how to report suspected fraud, detailed guidance on appropriate grant activities, information on how to have open communications with agency representatives, and whistleblower requirements and how to communicate with the OIG.	2	549

Source: OIG

Appendix B:
Reports Issued by OIG in FY 2009–2010 Concerning BTOP

- In *NTIA Must Continue to Improve Its Program Management and Pre-Award Process for its Broadband Grants Program* (ARR-19842-1, April 8, 2010), we aimed to (1) assess how effectively NTIA was implementing BTOP, (2) evaluate the proposal pre-award review measures that NTIA took to ensure an effective and fair application and award process, and (3) evaluate the integrity and reliability of the online application system. We identified concerns with staffing levels to adequately handle applications and the post-award process; the inadequacy of documented procedures and key management decisions; problems encountered with the application intake system; and difficulties encountered with the first-round application process. We communicated our interim process for this review in a January 2010 letter outlining these concerns to the chairwoman and ranking member of the subcommittee on Commerce, Justice, Science, and Related Agencies, Committee on Appropriations, U.S. Senate.

- For *Broadband Program Faces Uncertain Funding, and NTIA Needs to Strengthen Its Post-Award Operations* (OIG-11-015-A, November 4, 2010), our objectives were to (1) assess NTIA's system capabilities for monitoring BTOP award recipients; (2) determine whether NTIA established post-award operations and processes for an effective execution of BTOP; and (3) evaluate whether NTIA is taking appropriate steps to implement a program office to perform the essential post-award oversight and monitoring of BTOP recipients, including post-September 30, 2010. We found uncertainty about future funding for monitoring of BTOP awards, which would hinder NTIA's long-term oversight of grants. The report also

identified program areas for strengthening internal controls, IT program expertise within

BTOP program offices, training, and monitoring of awards and agreements.

- In addition, OIG's comprehensive Recovery Act oversight produced several other reports touching on BTOP:

  o Our *NTIA Should Apply Lessons Learned from Public Safety Interoperable Communications Program to Ensure Sound Management and Timely Execution of $4.7 Billion Broadband Technology Opportunities Program* (ARR-19583, April 2009) translated our Public Safety Interoperable Communications (PSIC) program audit work into valuable lessons learned as BTOP emerged.

  o In *Commerce Has Implemented Operations to Promote Accurate Recipient Reporting, but Improvements Are Needed* (ARR−19847, November 2009), we examined whether bureau processes would adequately identify and remediate material omissions and significant data errors—and identified improvements the Department and its operating units should make to data quality policies and procedures.

  o *More Automated Processing by Commerce Bureaus Would Improve Recovery Act Reporting* (ARR−19779, December 2009) looked at the adequacy of key IT and operational controls to determine whether those controls ensure that the Commerce reports posted on Recovery.gov are complete, accurate, and reliable. Generally, the 11 Commerce systems we reviewed had adequate data input/edit controls, but we

found a lack of automation from the three bureau grant systems to CBS that could have potentially led to errors.

o   Finally, at the request of the Recovery Accountability and Transparency Board, we conducted a government-wide survey to determine whether offices awarding and administering Recovery Act-funded contracts and grants had the proper staffing, qualifications, and training (*Review of Contracts and Grants Workforce Staffing and Qualifications in Agencies Overseeing Recovery Act Funds*, March 2010)—and reported on the recommendations applicable to the Department of Commerce (*Review of Recovery Act Contracts and Grants Workforce Staffing and Qualifications at the Department of Commerce*; ARR-19900, September 2010).