American Recovery and Reinvestment Act of 2009

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)

The American Recovery and Reinvestment Act of 2009 authorized the National Telecommunications and Information Administration (NTIA) to implement the Broadband Technology Opportunities Program (BTOP)—a $4.7 billion one-time competitive matching grants program to expand broadband services to unserved and underserved areas, improve broadband access for public safety agencies, stimulate the economy and create jobs.

NTIA will implement the program alongside the Department of Agriculture's Rural Utilities Service—which received $2.5 billion for broadband loans, loan guarantees and grants under the Recovery Act—and in consultation with the Federal Communications Commission (FCC).

BTOP will make 2-year competitive grants to states, nonprofit organizations, and broadband service providers, and require a 20 percent matching investment from nonfederal funding sources. Funding for the program office expires September 30, 2010.

> **Breakdown of $4.7 Billion BTOP Funding**
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> $4.35 billion for competitive grants to acquire and deploy equipment, technology, and infrastructure that promotes access and educational/employment opportunities among low-income, unemployed, and otherwise vulnerable populations and improves public safety broadband communications services. Of this amount
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> - $250 million for innovative programs that encourage sustainable adoption of broadband services
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> - At least $200 million to upgrade technology and capacity at public computing centers, including community colleges and public libraries
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> - $10 million to the Office of Inspector General for program audits and oversight
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> Up to $350 million for developing and maintaining statewide broadband inventory maps to provide accurate representation of broadband availability.
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> *Source*: American Recovery and Reinvestment Act of 2009

NTIA is taking on this program midway through its administration of the Public Safety Interoperable Communications (PSIC) program—a $1 billion grants initiative established by the Digital Television Transition and Public Safety Act of 2005. PSIC's goal is to help public safety agencies establish interoperable emergency communications systems within a 3-year funding time frame. Like BTOP, the PSIC program required a 20 percent nonfederal match and federal funding expires on September 30, 2010.

The Office of Inspector General has statutory oversight responsibilities for each of these similarly structured programs. Our audit work on PSIC to date provides important lessons learned for the NTIA broadband opportunities program—particularly for seeking an extension of time for funding upfront, improving the evaluation of project proposals and spending plans, and

completing a programmatic environmental assessment expeditiously—to ensure BTOP funds are used effectively and grants meet program objectives.

A general concern we expressed when NTIA was charged with operating the PSIC program and again in our FY 2008 report on the top management challenges facing the Department[1] bears repeating here: grant programs of the size of the $4.7 billion broadband initiative and PSIC are enormous undertakings for NTIA. The agency's prior experience administering grants has been with two small programs—the Public Telecommunications Facilities Program, whose FY 2008 funding availability was just $16.8 million, and the discontinued Technology Opportunities Program, which issued a total of $233 million in grants during its 10-year span (1994-2004).

PSIC Awards Process Produced Strong Grant Projects but Inadvertently Shortened Project Time Frames

PSIC Grantees Appear Unlikely to Finish Projects within the Short Funding Time Frame

The overarching finding of our review of PSIC implementation[2] was that the awards process—while incorporating some best practices that produced strong grant applications fully aligned with the program's objectives—effectively reduced the time frame for completing projects. As a result, a number of grantees appear unlikely to finish their projects within the mandated deadline. We therefore recommended that NTIA (1) promptly identify those at high risk of missing the completion deadline, provide technical assistance, and carefully monitor their progress; and (2) keep Congress informed of the PSIC program's status towards achieving its objectives. If necessary, NTIA should work with Congress to allow the Assistant Secretary for Communications and Information to extend, on a case by case basis, the deadline for grantees to expend the PSIC grant proceeds. As NTIA prepares to implement the broadband program, it should consider the following three lessons learned from its administration of PSIC.

Lesson 1:   Seek to Extend Funding for the Program Office Beyond FY 2010 to Ensure Proper Oversight

Like PSIC, the broadband program faces a September 30, 2010, funding time constraint that could impact the quality and success of funded projects, and effective use of funds, though in a different manner. Under the American Recovery and Reinvestment Act of 2009, NTIA has until September 30, 2010, to award grants; any money remaining at September 30 will be returned and the BTOP office will no longer be funded by the Recovery Act appropriation. While there is no indication at this time that grant awards cannot be made by that deadline, the Recovery Act does not authorize funding for managing the program beyond September 30, 2010. Without sufficient funding for a BTOP program office, funded projects that are still under way at September 30, 2010, will no longer be actively managed, monitored, and closed out. To address this, NTIA could seek a revision to the broadband program requirements that extends the operational time frame for the BTOP program office to a minimum of 1 year beyond the award period of the last

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[1] U.S. Department of Commerce Office of Inspector General, November 2008. *Top Management Challenges Facing the Department of Commerce*, OIG-19384. Washington, D.C.

[2] U.S. Department of Commerce Office of Inspector General, March 2009. *Public Safety Interoperable Communications Program: Grantees Appear Unlikely to Finish Projects Within Short Funding Time Frame*, DEN-19003. Washington, D.C.

grant issued. This change would enable the agency to continue to manage and properly close out all active grants, and ensure grantees meet financial and program reporting requirements.

Lesson 2: Evaluate and Approve Detailed Project Proposals and Spending Plans with Joint Peer Reviews before Making Grant Awards

PSIC's enabling legislation required that grant awards be made by September 30, 2007—before grantees had submitted their spending plans and detailed project proposals ("investment justifications"). Funds were not disbursed until the plans and justifications had been approved. The approval process was rigorous: state spending plans had to clearly identify the gaps in communications their grants would target and the plans were subject to peer reviews by Department of Homeland Security, Federal Emergency Management Agency, and state and local emergency communications staff, which resulted in solid project proposals. But this "after award" approach ultimately delayed the release of funding—and project initiation—by 6 to 12 months. It also slowed the pace of acquiring equipment and building infrastructure—with first-year spending among grantees averaging less than 1.5 percent of grant amounts, and less than 7 percent at 17 months.

For the broadband program, NTIA needs to establish a similarly rigorous review process that ensures applicants clearly identify and rank gaps in broadband coverage, and that proposals target areas of greatest need. NTIA needs to also consider implementing peer reviews with FCC and Agriculture to validate that proposals are achievable, high quality, and consistent with program objectives. And it needs to establish a review process that ensures proposals are evaluated in a timely manner and in advance of grant award.

Lesson 3: Complete an Environmental Assessment of the Broadband Technology Opportunities Program Promptly

Grantee progress under PSIC was further slowed by the wait for required programmatic environmental assessment of projects,[3] which was issued more than 16 months into the 36 month grant period. The National Environmental Policy Act protects public health, safety, and environmental quality by ensuring transparency, accountability, and public involvement in federal actions and in the use of public funds. The American Recovery and Reinvestment Act of 2009 provides that adequate resources must be devoted to ensuring that applicable environmental reviews under the National Environmental Policy Act are completed on an expeditious basis and the shortest existing applicable process under NEPA be used. An Office of Management and Budget March 11, 2009, memorandum on reporting NEPA status and progress under the Recovery Act established procedures for executive agencies to report their progress to the Council on Environmental Quality beginning as soon as possible, but no later than April 7, 2009, with weekly updates through April 28, 2009. The OMB memo alerts agencies to ensure that they address compliance issues as quickly as possible for any projects or activities for which necessary environmental activities and permits have not been completed. NTIA must ensure a programmatic environmental assessment for broadband projects is completed expeditiously so as not to hinder grantees from completing their projects within mandated time frames.

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[3] Required by the National Environmental Policy Act.

BACKGROUND

The *American Recovery and Reinvestment Act of 2009* allocated $7.2 billion for spending on broadband infrastructure through two federal agencies: NTIA received $4.7 billion to operate a grants program; the Department of Agriculture received $2.5 billion to operate a loan and loan guarantee program. To ensure sound management and timely execution of NTIA's Broadband Technology Opportunities Program, we analyzed similarities and differences between NTIA's Public Safety Interoperable Communications grants program, which is in its second year of operation, and the broadband program to identify lessons learned that NTIA needs to consider in developing and implementing BTOP. This report is the first in a series of timely advisory reports we plan to issue on NTIA's administration of the broadband initiative, with the goal of identifying potential and emerging program and financial risks that management can take prompt action to mitigate.

The *American Recovery and Reinvestment Act of 2009* provided $10 million for Office of Inspector General audits and oversight of BTOP. This is a flash report, not an audit conducted in accordance with Government Auditing Standards, and is significantly reduced in scope. Under the Recovery Act, inspectors general are expected to be proactive and focus on prevention. We believe this flash report is responsive to this intent.