U.S. DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Broadband Technology Opportunities Program

COMPLIANCE REQUIREMENTS

Presentation

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Transcribed from provided audio
Male Speaker 1: Please take your seats.

Our program, our next presentation will begin shortly.

Ladies and gentlemen, please take your seats. Our next presentation will begin shortly.

Male Speaker 2: Thank you, everyone. If we can take our seats we’ll get started.

One housekeeping matter. For those standing up and do not have a seat, there is one table, very popular, right over here in the front, to my left. So, if we could get some of the folks who are standing up to come join us here in the front we’d appreciate it.

Ms. Schultz: Okay. We’re going to begin. Again, for those of you who don’t have seats, please feel free to occupy the table next to our IG. You just got to meet all of them. They’re very friendly. But we’d like you to be comfortable throughout the day.

So, I have the pleasure this morning of addressing all of you on compliance. I normally go before the IG, so I have a tough act to follow after all of the great advice and the tips that they gave
I’m Cynthia Shultz, and I’m the Director of Compliance and Audits for the BTOP program and work very closely with the IG, as well as GAO and our team, to help you succeed in your grants. And so, it’s a pleasure to be able to take you through some of the key compliance requirements. Probably a little bit of housekeeping, as you saw, as you were asking very important questions to our IG.

One of the things that I would recommend when you do have questions is recognizing that all of you come to us in your different entities For-Profits, Non-Profits, State and local governments, perhaps some sub-recipients and even contractors in the audience. And so, there are all different kinds of rules that I’ll go through that apply to all of you. And in, I think, trying to keep less confusion, I would ask, if you have specific questions about your project, to take them offline and snag one of us to help you navigate through that specifically, so that we can ask the facts and understand better. Because much of what you’ll learn about, and what you are learning about
compliance in this program is that it’s very fact-based according to your project specifically.

So, let’s begin. What I’m going to cover today, this morning, is really just a basic primer for all of you. Some of you may have seen this presentation in, you know, while we were in the Pre-Award for the NOFA 2 Round. And the other part of what I want to bring to you is, as we are, you know, growing the program, now you’re onboard, and we had the Round 1 recipients, indeed we’ve learned a lot through that process of your challenges.

And every time we do, we try to get better in our messaging, either through fact sheets, changes to our Recipient Handbooks, and things I’ll be talking about this morning. So, I’m going to be highlighting, really, the Federal regulations that apply to all of you in this program -- the uniform administrative requirements, the cost principles, and the audit requirements, as well as some of the key ARRA requirements, and then go over some of the special award conditions which all of you, I’m sure, are very familiar with in your CD-450s.
First I’d like to begin, though, here with talking about the key roles. I think this is really an important part of our conversation this morning for you all to understand as you, you know, walk forward and start to implement your projects and deal with us, the Federal officials in these projects. Who are we? And who has authority? Who should you be speaking with? When? How? These are all really important questions.

Most importantly, of all of that, is that we want you to come to us, and you want you to speak with us. We want to work collaboratively with you. I know I had the opportunity last night to sit with some of you, and the question went around, what’s the most important thing? And one of the things I think is the most thing in this program is that, yes, you are, as Tony Wilhelm said, you know, you are dealing here with us Federal officials. This is not, perhaps, government as you once knew it or still do know it. We’re here to help you succeed. And so, we’re not here to have that “gotcha” mentality. You know, we’re here to partner with you collaboratively, to work
through your issues the best we can. So, we don’t want you to shy away, especially when you think you’ve done something that may be incorrect. It’s important for us to understand that maybe you made a mistake. Mistakes are good. We grow through them and we learn from them. And so, as you go forward and you’re speaking with us, keep that in mind, and also encourage the people on your staff to keep that in mind.

I know that they can, you know, get nervous when you’re talking to a Federal official. But as our IG also pointed out, it’s really important. Communication is probably the most important thing to the success of this. Learning the rules, the regulations of how to really navigate through this, and open communication through the entire project. We know you’re going to have challenges, not just because a lot of you are new to the grants world, but also because of the times of our economy. We understand that. We’re here, we’re right here, American citizens alongside of you, understanding exactly what those challenges are. So, bring them to us and we’ll work
through them together.

With that being said, we do have two
different roles. We have the Federal Program
Officers, who Larry introduced this morning, and Tony,
and then the NTIA program, and very important to us,
of course, are our Grants Officers. And I know Sonja
Wyatt is with us, and I’m sure some from your team.
And I haven’t seen Joyce Brigham from NIST yet. But
they, we work collaboratively every single day,
probably every hour, on some level with them, as well
as you all probably do.

Let me tell you the distinguishing factors
here, as you go forward in speaking with folks. Our
Federal Program Officers are really the people you’re
going to be talking to on the first line on many
issues that deal with programmatic requirements -- the
NOFA, the technical requirements, the PPR reporting
requirements, right? The progress reporting
requirements. That’s a different role than our Grants
Officer plays in the awards. Grants Officers are the
only Federal officials that have the authorization to,
one, sign the CD-450, which is your binding contract
with the Government when you accept that award. Or even if you didn’t sign it, you drew down money, that’s a form of acceptance of the award.

And the other things is that they are responsible for the financial part, so you will file financial reports on a quarterly basis. They’re also responsible for the ARRA reporting, and we’ll talk a little bit about that. But it’s probably one of the most important things, and it’s probably very, very challenging for all of you. It is an ARRA requirement. And I always say this is our President’s report card to the nation. And your role in that is really important, and we’d like to see you all succeed with A’s, so that we can make sure that we’ve got a good report card going out. But our Grants Office handles those reporting requirements.

They also handle all amendment award requests, and they are the only ones that can actually officially approve changes in budgets and scope. And throughout this conference you’ll be hearing, there’ll be some presentations on scope modifications and more discussion on amendment award requests. I’m not going
to go into great detail about that. But it’s really
our Grants Office. If you don’t have -- and you don’t
need written approval in all circumstances, so it’s
important that you do talk with our Grants Office and
our Federal Program Officers. But, where you do need
them, you will have to have them in writing, because
that becomes part of your CD-450, which is also known
as your binding contract with the Government. So, we
interchange this.

And just so you don’t get confused, again,
Federal Program Officers are really your interface to
your project, the technical requirements. The Grants
Office really is the grants administrator of a Federal
Grants award, handling the things of financial
reporting, ARRA reporting, and all of the amended
award requests. We work hand-in-hand with one
another, and it won’t surprise you, as you probably
all learned, and, or, will learn, that sometimes we
wear both hats and we change hats, but at the end of
the day, the actual approval authority does flow
through to the Grants Office with the recommendations
of our FPOs.
So, there are a lot of rules and regulations that flow with these awards, that I hope will become somewhat second nature to you. I’m sure that they’re quite daunting right now and challenging, especially for our For-Profit grantees who are new to the Federal Grant world and others who may be new to the Federal Grant world. So, we’re to help you sort of figure out where you are. And I always say, you know, how you learn to know what hat you’re wearing, because as Katie pointed out, what hat you’re wearing, whether you’re a recipient, a subrecipient, or a vendor, is going to be critical in how well you navigate through the roles and responsibilities that you have as prime recipients.

So, just to touch on lightly -- and I’m not a person who really reads from slides, so this is available to you in your handbooks as well as online -- I’m going to touch on the major things and points that I think are important to you.

You have to comply with all of these uniform administrative requirements. You have to comply with the cost principles and the audit requirements. We’ll
go through that. Remember, this is a Federal grant, and there is discretion as far as the Federal grants go when you’re dealing with cost principles. So it’s important that we understand what the facts of your case are so that we can get to the right result with you. And so, when you’re reading through these requirements and you’re grappling with them, and you may not understand them, you know, you can reach out to us for clarification and we’ll assist you to the best of our ability in doing that.

Some of the key things that really are going to be incredible significant, especially if you dealt in the sole source justification, but for everything in the competitive bid requirement, is that you must have written procurement procedures in place, and you must have a written Code of Conduct. And I’ll go into a little bit more detail under these under the Uniform Administrative Regulations. But it’s something that, if you don’t that -- please, jot this note down -- that when you get back you’ve got to go to work on. Because this is what you will be audited against. And if you don’t have it, it will become a material
finding, and it has the potential of potentially
derailing certain contracts that you may have put in
place. So, we’re going to look to you about how you
run your awards, and that’s one way that we do it
that’s critical -- what your written procurement
procedures are.

As far as the drawdowns of funds, we’ve seen
this in some of our grantees already. The basic rule
here is that -- most of you are under the EA-SAC
drawdown once you meet your EA-SAC requirement,
special work condition for your infrastructure
projects. Not so for your SBA PCC. Most of those
were granted through categorical exclusion. But the
things is, you can’t hold on to Federal Government
money for longer than 30 days. So, if you drew down
more than you spent, then you have to return it to the
Treasury, or, you have to, yeah, return it to the
Federal Government. You can still use it, but you
can’t keep it in your bank account, and you can’t
commingle it, you can’t use it to pay, you know, wages
for some other part of your operation that is not part
of this grant because you might be in a bind. So,
whomever is in charge of the accounting procedures,
it’s very important that you come to understand what
the cost principles are and the rules and requirements
around drawdown, and that you monitor it very, very
closely throughout the program.

Again, our Inspector General, of course, has
a right to access all grants and records. And I’m
hoping you, as prime recipients, will also make sure
that your subrecipients know that you, too, want
access to their records that relate to this, and their
documentation, so that you can successfully monitor
the flow-down requirements to those subrecipients.
I’ll talk a little bit more about that when we talk
about the audit section.

So, the next slide here goes to, this is
just sort of a great, I think, example of helping you
know where you fall as far as these regulations go.
So I would encourage you to really use this if you’re
not familiar with which circular applies to you.
Basically, if you look on the left-hand column and you
go down, it begins with the For-Profit Entity. And
the different entities that apply, that have received
grants in our program, are listed here. So you’ve
got, you know, Institutions of Higher Education, Non-
Profits, you have State and Local Governments, Tribal
Governments, and the For-Profits. How do you use this
chart? You walk across. So, if you’re a For-Profit
entity, you’ll walk across and you’ll see exactly
which Commerce OMB circular will apply to your
project. Now, let’s say you’re a For-Profit entity,
and you have partnered with at subrecipient who is a
Non-Profit entity. That Non-Profit entity must adhere
not to your line of administrative requirements and
cost principles, but what falls on their line. Right?
So, the OMB circulars apply to the entity, not to the
prime recipient.

So, if you have multiple subrecipients, you
know, you have a Non-Profit, and then you have a State
or a local government, you’ll have three potentially
different sets of principles that may apply. So, just
walk through this, make sure you’re aware of that.
And also, make sure when you’re talking with your
subrecipients that they understand where their roles
and responsibilities apply as far as these particular
OMB circulars are concerned.

So, we’ve got, like I said, a lot of regulations and policies and procedures. And the good news is, if you haven’t gone to our website, which is on this slide, I’m going to encourage all of you to make sure that this is one of your, you know, marked as a favorite or bookmarked, that you actually go to it, you use it. It is your, you know, resource, your greatest resource into the BTOP Grant world.

There’s a part of this that’s called, Grants Management, and I think it’s, one, two, three, four, it’s the fifth tab over. Under this I’m very pleased to say that when you click on that tab you will find every single document applicable to your grant. So, we didn’t leave it up to you to go fish in the Federal Government, or onto OMB’s website, every entire agency to figure out which one applies to you. We packaged it up very neatly under Grants Management for you. We tell you what the policies, you know, the DOC policies are, grants policies. We tell you, you know, which OMB circulars. They’re all there for the administrative requirements for all entities. All
cost principles are there. The audit requirements.

We’re still working on the For-Profit audit guidance book that we’ll post there as well. All environmental laws across the Federal Government, all hyperlinks are there. All of our guidance documents to you are there. And, of course, the one thing that I, you know, you heard our Assistant Secretary this morning say, it’s very important to read these things. It’s the one mantra that I say every day to everybody at BTOP. And when I’m even speaking with some of you, it’s very obvious whether you’ve read it or whether you haven’t read it because of the questions you ask.

So, we know just by that simple question, that you really haven’t gone either to the Grants Management, or you haven’t really read through the materials. I can’t stress enough, please do that, for a couple of reasons. One, we want you to be successful, you want to be successful in this. And the way to success is to educate yourself on these. This is not intuitive if you’ve never been in the Federal Grant world.

Likewise, it’s not rocket science if you haven’t read these yet. They’re pretty straight forward and clear
on a lot of what the requirements are. They’ll make sense to you if you do read them, and where you don’t, then come to us and ask us.

But another key reason why I’m encouraging you, please read these things, is so that you’re on the same page when you are having a conversation with us. And remember, resources are precious to you. And you also heard our Assistant Secretary speak to the budget this morning. Resources are very precious to us here at BTOP as well. And so, you can help us do our job better if you do the reading and you come to us with the real issue, instead if you haven’t done the reading and we’ve got to, then, train you on that or ask you to go back and read it. So, let’s share resources as we work collaboratively in this effort.

So, the one place that I’d like to bring you to in your book to make sure, because we’ll be giving a pop quiz tomorrow, I think, at lunch --

(Laughter.)

Ms. Schultz: -- is for Tab O, BTOP Recipient Handbook 2010. You’ll see here that there’s the Table of Contents, and if you open it up -- which
I’m going to ask you to do because if you haven’t read this I want you to become familiar with what the Table of Contents is so that you can actually understand that not only do we have this incredible grants management resource for you, but this is really, you know, the most important, one of the most important documents for you to become familiar with. It’s now posted on our website. It posted yesterday. It is the second version, because as we grow in the program and noodle through some of these key issues with you, we improve the handbook for you, and we also create fact sheets so that we can message out to the entire BTOP family of grantees, you know, further guidance on particular issues. So, you can see the award responsibilities, the project startup activities. Drawdown of funds is there, how to comply with your environmental SAC, your recipient reporting, project modifications and award action requests, project closeout, grant administration standards, complying with the awards terms, understanding stakeholder and media relations -- you’ll be attending a presentation this afternoon and, again, as our Assistant Secretary
said, we hope that you become part of that video and, in telling your story, and this is going to help you in that presentation and in these materials to learn how to do that. And then we give you a master checklist of activities.

This is to help you. So, become familiar with that checklist. And it’s for financial, if you go to it -- we didn’t put the whole thing here. It’s 130 pages, so we didn’t want you to lug that back and forth. But it is available. That checklist is key. I always said, use the checklist. Sit down at the table. If you’ve got your financial part of it, then make sure your CPAs, your accounting folks are at the table and you’re following through with these rules. If you’ve got the procurement side, the contract side of this, get those folks at the table. Make sure you’re following those rules and your State and local procurement requirements. And make sure you’re following that checklist, because, you know what? We are. So, that’s our dialogue. And some of you have gone through some of your initial desk reviews, I believe, and you will go through, all of you will go
through your first initial desk review. This checklist is a really good primer to help you prepare for that. So, go to it and start reading so that you can answer the questions when you get on with the, our Federal Program Officers.

Again, we also have helpful resources. We’ve added, and I’ll talk a little bit about this, an environmental commitment schedule checklist to help you navigate through the environmental special award condition on time, on schedule, so that you keep your schedule with the milestones.

And here you will see fact sheets. A lot of work has gone into this. A lot of thought, a lot of approval processes throughout NTIA working with our Office of Acquisition Management, which is the responsible office of the Department for all grants under the Department of Commerce. Sometimes we work with the OMB on some of these things. We work with our Office Counsel, and also our Office of Chief Counsel. So, when you read these things, this is your guidance from us on how to do better and tackle some of the issues that you have.
Now, as you go through this and you think, gosh, you know, if it just talked to my issue a little bit better, I would understand a whole lot more. Well, we want to hear about that. So if you have ideas for the next version of this that would help or help your staff, you know, comply with these things, then we’d like to hear what those ideas are so that, if it makes sense across the board for everyone we will make sure that it gets into the next version of the Recipient Handbook, as well as, if it warrants it, to a fact sheet.

Okay. So, moving along here, we’re going to start talking about the administrative requirements. When you look to the Uniform Administrative Requirements, this is where you’re going to find all the information -- well, almost all of the information. Actually, the Federal Government does a great job at putting pockets of information in different places. I think we’ve done a great job trying to bring all of those pockets back to you, you know, to make one, have one central repository for it. But, so it’s going to talk about property and
procurement standards. So, when you’re grappling with all of these procurement issues, the first thing you need to do is go and read the applicable uniform administrative circular that applies to you, because I think it’s going to answer a whole heck of a lot of questions for you.

On the financial and program management side, reporting and record-keeping, and the flow-down requirements for subrecipients, which you started to hear a little bit about from our IG, and this is going to be a very critical part for you in managing the grant. And it’s, one of your prime responsibilities is in the monitoring of the subrecipients and what you put into place. So, the uniform administrative requirements is one place where you can go for this.

But there’s also a couple of other places that talk about roles and responsibilities of subrecipients and vendors, and one of them is in the A-133 on the audit section. It talks a lot about the subrecipient roles and the recipient roles, so you might want to go there. And another really great place to go is the OMB guidance that’s put out for
ARRA reporting. They also talk about the roles and responsibilities of subrecipients and how they flow down. So if you’re really grappling with, you know, what hat who’s wearing, I would encourage you to go to those sources of information, all of which are available on the Grants Management site, for free, and read about it. And, you know, I’m not going to guarantee that they’re all going to line up perfectly for you. But I will tell you that they will give you the kind of information that you need to help you make decisions as you are, you know, partnering with your subrecipients or your vendors.

So, let’s talk about some of these roles and responsibilities. Recipient, and subrecipient, and contractor. So, a lot of you, as you heard Katie say, you know, it really matters whether you’re the prime, the subrecipient, or contractor. So, that’s what the regulations talk to. I know all of you in ARRA, NOFA talked about public-private partnerships. But you’ve got to drill down now as grantees into what hat you’re wearing in this public-private partnership. And that’s really important. So, you know, when we think
and when we’re trying to figure out the issue with you, we’re going to ask you, just as you, we asked one of the recipients in the audience, who are you? Who are you providing services? Are they a subrecipient or are they a contractor? So, when you come to us, if you can get that clarity in your question, that’s going to help us a whole lot in understanding how to answer and get you the guidance that you’ll need on the issue. So, this sets forth -- and it’s just a resource. This comes out of our A-133, section 210. And, you know, it applies to all entities in the BTOP Grant world, with the exception of the For-Profit entities. There is subpart 235 of A-133 for program-specific audits. And, again, I’ll talk a little bit more about that.

So, here, the recipient, you as recipients understand because you’ve been on the front line with us through the entire process -- the application, the due diligence, and now in the post-award environment as the grantee. Your issues are going to be with, who are you choosing as a subrecipient and a contractor? And, you know, the subrecipient is somebody who’s
walking side-by-side with you and somewhat in your shoes, to make sure that they’re benefiting the public, you know, the objectives of our program, the public purpose of this grant. They’re involved in the managing and decision-making on a daily basis, or on a very critical, substantial level in the grant. That’s very different than a vendor. And I, you know, sometimes I use the analogy, right or wrong, but, is that, you know, a vendor is providing equipment or services, much like, one could say -- and I remember having this discussion with someone within Commerce, because we differed on what we thought a subrecipient was.

So, you know, whomever you’re speaking to, you could hear differing things. We’re all sort of grappling with this in the world of ARRA. So don’t be frustrated. We’ll work it through with you. But, one of the things was, you know, her position was, well, an engineer is a subrecipient. And I said, I don’t think so. That sounds like a contractor to me, a contracting service. And, you know, she said, no, you know, they’re there for the whole life of the project.
And I said, yeah, so is my doctor, but that doesn’t mean my doctor is coming in on the daily decisions of my life. Only when I go to that doctor and need something.

So, when you’re looking at the kinds of relationships you’re building, is that vendor out there providing those services to others, you know, ubiquitously, you know, because that’s what they do for a living, and you’re just receiving some of those equipment and services? That’s a very different relationship that a subgrantee, also known as a subrecipient, who is getting direct money, a subaward, or subgrant. You’ll hear these differing words depending on what kinds of documentation you’re reading. And so, it’s important for you to start to really understand these concepts if you don’t. And this is one way, it’s only you who can go to the table and discussion with the folks that you are partnering with and figure out what role do you want them to have? Because it is a significant role to be a subrecipient, right? All of what flows to you under these Federal regulations flow through to the
subrecipient.

And that being said, there are a lot of contractors that, remember what Chris said -- It’s the nature of the relationship, not what you write in your agreement. So, you know, obviously, nobody really wants the Federal Government to, like, you know, be involved in all of these rules and regulations attaching, because they’re challenging. So, we know that contractors, everyone wants to be a contractor instead of a subrecipient. It’s easier, right? And, you know, you just get to benefit from the program, and you get to get your money, and then you don’t have all of these responsibilities. Be careful. Because even if you came in and we awarded it, that was phase 1. Phase 2 is going to be our audits, and they’re going to come in and they’re going to look to the nature of the relationship. So, this is why I’m going to spend a lot of the talk, of what I’m talking about today with you this morning, on this, so that you really does get on your radar, you really start thinking about these roles, and you become very clear as you move forward what it is. The last thing we
want to see when these audits come, and you know they will come for each and every one of these projects, is material findings on this issue recommending disallowances because you didn’t get the role defined correctly. So, you have opportunities to get this right. Talk to us about it -- if it’s not, what may need to happen in order for you to get it right, and the steps that you’ll have to go through. Okay.

Again, you’ll see that this presentation really spends a lot of time on this issue, because we know that this is a challenge, and so we spend time where we know that our grantees are having challenges.

I provide this to you because you really see what the subrecipient’s, you know, role are. So if you’re sitting at the table and it sounds like that’s who your partner is -- that they’re doing these kinds of things, they’re performing the substantive work on the award to accomplish BTOP’s purposes, you know, that they’re going to, you know, the financial rewards that they’re going to have, that they’re part of the decision making of who you’re choosing, why you’re choosing it, all of those kinds of things -- that’s a
true partner, right? Without that partner you
wouldn’t be successful? That’s different than a
vendor, where you can go out and, whether you buy that
computer or that computer, or that switch, or that
switch, it’s not going to make a bid difference for
you meeting your objectives on the project.
Distinguishing the subrecipients from contractors,
again, I just highlighted this in speaking with you.
Really, they provide the goods and services for the
benefit of the recipient. They don’t directly perform
any substantive work toward achieving the BTOP
purposes. And, of course, the subrecipient flow-down
requirements do not apply to contractors.

That said, one caveat to help you out here—
if you read the administrative requirements and you
get to the end of it, there’s appendices, and it also
talks about it in the administrative requirements, and
it recommends certain contractual provisions that you
should have in your contracts with vendors that are
required as a matter of Federal law because of the
Federal grant. So, go there an make sure that you’ve
read that, and that you’re building these into your
contracts. And if they’re not, then amend your contracts and put them in. Okay? It doesn’t mean you have to go out for a whole new, you know, RFP. But you do have to amend it to make sure these clauses are in, because they’ll be looking for them in the audits on the Federal side of things here.

Okay. Where did we go? I’m going to talk about the recipient codes of conduct. This, as having mentioned right up front, having written procurement procedures, having written codes of conduct, is mandatory. It’s not, you know, voluntary. You’ve got to have them for these grants. And so, if you already have them in your organizations, that’s okay. You can use them here. You don’t have to create new ones for BTOP. If you don’t have them at all, then you have to get them, and they’re really important. And there’s a lot of different sources you can go out to. And I am hoping that as you talk over the next couple of days with one another and you’re grappling with some of these issues, and you’re talking to somebody who has familiarity with Federal grants, you know, ask them. You know, ask for some assistance amongst one another.
to help you all out. So, the Code of Conduct, of
course, this goes to the heart of procurement, right?
The relationships. You can’t have somebody writing
your RFP and then bidding on that, right? That’s
going to present a problem. Related-party
transactions.

The things that the IG and the DOJ, the bid-
rigging, all of these kinds of things that, you know,
you don’t, you’ve heard them speak to it. You can
just Google all of this on FCC’s IG’s website and
others, and see the kinds of things that folks find in
Federal money. And that can help you be better
stewards of your own projects. Informing yourself is
going to be very important. So, understand what these
requirements are, and look within your organization,
and make sure that, to the extent that some
organizations or subrecipients may be very small, and
so they wear a lot of hats within their organization,
then you’re going to have to make sure that you’re
Chinese-walling yourself off, and that you are doing
what? You’re recording that, so that if there is a
finding, you can say, well, no. Here. We understood
this. This is what our written Code of Conduct did.

We understood that there might be an appearance of a conflict. This is how we handled it.

Remember, it’s a reasonable and prudent person test when you’re going through these audits as well, and so, as long as you’ve documented your decision and it’s reasonable and it’s in accordance with these principles, you should do fine. The one thing, it’s like, you know, when in doubt, don’t do it. The one thing I say that trips up a lot of folks, especially in the For-Profit world because of sales teams, right? And you’re used to going out and giving the latest iPhone out, the latest Starbucks card, t-shirts, you know, mugs, you know, hopefully not, you know, a weekend on your yacht and, you know, a trip to, you know, oh, an exotic place, or even a trip, you know, to the local restaurants, you know, entertaining your entire family or friends. This creates problems. So, I say, don’t give a penny and don’t take a penny. It’s that simple. Just keep the rule simple for you. Then you don’t have to ask us, gosh, is an iPhone okay? No.
(Laughter.)

Ms. Schultz: It’s not. You know? If you do it and the IG comes, and the auditors come, and they see this, or some whistleblower, they love, this is, you know, your competitors love to make phone calls. And, you know, they say these things, then, you know, then we have to do what? We have to look into it, investigate it, if it’s right, what? There’s a problem. What does that do? When we have a problem like that, you’re not playing by the rules. So, you know, stigma’s attached to that. You know, just stay away from it. That’s my best advice to you. Just don’t do it. And tell folks when they come to you and they offer it to you. Say, no thank you, I’ll pay for my own lunch, or, you know, I know some of you have State and local procurement rules you’ve got to follow. Just keep it single, and pay for yourself, and just don’t take anything. And don’t want to give anything out.

So, for the For-Profits, make sure that you’re educating your own sales team. Because these, you know, you’ve heard about fraud here. But a lot of
what turns into fraud is because it’s sort of a negligence. You didn’t read your Recipient Handbook and the rules, and so there’s ignorance because you didn’t read those foundational things. Then you get tripped up, which leads you into gross negligence. It’s getting worse now. And now you’re getting scared, so you start to not want to talk to people about it and hide it, which then starts making it look more like fraud, when in actuality it started just at negligence, and you’ve created this scenario along the way. So, be careful. Try not to do that, right? Because it’s easier. You will make mistakes. There are, there’s a lot of stuff here to help you get it right. And if you noticed, even, in your organization, oops, that was not what we should have done, go back and correct it. Right? I mean, talk about it. Bring it to our attention so we’re aware of it. You know, that’s a better thing than hiding it, because, you know, then it gets found out, and you didn’t say I, t and then, again, that starts to unravel, right? And we don’t want to go there. So, the procurement standards. Again,
here’s an area where you’ve got to have written procurement procedures. This is so important, and I’m going to use sole source justification issues as an example here. If you used sole source justification, or sole source in choosing a subrecipient or a vendor, and don’t have written procurement standards, you’re going to get dinged. It’s just that simple. Because you’re written procurement standards are going to have to say that you allow sole source, and it’s, they’re going to have to specify how and under what circumstances. And sole source, there’s a lot of guidance out there, right?

State and local procurement law follows, you know, sole source, and what you need to do. You can look to the guidance in the Federal documents, it also talks about what you need to do. If you are in a sole source environment, you’ve got to document, document, document, right? You have to do a cost-price analysis. You’ve got to document the justification for that. Be smart. And, you know, I know we’re all aware that, just as, you know, Larry had said this morning, this was a very fast, speedy process. We get
that, right? We were right there with you working
night and day to help get this out the door. So, we,
you know, it might be time, as you go through the
master checklist, to go back and look at these things
and shore up these things within your organization.
And if this is one of them, make sure you’re paying
attention, okay? And take care of it.

So, I give you some examples where, you
know, competition, you know, may or may not, you know,
be required. But you’re going to have to document
that. This is a competitive environment. DOC policy
requires that you have competitive bids and proposals
for subrecipients and vendors in the program, and that
you follow also your State and local rules on top of
the Federal requirements. So, again, please make sure
that you’re paying attention to these types of issues.

In the procurement world, okay, where did I
get that? Or, did I go backwards? Okay. Wow.
Somebody wants me to speed up or slow down. I’m not
sure. It’s very sensitive. Okay. So again, this
just a slide to help you through, right? It’s a
reference point. I just talked about it. Make sure
that you’re documenting it, your justification.

The next slide we’re going to go to is
really the different types of competitive proposals
and non-competitive proposals. Again, this is on a
case by case basis. It’s specific to your
organization. So I encourage you to sit down at the
table with your contract folks, your procurement
specialists, your lawyers, whomever’s engaged in the
entire procurement process, and make sure that, you
know, everything’s lining up and you’re meeting your
requirements, and also your types of competitive bid
proposals.

Some allow sealed bids. Some require, you
know, three, that have to be posted in the newspaper.
I mean, it’s all across the board, so I can’t speak
individually to that for the entire nation, because
these are a matter largely of state law as well, and
local procurement law, and within your own
organizations. For-Profits, this is not a world in
which you generally play, except that if you are a
vendor to State and local governments you certainly
have to follow those laws and rules and requirements.
So, please familiarize yourself with these as presented here and in the other documentation I’m referring you to.

I provide you with this summary, really, to show you what you, a primary recipient and a subrecipient, have to have versus a contractor. I’ve spoken about this -- the flow-down requirements, everything you’re hearing about, recipients today flows down through to the subrecipient. And it’s your job to monitor them, as it is our job to monitor you. And so, the best way you can sort of learn about how to do subrecipient monitoring is to follow some of our guidance of how we’re monitoring you. Of course, you don’t need to get that detail-oriented in a lot of instances. But it should be a good guiding post for you, that what we’re asking of you, you should be asking of your subrecipients. You determine the level of detail and documentation that you’ll be needing to see. Contractors on the other part, you know, you want to go out and make sure that you’re doing business with folks who haven’t been debarred or suspended in the Federal Government. You want to do
your due diligence, right? You don’t want to find out that your major contractor or subrecipient has somehow been debarred under another Federal program. So, and further guidance just came out from the OMB on this issue, too, that really is requiring us at the Federal level to monitor this suspension and debarment and the audits, to make sure that if you’re getting material findings in other agencies, that, of course, impacts your role here within the BTOP grants. So, just to keep you apprised of that. Again, the most important thing is, I think, that you go out and make sure that you’ve got the clauses for contracts, and I told you where you could go to get some guidance on that, so you’re thinking about that.

I’m going to turn now to the property standards. Near and dear to my heart, security interest. And all of you will come to know, for the most part, your role in the security interest. If you don’t, the first thing I want to say is, don’t panic, you know? A lot of you come to us, and it’s, like, I can’t sign the award until I get the security interest. You know, these things take time. These
are not simple issues when you’re granting the Federal
Government interest in your security. From our
perspective, it’s really simple. Right? We have a
reversionary trust interest. Sign it over. Right?

(Laughter.)

Ms. Schultz: From your perspective, it’s,
like, well, we can’t do that. We have a bank loan.
We have a third party. We have this, we have that. I
mean, there’s all these contingencies. They don’t
want to do it, they don’t want to play. I don’t know
what to do. Do I not sign? Do I give back the award?
No. No, no, no. Relax. We’ll find a solution,
right? That’s what we do. BTOP is great at that.
And we want to find a solution. But here’s the rule.
At the end of the day we have to take a security
interest, right? This is the American taxpayer’s
money. So, I don’t know where you get to go out in
the world and get a, you know, 2 million or a 5
million or a 50 million dollar, you know, deposit in
your bank account with no strings attached. I don’t
think you get that. And you don’t get it in the
Federal Grant world. You are required, as the
recipient or the subrecipient, to provide -- or, both
sometimes we see -- a security interest in this. Now,
that being said, generally there’s lots of lawyers
that start to come to the table, right? Because, you
know, you’ve got interest in this for various reasons.

We have the complication in this particular
grant world that we’re dealing with infrastructure.
Does the bank own, you know, 100 million, and the BTOP
grant is 20 million, and how do you parse that out?
Who has the first, who’s first in line? Well,
generally, what do you think the answer is when it
comes to the Federal Government?

(Laughter.)

Ms. Schultz: Right. You got it. We’re
first in line, right? But that’s not to say that we
can’t find a solution to maybe be joint. But that
takes dialogue, it takes work. You know, commit some
resources if this is a concern of yours in your
organization, to work with us, to work with your
counsel on this, your banks, your lenders, because we
can’t understand all of where your lending is and the
intricacies of that, right? And we don’t have the
time, nor do we have the resources. So, for us it’s fairly simple, you know, you sign off and you give it to us. But there are various mechanisms we’ve been working through. We hope to issue some guidance on this. Right now it’s with the Grants Office and with our OGC, and so we’ll keep you posted as to what type of guidance that we’ll be able to provide you with. But, again, it’s got to be the recipient and, or the subrecipient. It cannot be the contractor. Your contractor cannot own these assets. Right? I mean, you’ve got to own the assets, and you’ve got to get the security interest. We can’t get a security interest from a contractor. The contract the Federal Government has is with you, the prime. And so, this responsibility will ultimately rest with you. And generally, these things can take a couple of years. You didn’t see us put a Special Award Condition on your grant saying, you must figure out the security interest within the first six months, otherwise you’re not getting any money. We didn’t say that. So, because we know that this takes time. And so, I want you to all know that, you know, relax. It does take
time. And we’ll get to a solution, you know. And whatever that solution is, it’s going to hopefully meet the success of your goals and aims.

The, next I’m going to turn to -- see? Isn’t this amazing what the administrative requirements -- all of the stuff is there. Isn’t that something? So, the next thing you go to -- did I -- financial management. That’s there, too. So, we have the financial capabilities checklist. This is really important. Now, a lot of you may have gotten a Special Award Condition on accounting verification. And if you did, it basically said that we require at management level a certification, or it’s actually -- what did we call it? Assurance, management assurance, I think it was -- that you have the accounting systems in place in order to, you know, account for these Federal funds and not commingle them with other funds in your organization or with other Federal grants that you may have.

And so, you have this management assertion that you provide to us. You’re required to give it to us within 30 days. It used to be a CPA certification
that was required. We changed that, working with the AICPA organization as well as OMB, because after Sarbanes-Oxley, of course, a lot of accountants don’t want to give certifications to accounting systems that haven’t been put in place yet because they can’t test them. And so, therefore, this is one of the areas where you’ll see the agility and the swiftness with which we work to try and make things easier for you.

And by asking just for a management assertion, get it to us in 30 days, and that will lift the restriction on that particular SAC to allow you to start drawing down funds.

Why did we do that? Because this is critical. This is where a lot of findings come in in the audits. So, it’s to highlight to the heads of organizations, as well as the authorized organization representative, that this is important, right?

Prioritize this as you’re setting up your grants so that you have the proper financial management systems in place, or you are building them out to prepare to properly administer these funds within your organization and then, vis-à-vis, your interactions...
with the Federal Government on this. Okay.

Award management and recordkeeping. So, I happen to think that anybody who has the honor within your organization to be responsible for recordkeeping under a BTOP grant should be given a raise.

(Laughter.)

Ms. Schultz: Because it’s important. And, because this is where you’re going to run into tons of problems, right? You don’t have the documents when the audit comes. And when you don’t have the documents, you know what the finding is? There’s a finding. And it can be material. And the result of a material finding would be a recommendation from our IG, most likely to disallow those expenses. So, that person in your organization is really important. And whomever you are, if you are here, you know, and the person in your organization responsible for the raise isn’t, take this back, and make sure that it’s well-known, and make sure you speak to this, because it is. This is what’s going to also ensure your success.

It’s the little things sometimes that matter most, that people oversee in an organization. And
this is one of those little things that happens to matter the most for all of you, is your recordkeeping. And, you know, so I also say, go back and see what kind of recordkeeping you have, what are your processes and procedures that are in place? Who’s monitoring whether they’re following it? That’s a tough one in an organization, isn’t it? You know, contracts are signed. Who owned it at the end, you know? You don’t have counsel. What, whose desk is it sitting on? And then the audit comes, and you don’t have the one that was signed. I know I was there that day. I’m sure I signed it.

Well, where is it? I don’t know. You know, these are the kinds of things that will create a lot of problems and will cost you a lot of resources, and will cost us a lot of resources, right? And we don’t really want to spend our money doing that if we don’t have to, but we will, because it is our, you know, our obligation. So I say, if you have one person and your are a sizable grant, please think about a redundant backup system that you have in place, that somebody else in your organization understands your
recordkeeping. So, if it’s John or Jay or Mary or Jane, it’s not just about them. What happens if they’re in an accident or they’re taken ill, or they decide to take another job? You have to have redundancy built in here because this is important to, one, administering under your responsibilities of this grant. So, please take note of that. And also, remember that you’ve got to keep your documents up to 3 years after the award closeout. There’s an audit going on, you know, after that time period, that closes. If there’s litigation, and we don’t want to see that here, it would be after that closes, and that could be time eternal. So, of course, we don’t ever want to be in that environment.

Cost principles. This is an area that, if you don’t know what cost principles are, make sure you’ve got an accountant in your organization who does. And if it’s fuzzy to you, it’s everything to you in the grant as you’re going through on your budgets, and you’re doing budget modifications. You have to understand the basics of costs principles in the Federal Government. And so, we are now turning to
the cost principles and leaving the, you know, the administrative requirements. Basically, they’ve got to be consistent, reasonable and allocable, right? This is the reasonable mind test. Cost principles, we have direct and indirect costs. We don’t allow operating expenses under the infrastructure. We do under SBA, PCC in this program. I’m not going to spend a lot of time on this because it’s very fact-specific to your awards. But please become familiar with these principles. Make sure that you understand what a direct cost is versus an indirect cost, whether or not it is eligible. Generally speaking, if you’ve got a direct cost, it had to be a line item in your budget. You have to have a negotiated indirect cost rate in the Federal Government, also known as a NICRA, which goes to this next slide.

So it gives you some idea of the direct costs and the indirect costs. And it really tells you the definition. I mean, if you can specifically identify it with a particular cost objective and it follows through with the allowable guidelines, it’s going to be a direct cost, versus the indirect costs
of running your organization. I’m not going to spend
a lot of time on the negotiated indirect cost rate.
For those of you who are familiar with Federal grants,
you probably will know that indirect costs is probably
one of the most complicated areas in Federal grants.
And so, of course, I don’t want to talk about
complicated things.

(Laughter.)

Ms. Schultz: But, no, really, if you’ve got
a NICRA, you know, from another cognizant agency, and
you’re using it because you’ve worked in the world of
Federal Grants, that’s great. We’re not seeing a lot
of folks coming in needing to get a negotiated
indirect cost rate. If you do, there’s a process that
you have to follow, and we set that forth, not only in
this presentation. It’s in the Recipient Handbook,
also in other guidance documents that are available to
you. So, please familiarize yourself with those.
Again, more on the negotiated indirect cost rates.
How are we doing on time? Okay.

I’m going to just highlight, right? There’s
eligible and ineligible costs for these programs. And
these next slides go through some of them. I’m not
going to read them out loud to you. I’m putting them
there so that you can use this as a reference point.
Really, where you go, you go to the NOFA, is one of
the areas. You look at the, you know, NOFA, what is
allowable, what’s not allowable. Remember that, that
really is the controlling, you know, law of our
program, so to speak, that regulates everything we do
and how we think within the program. So, you’re under
NOFA 2, being the Round 2 recipients. Please be
aware, if you’re speaking to Round 1 recipients that
the NOFAs differ in various areas.

And so, you have to be familiar with what
your area is. A woman asked this morning, for
example, about the pre-application expenses that were
spent by Gates Foundation that went through a
consultant and, you know, what do we do with that?
Well, the NOFA 1 said from the time of the issuance of
the NOFA to the time of the submission of the
application, that would be the time period where pre-
application expenses would be allowed, if approved by
whom? Our Grants Office. So, you’d have to go there.
NOFA 2 doesn’t say that. NOFA 2 says, from the time of the date of the issuance of the NOFA to the time of the date of the issuance of the award. So, it’s different. So you get a longer period of time to cover pre-application expenses. So, that’s just one example where you have to know what your NOFA says.

So, please make sure that somebody in your organization is responsible for understanding the ins and outs of that NOFA as it applies to your projects, as well as the policies I’m talking about. There’s a pre-award notification, a Federal register notice. That’s all on the Grants Management site. Somebody’s got to read them in your organization, and then they’ve got to brief you, if you’re not the one reading them, with the highlights of what’s most important. And only you know what those are in your organization. We don’t know what they are for each and every one of you. So again, on the PCC projects, these next slides really take the infrastructure, they give you ideas of what’s eligible costs and the ineligible on the PCC projects. You know, Laura Dodson and her team are here on the infrastructure.
Laura Breeden and her team are here on the PCC and SBA. And I would encourage you to talk to them if you have any questions about the eligibility or ineligibility costs for anything related to your projects. These are the SBA, again, and so if this is new to you, again, please refer to it, and then ask questions.

Tax rules for BTOP grants. The first thing I have to tell you is we can’t give you any advice, okay?

(Laughter.)

Ms. Schultz: So, don’t call us asking for advice. And, but what we can do is lead you, for the infrastructure grants, to two IRS rulings that relate to the BTOP grants to help you out. Take them to your tax advisors, your tax lawyers. Make sure this is really for For-Profits. Make sure you understand what the tax implications are of your grants. If you haven’t thought about this, make sure that you cover this now. Sooner’s better than later on this. So, I give you these hyperlinks.

Another thing I should tell you is, the
Recipient Handbook will be hyperlinked by section on our website. And, as well, if you go onto our website and you click -- and we’ve gone through that effort of hyperlinking every document we’ve referred to, so it makes it really for all to access these documents.

Or, send the right person in your organization. If you happen to hate tax, then don’t click on that button. Send it to the person who loves that stuff, and ask them to read about it.

Government-wide audit requirements. So, you know, this is, you know, they’re coming, right? They’re coming a little bit later for you than they are for the Round 1, but Round 1 grantees will begin, theirs will be due by the end of March, one year after the issuance of the grants. And I think our first grant issued on December 16th of 2009 or thereabouts. So, audits are coming. You’re going to have to hire CPAs, you know. We highly encourage, as does all of the Federal Government documentation, that the CPAs you are hiring, if they’re not certified, I mean, the best world would be if they were certified in A-133 audits, right? Because this is a different kind of a
world.

So, if A-133 audits apply to you, you’re going to want to make sure when you’re hiring a CPA that they know what A-133 means. And if you say, you know, I’ve got to comply with all this A-133 and, you know, I give you a hint. You know, go find section 210, for example. I talked about it. Say, you know, and that section 210, what do you think about it? And if they look at you dazed, you know, you’re going to have an idea about whether or not they know anything about A-133 audits. But, you know, interview them, okay? Interview them, and say, this is really important to our organization, you know, what do we need to do to prepare for it? And what do we need to do to succeed? And all of those kinds of things. The For-Profits, again, there’s a reference in A-133. A-133, as it stands, does not apply to For-Profit entities, okay? But there is a section in there -- it’s called subpart 235 -- and it makes reference to program-specific audits. And you can imagine the reason for this. I mean, I’m going to just take a Fortune 100 For-Profit company in our country. They
don’t want to go through an organization-wide audit because they’ve received, you know, a $20 million grant, and all of a sudden we have to do an organization-wide audit on $33 billion, or $100 billion, right? That’s not going to happen.

So, the reason why is that there’s a subpart 235 that says program-specific on it. In that, what we are doing at NTIA, working very closely with our IG, who helps us in this, because For-Profits don’t generally get Federal grants. But in Commerce we do have a program under the ATP that did allow grants for For-Profits, and the IG helped them out there, too, to make sure that you got the right guidance. So, we’re going to put out For-Profit guidance for you. I, we’re just finishing up on the compliance supplement. If that’s a new term to you, let me just tell you quickly what it is. OMB puts out, for every single agency and every single grant program to the extent an operating unit within the Federal Government participates, a compliance supplement. So, for BTOP last year we had a compliance supplement for 2010.

This year we’re just finalizing our
submission to the OMB for 2011. What is that
document? A compliance supplement, you know, it’s
like a 300-page tomb that OMB, you know, puts out.
There will be about, I don’t know, maybe 8, 10 pages
for BTOP in there. And it’s specific to the BTOP
program, so it helps auditors understand what’s
different about our program that they should be
auditing and looking for. So, that’s the purpose of
it. So I want you all to understand that when you’re
talking to your auditors, you know, that compliance
supplement’s going to be important. If you’re a For-
Profit entity, our For-Profit guidance is going to be
important.

A couple of things that I want to point out
here. If you are a recipient and a For-Profit, and
you’re getting audited, and you have a subrecipient
who’s a Non-Profit, they have to go through an A-133
audit, right? Because A-133 applies to Non-Profits,
State and local governments. So, that A-133 audit is
going to apply to that Non-Profit. You are
responsible for making sure that, you know, one,
they’re getting that audit, two, if there are findings
in that audit, that they are taking corrective action to shore those up. You’re responsible for that. Not us. We’re responsible for making sure that you are monitoring your subrecipients. We are not going to go into your subrecipient level, however. The auditors will, but our FPOs won’t, because that’s not the relationship.

So, I want you to be clear about that one relationship. The other thing I want you to know is, For-Profit entity, the A-133 does not apply to you. But within that document lies all of the richness of what the subrecipient and recipient roles and responsibilities are. And so, in our For-Profit guidance we will make reference to bridge that gap between the For-Profit and the A-133 that, what, the documentation and the guidance in the A-133 will apply on the For-Profit. So, that’s going to help you out a lot, right? No one’s going to make up any new rules. It’s also going to help you in understanding your roles as a subrecipient, in monitoring your subrecipients, or, if you’re subrecipients sitting in the room, it will also allow you to understand what
those requirements are.

As far as the timelines for it, the IG went over it in its presentation, you can find in here. And again, we just posted a fact sheet on audit guidelines that gives you the general basics of, you know, about auditing. There will be another fact sheet that we’ll be working on, and perhaps a presentation, a webinar that we’ll give on audits as we get closer to that time period. I would encourage you all to participate in that and to ask your great questions that you do, you know, so that you come to understand exactly, how does this work? You know, if there are findings, what takes place? Our audit fact sheet that you’ll find in the Recipient Handbook now does not really cover the correction action part of it. That’s sort of a “stay-tuned,” coming out as we work through those issues.

But, basically, so what happens? I mean, let’s just talk a little bit about that. Let’s say you get material findings. You know, audits will come through in different ways. The For-Profits, if you’re a For-Profit, you’ve got to submit it to Atlanta,
right? To the IG. There’s an address in Atlanta. You also have to submit it to us, right? You have to submit it, upload into GOL, you have to, you know, submit it to, I think, the Grants Office. And if you’re an A-133, there’s an different process for you in doing that. But For-Profits have a different path. So, the IG will be looking at the A-133 material findings, right? And they’ll be opining, and they’ll be talking to us about it. We’ll be talking to you all about it. They’ll also be looking at the For-Profit audit. So, let’s say there are material findings. Well, then the dialogue begins. And we’re not going to find anything about, you didn’t have the documents, right? Because you’re all going to get that one right.

So, that’s not going to be a finding in our program. But there may be some other things that will become findings. And so, we’re going to have to dialogue back and forth on how to resolve them. We’ll have to dialogue internally, and we’ll have to dialogue with you. And I want you to know that it is a dialogue. And so, what you bring, and your
arguments, and how cogent they are, and how much
supporting documentation you have to back up, is going
to be really, really important for you to succeed on
that finding, right? And you can succeed on it. I
mean, just because it’s a material finding. There may
be back and forth. But there’s, you know, don’t lose
all hope on that just because that happens.

If we have a material finding and it stands,
does that mean we’re going to take the money back?
Well, maybe. It depends on what the finding is. But
we can also impose what we call -- and you’ll see in
the monitoring plan -- performance improvement plans
and corrective action. Generally, in an audit finding
I would guess that you’re probably see a corrective
action plan that’s put in place -- How are you going
to correct what you did wrong? And you’re going to
have a time period to do it, and then you’re going to
have to prove it. And you’re going to work out that
corrective action plan with the Grants Officer and the
FPO on the project, okay?

And then, you know, take it seriously. If
you land -- even before an audit you can get into a
performance improvement plan. If we find at a desk
review you’re doing something that’s off, you know,
you’re off course, we can then put a performance
improvement plan in place on these grants. We can
also put corrective action plans in place on these
grants. Remember, when we do that, it’s not, again, a
“gotcha”. It’s to help you, right? Get back on
course. You’re just steering off course. And if you
steer off course and you don’t understand, you know,
the wind vane and this, that you’ve got to get to the
end in three years, and you’ve got to be substantially
complete within two, our job is not only to monitor
and administer these Federal funds, and make sure that
you’re spending them properly, but it’s also to help
you in that monitoring to get, you know, across the
finish line successfully and stay on course.

So, when we see that you’re not doing that,
you may see corrective action plans. You know what?
Embrace it. Learn from it. You know, change what you
need to. And move forward. Don’t look at it as a
negative hit against you, okay?

All right. I’m going to move into some of
the key ARRA requirements now in the few minutes that
we have left together. And remember, I’m here over
the next couple of days, so feel free to come up to me
and talk to me about anything that’s on your mind, or
any of my colleagues here will be happy to help you
out.

Davis-Bacon. So, Davis-Bacon applies. And
if you’re not watching Davis-Bacon and you don’t know
what Davis-Bacon is, this morning it’s important for
you to understand it. I’m not going to spend a great
deal of time on it. We have a Davis-Bacon fact sheet
that I’m going to ask you to read so that you can go
and understand more about it. You can also, we have
contacts at the Department of Labor. But, let it
suffice to say that if you’re working on projects that
have construction and it’s over $2,000, you have to
pay prevailing wages. And we work very closely with
the Department of Labor, and we have a Federal
responsibility, as you do as the recipients in this.
And it’s a very important responsibility. We have
delegated this responsibility to you as the prime
recipients. You have to monitor the payroll
certifications weekly on your projects, okay? It’s your responsibility. It will come in an audit. So, make sure somebody is doing that within your organization. Here’s one tip that I’ll tell you -- how you do that, a lot of organizations already do that. If you don’t you’re going to have to set up these processes and procedures.

The other thing that you’re going to find when you go to prevailing wages -- this is technology, and what’s the great thing about technology? It changes almost every day, right? It has a new name, new hat, new this, new toy. And so, you know, one of the things, I think we have, Vint Cerf is the Father, you know, of the Internet, and he’s the Chief Evangelist now. I mean, that’s a new C-word. And, you know, so, what’s going to happen here is, you might get to a labor category and you don’t find yourself, or you don’t find, you know, that doesn’t fit in technology. What do I do? Well, then you’re going to need to get a Conformance, it’s called. And so, you’re going to have to apply for that. We have a process and procedure. So look at the Recipient.
Handbook of how to do that. And we work, then, with DOL. And they’re pretty committed to getting a result back to you in 30 days, right? Not a lot of time.

If you did not build Davis-Bacon into your contracts, or if you did not pay prevailing wages, you’re going to have to, okay? So, you’re going to have to look back at your contracts, make sure that this, these clauses are in there. I told you, you know, about the appendix and the administrative requirements, about contract clauses. Davis-Bacon is one of them. So, make sure you’re building it into your contracts. Okay. How did we get back to that? We’re backwards again.

Buy American. Well, you heard our IG talk about Buy American. But the thing about the program for us is, basically, while Buy American does apply as an ARRA requirement, within the world of BTOP and technology, our Secretary, Secretary Locke, signed a waiver, I think back in July of 2009, waiving the Buy American requirement across the board for certain things. As you see, switching, routing equipment, transport, access, customer premises equipment. And
that was done in large part because, you know, we
don’t manufacture those items in the United States,
and we didn’t want an onslaught of waivers coming in.
And so, another way that your Government is working
for you and streamlining the process to make things
easier for you, and this is one of those ways.

So, please make sure that if you are
acquiring equipment, that it falls within that waiver.
If you think it does not, then please contact your
FPO. There are waiver requirements under our program
as set forth in the NOFA. So, pay attention to that.
But I think it’s a little bit different in our program
than it is across a lot of the other ARRA grants
throughout the country.

So, I’m just going to highlight the Special
Award Conditions here. You’ve got a whole bunch of
them. Pay attention to them. Some of them are what
we call actionable, right? I talked about the
accounting verification. The other big one for the
CCI and infrastructure projects, of course, is the
environmental assessment that’s due, the draft, within
6 months. And you cannot draw down funds, except in,
you know, limited circumstances, only if you have provided us with a budget, a 6-month budget which was approved by our Grants Office.

So, this is a lot of language that may look like small print on your contract, but it’s real critical language. Special Award Conditions is like, you know, what we talk about every day. SAC. What’s SAC? This is what you hear in the halls where we’re at, right? You know, what did they do with that SAC? And, was this SAC lifted? Is that SAC, I mean, can get they get it lifted? And so, you need to understand which SACs apply to you, which Special Award Conditions apply to your award, and then put somebody on this to be monitoring them, right? So that you know when they’re getting lifted and, most importantly, the ones that are actionable. Then, those are the ones you prioritize. Why? Because they affect the drawdown of your money. And what does that do, actually, in our program? The whole reason behind ARRA was to, you know, really, you know, kick start our economy and get jobs back, right? And get money back into the economy. And so, we’re very interested.
So is this Administration, our President, our Assistant Secretary, our Secretary. I mean, they watch this very closely, and they ask us all the time, how is this doing? We monitor it very closely.

Of course, drawdowns are different than expenditures. We’re aware of the fact that a lot of you are spending money but you haven’t drawn down yet. So, you will show those expenditures in your ARRA reporting. Whereas in the daily monitoring that we do of your drawdowns, and we do, we can see exactly what you are drawing down. We look at it according to the milestones in your budgets, okay? So, we’re behind the scenes. It’s not an emerald curtain. We’re right there watching what you’re doing because that’s our job. And so, in the drawdown, we want you to be able to draw down this money. I’m going to encourage those who have environmental assessment SACs, please talk to our incredible environmental team. I mean, they’re just wonderful. They’ve done phenomenal work, and they’re here to help. And they’re so helpful, and they’re so wanting to help you.

So, don’t be afraid. Ask them questions.
And listen to their advice. We’ve got a lot to accomplish for you to get that draft environmental assessment in. It’s not something you wait for the 5th month to start on. If you have an environmental assessment SAC, I’m here to tell you, that is a high priority in your infrastructure project today. So if you don’t have an environmental consultant onboard, and you have to put that RFP out because you don’t have that in-house, you need to start thinking about that this week, okay? And get started on that. And then, we’ve put in a checklist for you of a schedule to help you along the lines. There’s a tremendous amount of information on environmental assessments and guidance to help you walk through this.

So I really want you to pay attention to that, because you cannot begin construction, and you cannot begin ground-disturbing activities, until you receive a finding of no significant impact, or a mitigated finding of no significant impact, or a programmatic agreement. It is a Federal violation for you to do that. And money that you expend on that without, before-time, becomes ineligible if you are
engaged in construction and ground-disturbing activity. So, I’m stressing this here. Make sure you take that word back, because we cannot reimburse on those funds if you’ve begun work without the Federal clearance on the FONSI. And we’re here to partner, to make sure you get through that. All right.

So, I just talked about the Special Award Conditions. That’s the slide I just went over. You can look for it in the reference. Again, the enforcement side is usually the segue into the IG, but they’re already done. And we’re here to just tell you that, you know, part of it, the most important thing for us is to ensure your success, right? Work collaboratively with you.

We know you’ve got the challenges. Our responsibility as Federal officials is to, you know, administer and be the safe-keeper of this money, working collaboratively with you, monitoring your progress to your milestones to make sure that you meet the entire BTOP objectives. At the end of the day, you know, if you don’t take this seriously, or, things start to happen or unravel, you know, the Federal
Government does have a lot of various things in place that it can do to enforce, you know, proper execution of these grants. And we are required, obviously, to do that. And I’d think you would think no less of us, you would require us as also stewards of these awards to make sure that we take appropriate action when we see that that’s required or necessary. And so, these are just some of the things that we can do. We can suspend payments, and that may happen to you in some periods throughout the award, you know. That just means you’re not paying attention and you’ve got to wake up and pay attention, and get back on track. We can suspend an award. We can terminate for cause. We can do all of those things. But what I’m here to tell you is, we really don’t want to do any of those things.

So, please, continue the dialogue, continue the collaboration with all of us. And we look forward to working with you on this incredible journey and opportunity that we have.

Thank you very much.

(Applause.)
Ms. Schultz: Okay. Before I take questions, what I’d like to do -- remember I said that the partnership was a really important, you know, not only working with our FPOs, but we work every day with our Grants Office, and we have NOAA and NIST, and I wasn’t sure, and I was just told that they’re here. The team is here, which is great. So, can I ask the NOAA team to stand up, who work on the infrastructure and CCI projects? Because, yes.

(Applause.)

Ms. Schultz: They do amazing work. And, you know, please stop them, talk to them about any of the questions. And can I ask the NIST team to stand up, who does the SBA and PCC? They’re our Grants Office for those awards. Thank you.

(Applause.)

Ms. Schultz: So, we’re just about out of time. I don’t know if anybody has, you know, we have time maybe for just a couple of questions. If you have one, if you’d come to the mic. Otherwise, we’re going to be breaking here, I believe, for lunch. Great.
(Laughter.)

Ms. Schultz: So, enjoy your lunch, and we’re around. Yes. Okay.

Mr. Preston: I have a question.


Mr. Preston: My name’s Jay Preston, from western Montana, Ronan Telephone Company. It occurs to me that this presentation you just made would be very valuable to us to show to some of our staff members and partners locally. Is this presentation something we will have available to us by video?

Ms. Shultz: It’s being recorded, so the answer to that is yes.

Mr. Preston: Thank you.

Ms. Schultz: That was an easy one.

(Laughter.)

Ms. Schultz: Okay. Enjoy your lunch, and we’ll see you back here, I think, at 1:30. Oh. Bill’s got a couple of announcements. I’m sorry. Please stay seated, and he’ll get to those. Thank you.

Bill: All right. Thank you very much,
Cynthia. So, this morning you heard from us, from NTIA, from the Office of the Inspector General. At lunch we want to give you all the opportunity to hear from one another. As one who’s read a lot of your applications, I know that you have a lot to share with one another -- best practices, experience, you have connections within your state and your region that can be valuable to other organizations who receive BTOP awards from your region.

So, I encouraged you to sit geographically. And what we’d like you to do -- if I could get that first slide. What we’d like you to do during a working lunch is introduce yourself to one another. You’ll see that you’re all wearing different colored stickers. If you look down and see that you’re not wearing a red sticker, and someone else is wearing a red sticker, that means they have a different project type than you do. So, tell them a little bit about your project type, about your key objectives, your geographic reach, the communities you’re serving, and the clients you’re serving. I think it’s, you know, very easy to understand what we’re trying to do. We
I think there’s a lot that you all can share with one another. Our hope is that you start some of that sharing during lunch, and that we’ll continue to work on those, sort of, sharing, and talk a little bit more about third party outreach after lunch at a group exercise.

So, with that, lunch is served. There are 400 lunch boxes out in the foyer. Please bring them back to your table and enjoy. For BTOP staff, I’d like to invite you to the Skyline Suite for a brief lunch, and then I encourage you to come back and enjoy the conversations and discussions.

Thank you all.

(End of Audio.)