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U.S DEPARTMENT OF COMMERCE
National Telecommunications and Information
Administration

Broadband Technology Opportunities Program

COMPLIANCE REQUIREMENTS

Presentation

Cynthia B. Schultz

Director of Compliance and Audits

Transcribed from provided audio

1 Male Speaker 1: Please take your seats.

2 Our program, our next presentation will begin shortly.

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

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

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

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

19 So, I have the pleasure this morning of
20 addressing all of you on compliance. I normally go
21 before the IG, so I have a tough act to follow after
22 all of the great advice and the tips that they gave

1 you.

2 I'm Cynthia Shultz, and I'm the Director of
3 Compliance and Audits for the BTOP program and work
4 very closely with the IG, as well as GAO and our team,
5 to help you succeed in your grants. And so, it's a
6 pleasure to be able to take you through some of the
7 key compliance requirements. Probably a little bit of
8 housekeeping, as you saw, as you were asking very
9 important questions to our IG.

10 One of the things that I would recommend
11 when you do have questions is recognizing that all of
12 you come to us in your different entities For-Profits,
13 Non-Profits, State and local governments, perhaps some
14 sub-recipients and even contractors in the audience.
15 And so, there are all different kinds of rules that
16 I'll go through that apply to all of you. And in, I
17 think, trying to keep less confusion, I would ask, if
18 you have specific questions about your project, to
19 take them offline and snag one of us to help you
20 navigate through that specifically, so that we can ask
21 the facts and understand better. Because much of what
22 you'll learn about, and what you are learning about

1 compliance in this program is that it's very facts-
2 based according to your project specifically.

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

12 And every time we do, we try to get better
13 in our messaging, either through fact sheets, changes
14 to our Recipient Handbooks, and things I'll be talking
15 about this morning. So, I'm going to be highlighting,
16 really, the Federal regulations that apply to all of
17 you in this program -- the uniform administrative
18 requirements, the cost principles, and the audit
19 requirements, as well as some of the key ARRA
20 requirements, and then go over some of the special
21 award conditions which all of you, I'm sure, are very
22 familiar with in your CD-450s.

1 First I'd like to begin, though, here with
2 talking about the key roles. I think this is really
3 an important part of our conversation this morning for
4 you all to understand as you, you know, walk forward
5 and start to implement your projects and deal with us,
6 the Federal officials in these projects. Who are we?
7 And who has authority? Who should you be speaking
8 with? When? How? These are all really important
9 questions.

10 Most importantly, of all of that, is that we
11 want you to come to us, and you want you to speak with
12 us. We want to work collaboratively with you. I know
13 I had the opportunity last night to sit with some of
14 you, and the question went around, what's the most
15 important thing? And one of the things I think is the
16 most thing in this program is that, yes, you are, as
17 Tony Wilhelm said, you know, you are dealing here with
18 us Federal officials. This is not, perhaps,
19 government as you once knew it or still do know it.
20 We're here to help you succeed. And so, we're not
21 here to have that "gotcha" mentality. You know, we're
22 here to partner with you collaboratively, to work

1 through your issues the best we can. So, we don't
2 want you to shy away, especially when you think you've
3 done something that may be incorrect. It's important
4 for us to understand that maybe you made a mistake.
5 Mistakes are good. We grow through them and we learn
6 from them. And so, as you go forward and you're
7 speaking with us, keep that in mind, and also
8 encourage the people on your staff to keep that in
9 mind.

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

1 through them together.

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

12 Let me tell you the distinguishing factors
13 here, as you go forward in speaking with folks. Our
14 Federal Program Officers are really the people you're
15 going to be talking to on the first line on many
16 issues that deal with programmatic requirements -- the
17 NOFA, the technical requirements, the PPR reporting
18 requirements, right? The progress reporting
19 requirements. That's a different role than our Grants
20 Officer plays in the awards. Grants Officers are the
21 only Federal officials that have the authorization to,
22 one, sign the CD-450, which is your binding contract

1 with the Government when you accept that award. Or
2 even if you didn't sign it, you drew down money,
3 that's a form of acceptance of the award.

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

17 They also handle all amendment award
18 requests, and they are the only ones that can actually
19 officially approve changes in budgets and scope. And
20 throughout this conference you'll be hearing, there'll
21 be some presentations on scope modifications and more
22 discussion on amendment award requests. I'm not going

1 to go into great detail about that. But it's really
2 our Grants Office. If you don't have -- and you don't
3 need written approval in all circumstances, so it's
4 important that you do talk with our Grants Office and
5 our Federal Program Officers. But, where you do need
6 them, you will have to have them in writing, because
7 that becomes part of your CD-450, which is also known
8 as your binding contract with the Government. So, we
9 interchange this.

10 And just so you don't get confused, again,
11 Federal Program Officers are really your interface to
12 your project, the technical requirements. The Grants
13 Office really is the grants administrator of a Federal
14 Grants award, handling the things of financial
15 reporting, ARRA reporting, and all of the amended
16 award requests. We work hand-in-hand with one
17 another, and it won't surprise you, as you probably
18 all learned, and, or, will learn, that sometimes we
19 wear both hats and we change hats, but at the end of
20 the day, the actual approval authority does flow
21 through to the Grants Office with the recommendations
22 of our FPOs.

1 So, there are a lot of rules and regulations
2 that flow with these awards, that I hope will become
3 somewhat second nature to you. I'm sure that they're
4 quite daunting right now and challenging, especially
5 for our For-Profit grantees who are new to the Federal
6 Grant world and others who may be new to the Federal
7 Grant world. So, we're to help you sort of figure out
8 where you are. And I always say, you know, how you
9 learn to know what hat you're wearing, because as
10 Katie pointed out, what hat you're wearing, whether
11 you're a recipient, a subrecipient, or a vendor, is
12 going to be critical in how well you navigate through
13 the roles and responsibilities that you have as prime
14 recipients.

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

20 You have to comply with all of these uniform
21 administrative requirements. You have to comply with
22 the cost principles and the audit requirements. We'll

1 go through that. Remember, this is a Federal grant,
2 and there is discretion as far as the Federal grants
3 go when you're dealing with cost principles. So it's
4 important that we understand what the facts of your
5 case are so that we can get to the right result with
6 you. And so, when you're reading through these
7 requirements and you're grappling with them, and you
8 may not understand them, you know, you can reach out
9 to us for clarification and we'll assist you to the
10 best of our ability in doing that.

11 Some of the key things that really are going
12 to be incredible significant, especially if you dealt
13 in the sole source justification, but for everything
14 in the competitive bid requirement, is that you must
15 have written procurement procedures in place, and you
16 must have a written Code of Conduct. And I'll go into
17 a little bit more detail under these under the Uniform
18 Administrative Regulations. But it's something that,
19 if you don't that -- please, jot this note down --
20 that when you get back you've got to go to work on.
21 Because this is what you will be audited against. And
22 if you don't have it, it will become a material

1 finding, and it has the potential of potentially
2 derailling certain contracts that you may have put in
3 place. So, we're going to look to you about how you
4 run your awards, and that's one way that we do it
5 that's critical -- what your written procurement
6 procedures are.

7 As far as the drawdowns of funds, we've seen
8 this in some of our grantees already. The basic rule
9 here is that -- most of you are under the EA-SAC
10 drawdown once you meet your EA-SAC requirement,
11 special work condition for your infrastructure
12 projects. Not so for your SBA PCC. Most of those
13 were granted through categorical exclusion. But the
14 things is, you can't hold on to Federal Government
15 money for longer than 30 days. So, if you drew down
16 more than you spent, then you have to return it to the
17 Treasury, or, you have to, yeah, return it to the
18 Federal Government. You can still use it, but you
19 can't keep it in your bank account, and you can't
20 commingle it, you can't use it to pay, you know, wages
21 for some other part of your operation that is not part
22 of this grant because you might be in a bind. So,

1 whomever is in charge of the accounting procedures,
2 it's very important that you come to understand what
3 the cost principles are and the rules and requirements
4 around drawdown, and that you monitor it very, very
5 closely throughout the program.

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

15 So, the next slide here goes to, this is
16 just sort of a great, I think, example of helping you
17 know where you fall as far as these regulations go.
18 So I would encourage you to really use this if you're
19 not familiar with which circular applies to you.
20 Basically, if you look on the left-hand column and you
21 go down, it begins with the For-Profit Entity. And
22 the different entities that apply, that have received

1 grants in our program, are listed here. So you've
2 got, you know, Institutions of Higher Education, Non-
3 Profits, you have State and Local Governments, Tribal
4 Governments, and the For-Profits. How do you use this
5 chart? You walk across. So, if you're a For-Profit
6 entity, you'll walk across and you'll see exactly
7 which Commerce OMB circular will apply to your
8 project. Now, let's say you're a For-Profit entity,
9 and you have partnered with at subrecipient who is a
10 Non-Profit entity. That Non-Profit entity must adhere
11 not to your line of administrative requirements and
12 cost principles, but what falls on their line. Right?
13 So, the OMB circulars apply to the entity, not to the
14 prime recipient.

15 So, if you have multiple subrecipients, you
16 know, you have a Non-Profit, and then you have a State
17 or a local government, you'll have three potentially
18 different sets of principles that may apply. So, just
19 walk through this, make sure you're aware of that.

20 And also, make sure when you're talking with your
21 subrecipients that they understand where their roles
22 and responsibilities apply as far as these particular

1 OMB circulars are concerned.

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

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

1 cost principles are there. The audit requirements.
2 We're still working on the For-Profit audit guidance
3 book that we'll post there as well. All environmental
4 laws across the Federal Government, all hyperlinks are
5 there. All of our guidance documents to you are
6 there. And, of course, the one thing that I, you
7 know, you heard our Assistant Secretary this morning
8 say, it's very important to read these things. It's
9 the one mantra that I say every day to everybody at
10 BTOP. And when I'm even speaking with some of you,
11 it's very obvious whether you've read it or whether
12 you haven't read it because of the questions you ask.
13 So, we know just by that simple question, that you
14 really haven't gone either to the Grants Management,
15 or you haven't really read through the materials. I
16 can't stress enough, please do that, for a couple of
17 reasons. One, we want you to be successful, you want
18 to be successful in this. And the way to success is
19 to educate yourself on these. This is not intuitive
20 if you've never been in the Federal Grant world.
21 Likewise, it's not rocket science if you haven't read
22 these yet. They're pretty straight forward and clear

1 on a lot of what the requirements are. They'll make
2 sense to you if you do read them, and where you don't,
3 then come to us and ask us.

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

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

19 (Laughter.)

20 Ms. Schultz: -- is for Tab O, BTOP
21 Recipient Handbook 2010. You'll see here that there's
22 the Table of Contents, and if you open it up -- which

1 I'm going to ask you to do because if you haven't read
2 this I want you to become familiar with what the Table
3 of Contents is so that you can actually understand
4 that not only do we have this incredible grants
5 management resource for you, but this is really, you
6 know, the most important, one of the most important
7 documents for you to become familiar with. It's now
8 posted on our website. It posted yesterday. It is
9 the second version, because as we grow in the program
10 and noodle through some of these key issues with you,
11 we improve the handbook for you, and we also create
12 fact sheets so that we can message out to the entire
13 BTOP family of grantees, you know, further guidance on
14 particular issues. So, you can see the award
15 responsibilities, the project startup activities.
16 Drawdown of funds is there, how to comply with your
17 environmental SAC, your recipient reporting, project
18 modifications and award action requests, project
19 closeout, grant administration standards, complying
20 with the awards terms, understanding stakeholder and
21 media relations -- you'll be attending a presentation
22 this afternoon and, again, as our Assistant Secretary

1 said, we hope that you become part of that video and,
2 in telling your story, and this is going to help you
3 in that presentation and in these materials to learn
4 how to do that. And then we give you a master
5 checklist of activities.

6 This is to help you. So, become familiar
7 with that checklist. And it's for financial, if you
8 go to it -- we didn't put the whole thing here. It's
9 130 pages, so we didn't want you to lug that back and
10 forth. But it is available. That checklist is key.
11 I always said, use the checklist. Sit down at the
12 table. If you've got your financial part of it, then
13 make sure your CPAs, your accounting folks are at the
14 table and you're following through with these rules.
15 If you've got the procurement side, the contract side
16 of this, get those folks at the table. Make sure
17 you're following those rules and your State and local
18 procurement requirements. And make sure you're
19 following that checklist, because, you know what? We
20 are. So, that's our dialogue. And some of you have
21 gone through some of your initial desk reviews, I
22 believe, and you will go through, all of you will go

1 through your first initial desk review. This
2 checklist is a really good primer to help you prepare
3 for that. So, go to it and start reading so that you
4 can answer the questions when you get on with the, our
5 Federal Program Officers.

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

12 And here you will see fact sheets. A lot of
13 work has gone into this. A lot of thought, a lot of
14 approval processes throughout NTIA working with our
15 Office of Acquisition Management, which is the
16 responsible office of the Department for all grants
17 under the Department of Commerce. Sometimes we work
18 with the OMB on some of these things. We work with
19 our Office Counsel, and also our Office of Chief
20 Counsel. So, when you read these things, this is your
21 guidance from us on how to do better and tackle some
22 of the issues that you have.

1 Now, as you go through this and you think,
2 gosh, you know, if it just talked to my issue a little
3 bit better, I would understand a whole lot more.
4 Well, we want to hear about that. So if you have
5 ideas for the next version of this that would help or
6 help your staff, you know, comply with these things,
7 then we'd like to hear what those ideas are so that,
8 if it makes sense across the board for everyone we
9 will make sure that it gets into the next version of
10 the Recipient Handbook, as well as, if it warrants it,
11 to a fact sheet.

12 Okay. So, moving along here, we're going to
13 start talking about the administrative requirements.
14 When you look to the Uniform Administrative
15 Requirements, this is where you're going to find all
16 the information -- well, almost all of the
17 information. Actually, the Federal Government does a
18 great job at putting pockets of information in
19 different places. I think we've done a great job
20 trying to bring all of those pockets back to you, you
21 know, to make one, have one central repository for it.
22 But, so it's going to talk about property and

1 procurement standards. So, when you're grappling with
2 all of these procurement issues, the first thing you
3 need to do is go and read the applicable uniform
4 administrative circular that applies to you, because I
5 think it's going to answer a whole heck of a lot of
6 questions for you.

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

16 But there's also a couple of other places
17 that talk about roles and responsibilities of
18 subrecipients and vendors, and one of them is in the
19 A-133 on the audit section. It talks a lot about the
20 subrecipient roles and the recipient roles, so you
21 might want to go there. And another really great
22 place to go is the OMB guidance that's put out for

1 ARRA reporting. They also talk about the roles and
2 responsibilities of subrecipients and how they flow
3 down. So if you're really grappling with, you know,
4 what hat who's wearing, I would encourage you to go to
5 those sources of information, all of which are
6 available on the Grants Management site, for free, and
7 read about it. And, you know, I'm not going to
8 guarantee that they're all going to line up perfectly
9 for you. But I will tell you that they will give you
10 the kind of information that you need to help you make
11 decisions as you are, you know, partnering with your
12 subrecipients or your vendors.

13 So, let's talk about some of these roles and
14 responsibilities. Recipient, and subrecipient, and
15 contractor. So, a lot of you, as you heard Katie say,
16 you know, it really matters whether you're the prime,
17 the subrecipient, or contractor. So, that's what the
18 regulations talk to. I know all of you in ARRA, NOFA
19 talked about public-private partnerships. But you've
20 got to drill down now as grantees into what hat you're
21 wearing in this public-private partnership. And
22 that's really important. So, you know, when we think

1 and when we're trying to figure out the issue with
2 you, we're going to ask you, just as you, we asked one
3 of the recipients in the audience, who are you? Who
4 are you providing services? Are they a subrecipient
5 or are they a contractor? So, when you come to us, if
6 you can get that clarity in your question, that's
7 going to help us a whole lot in understanding how to
8 answer and get you the guidance that you'll need on
9 the issue. So, this sets forth -- and it's just a
10 resource. This comes out of our A-133, section 210.
11 And, you know, it applies to all entities in the BTOP
12 Grant world, with the exception of the For-Profit
13 entities. There is subpart 235 of A-133 for program-
14 specific audits. And, again, I'll talk a little bit
15 more about that.

16 So, here, the recipient, you as recipients
17 understand because you've been on the front line with
18 us through the entire process -- the application, the
19 due diligence, and now in the post-award environment
20 as the grantee. Your issues are going to be with, who
21 are you choosing as a subrecipient and a contractor?
22 And, you know, the subrecipient is somebody who's

1 walking side-by-side with you and somewhat in your
2 shoes, to make sure that they're benefiting the
3 public, you know, the objectives of our program, the
4 public purpose of this grant. They're involved in the
5 managing and decision-making on a daily basis, or on a
6 very critical, substantial level in the grant. That's
7 very different than a vendor. And I, you know,
8 sometimes I use the analogy, right or wrong, but, is
9 that, you know, a vendor is providing equipment or
10 services, much like, one could say -- and I remember
11 having this discussion with someone within Commerce,
12 because we differed on what we thought a subrecipient
13 was.

14 So, you know, whomever you're speaking to,
15 you could hear differing things. We're all sort of
16 grappling with this in the world of ARRA. So don't be
17 frustrated. We'll work it through with you. But, one
18 of the things was, you know, her position was, well,
19 an engineer is a subrecipient. And I said, I don't
20 think so. That sounds like a contractor to me, a
21 contracting service. And, you know, she said, no, you
22 know, they're there for the whole life of the project.

1 And I said, yeah, so is my doctor, but that doesn't
2 mean my doctor is coming in on the daily decisions of
3 my life. Only when I go to that doctor and need
4 something.

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

1 subrecipient.

2 And that being said, there are a lot of
3 contractors that, remember what Chris said -- It's the
4 nature of the relationship, not what you write in your
5 agreement. So, you know, obviously, nobody really
6 wants the Federal Government to, like, you know, be
7 involved in all of these rules and regulations
8 attaching, because they're challenging. So, we know
9 that contractors, everyone wants to be a contractor
10 instead of a subrecipient. It's easier, right? And,
11 you know, you just get to benefit from the program,
12 and you get to get your money, and then you don't have
13 all of these responsibilities. Be careful. Because
14 even if you came in and we awarded it, that was phase
15 1. Phase 2 is going to be our audits, and they're
16 going to come in and they're going to look to the
17 nature of the relationship. So, this is why I'm going
18 to spend a lot of the talk, of what I'm talking about
19 today with you this morning, on this, so that you
20 really does get on your radar, you really start
21 thinking about these roles, and you become very clear
22 as you move forward what it is. The last thing we

1 want to see when these audits come, and you know they
2 will come for each and every one of these projects, is
3 material findings on this issue recommending
4 disallowances because you didn't get the role defined
5 correctly. So, you have opportunities to get this
6 right. Talk to us about it -- if it's not, what may
7 need to happen in order for you to get it right, and
8 the steps that you'll have to go through. Okay.
9 Again, you'll see that this presentation really spends
10 a lot of time on this issue, because we know that this
11 is a challenge, and so we spend time where we know
12 that our grantees are having challenges.

13 I provide this to you because you really see
14 what the subrecipient's, you know, role are. So if
15 you're sitting at the table and it sounds like that's
16 who your partner is -- that they're doing these kinds
17 of things, they're performing the substantive work on
18 the award to accomplish BTOP's purposes, you know,
19 that they're going to, you know, the financial rewards
20 that they're going to have, that they're part of the
21 decision making of who you're choosing, why you're
22 choosing it, all of those kinds of things -- that's a

1 true partner, right? Without that partner you
2 wouldn't be successful? That's different than a
3 vendor, where you can go out and, whether you buy that
4 computer or that computer, or that switch, or that
5 switch, it's not going to make a bid difference for
6 you meeting your objectives on the project.

7 Distinguishing the subrecipients from contractors,
8 again, I just highlighted this in speaking with you.
9 Really, they provide the goods and services for the
10 benefit of the recipient. They don't directly perform
11 any substantive work toward achieving the BTOP
12 purposes. And, of course, the subrecipient flow-down
13 requirements do not apply to contractors.

14 That said, one caveat to help you out here -
15 - if you read the administrative requirements and you
16 get to the end of it, there's appendices, and it also
17 talks about it in the administrative requirements, and
18 it recommends certain contractual provisions that you
19 should have in your contracts with vendors that are
20 required as a matter of Federal law because of the
21 Federal grant. So, go there and make sure that you've
22 read that, and that you're building these into your

1 contracts. And if they're not, then amend your
2 contracts and put them in. Okay? It doesn't mean you
3 have to go out for a whole new, you know, RFP. But
4 you do have to amend it to make sure these clauses are
5 in, because they'll be looking for them in the audits
6 on the Federal side of things here.

7 Okay. Where did we go? I'm going to talk
8 about the recipient codes of conduct. This, as having
9 mentioned right up front, having written procurement
10 procedures, having written codes of conduct, is
11 mandatory. It's not, you know, voluntary. You've got
12 to have them for these grants. And so, if you already
13 have them in your organizations, that's okay. You can
14 use them here. You don't have to create new ones for
15 BTOP. If you don't have them at all, then you have to
16 get them, and they're really important. And there's a
17 lot of different sources you can go out to. And I am
18 hoping that as you talk over the next couple of days
19 with one another and you're grappling with some of
20 these issues, and you're talking to somebody who has
21 familiarity with Federal grants, you know, ask them.
22 You know, ask for some assistance amongst one another

1 to help you all out. So, the Code of Conduct, of
2 course, this goes to the heart of procurement, right?
3 The relationships. You can't have somebody writing
4 your RFP and then bidding on that, right? That's
5 going to present a problem. Related-party
6 transactions.

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

1 this. This is what our written Code of Conduct did.

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

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

1 (Laughter.)

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

20 So, for the For-Profits, make sure that
21 you're educating your own sales team. Because these,
22 you know, you've heard about fraud here. But a lot of

1 what turns into fraud is because it's sort of a
2 negligence. You didn't read your Recipient Handbook
3 and the rules, and so there's ignorance because you
4 didn't read those foundational things. Then you get
5 tripped up, which leads you into gross negligence.
6 It's getting worse now. And now you're getting
7 scared, so you start to not want to talk to people
8 about it and hide it, which then starts making it look
9 more like fraud, when in actuality it started just at
10 negligence, and you've created this scenario along the
11 way. So, be careful. Try not to do that, right?
12 Because it's easier. You will make mistakes. There
13 are, there's a lot of stuff here to help you get it
14 right. And if you noticed, even, in your
15 organization, oops, that was not what we should have
16 done, go back and correct it. Right? I mean, talk
17 about it. Bring it to our attention so we're aware of
18 it. You know, that's a better thing than hiding it,
19 because, you know, then it gets found out, and you
20 didn't say I,t and then, again, that starts to
21 unravel, right? And we don't want to go there.
22 So, the procurement standards. Again,

1 here's an area where you've got to have written
2 procurement procedures. This is so important, and I'm
3 going to use sole source justification issues as an
4 example here. If you used sole source justification,
5 or sole source in choosing a subrecipient or a vendor,
6 and don't have written procurement standards, you're
7 going to get dinged. It's just that simple. Because
8 you're written procurement standards are going to have
9 to say that you allow sole source, and it's, they're
10 going to have to specify how and under what
11 circumstances. And sole source, there's a lot of
12 guidance out there, right?

13 State and local procurement law follows, you
14 know, sole source, and what you need to do. You can
15 look to the guidance in the Federal documents, it also
16 talks about what you need to do. If you are in a sole
17 source environment, you've got to document, document,
18 document, right? You have to do a cost-price
19 analysis. You've got to document the justification
20 for that. Be smart. And, you know, I know we're all
21 aware that, just as, you know, Larry had said this
22 morning, this was a very fast, speedy process. We get

1 that, right? We were right there with you working
2 night and day to help get this out the door. So, we,
3 you know, it might be time, as you go through the
4 master checklist, to go back and look at these things
5 and shore up these things within your organization.
6 And if this is one of them, make sure you're paying
7 attention, okay? And take care of it.

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

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

1 that you're documenting it, your justification.

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

13 Some allow sealed bids. Some require, you
14 know, three, that have to be posted in the newspaper.
15 I mean, it's all across the board, so I can't speak
16 individually to that for the entire nation, because
17 these are a matter largely of state law as well, and
18 local procurement law, and within your own
19 organizations. For-Profits, this is not a world in
20 which you generally play, except that if you are a
21 vendor to State and local governments you certainly
22 have to follow those laws and rules and requirements.

1 So, please familiarize yourself with these as
2 presented here and in the other documentation I'm
3 referring you to.

4 I provide you with this summary, really, to
5 show you what you, a primary recipient and a
6 subrecipient, have to have versus a contractor. I've
7 spoken about this -- the flow-down requirements,
8 everything you're hearing about, recipients today
9 flows down through to the subrecipient. And it's your
10 job to monitor them, as it is our job to monitor you.
11 And so, the best way you can sort of learn about how
12 to do subrecipient monitoring is to follow some of our
13 guidance of how we're monitoring you. Of course, you
14 don't need to get that detail-oriented in a lot of
15 instances. But it should be a good guiding post for
16 you, that what we're asking of you, you should be
17 asking of your subrecipients. You determine the level
18 of detail and documentation that you'll be needing to
19 see. Contractors on the other part, you know, you
20 want to go out and make sure that you're doing
21 business with folks who haven't been debarred or
22 suspended in the Federal Government. You want to do

1 your due diligence, right? You don't want to find out
2 that your major contractor or subrecipient has somehow
3 been debarred under another Federal program. So, and
4 further guidance just came out from the OMB on this
5 issue, too, that really is requiring us at the Federal
6 level to monitor this suspension and debarment and the
7 audits, to make sure that if you're getting material
8 findings in other agencies, that, of course, impacts
9 your role here within the BTOP grants. So, just to
10 keep you apprised of that. Again, the most important
11 thing is, I think, that you go out and make sure that
12 you've got the clauses for contracts, and I told you
13 where you could go to get some guidance on that, so
14 you're thinking about that.

15 I'm going to turn now to the property
16 standards. Near and dear to my hear, security
17 interest. And all of you will come to know, for the
18 most part, your role in the security interest. If you
19 don't, the first thing I want to say is, don't panic,
20 you know? A lot of you come to us, and it's, like, I
21 can't sign the award until I get the security
22 interest. You know, these things take time. These

1 are not simple issues when you're granting the Federal
2 Government interest in your security. From our
3 perspective, it's really simple. Right? We have a
4 reversionary trust interest. Sign it over. Right?

5 (Laughter.)

6 Ms. Schultz: From your perspective, it's,
7 like, well, we can't do that. We have a bank loan.
8 We have a third party. We have this, we have that. I
9 mean, there's all these contingencies. They don't
10 want to do it, they don't want to play. I don't know
11 what to do. Do I not sign? Do I give back the award?
12 No. No, no, no. Relax. We'll find a solution,
13 right? That's what we do. BTOP is great at that.
14 And we want to find a solution. But here's the rule.
15 At the end of the day we have to take a security
16 interest, right? This is the American taxpayer's
17 money. So, I don't know where you get to go out in
18 the world and get a, you know, 2 million or a 5
19 million or a 50 million dollar, you know, deposit in
20 your bank account with no strings attached. I don't
21 think you get that. And you don't get it in the
22 Federal Grant world. You are required, as the

1 recipient or the subrecipient, to provide -- or, both
2 sometimes we see -- a security interest in this. Now,
3 that being said, generally there's lots of lawyers
4 that start to come to the table, right? Because, you
5 know, you've got interest in this for various reasons.

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

13 (Laughter.)

14 Ms. Schultz: Right. You got it. We're
15 first in line, right? But that's not to say that we
16 can't find a solution to maybe be joint. But that
17 takes dialogue, it takes work. You know, commit some
18 resources if this is a concern of yours in your
19 organization, to work with us, to work with your
20 counsel on this, your banks, your lenders, because we
21 can't understand all of where your lending is and the
22 intricacies of that, right? And we don't have the

1 time, nor do we have the resources. So, for us it's
2 fairly simple, you know, you sign off and you give it
3 to us. But there are various mechanisms we've been
4 working through. We hope to issue some guidance on
5 this. Right now it's with the Grants Office and with
6 our OGC, and so we'll keep you posted as to what type
7 of guidance that we'll be able to provide you with.
8 But, again, it's got to be the recipient and, or the
9 subrecipient. It cannot be the contractor. Your
10 contractor cannot own these assets. Right? I mean,
11 you've got to own the assets, and you've got to get
12 the security interest. We can't get a security
13 interest from a contractor. The contract the Federal
14 Government has is with you, the prime. And so, this
15 responsibility will ultimately rest with you. And
16 generally, these things can take a couple of years.
17 You didn't see us put a Special Award Condition on
18 your grant saying, you must figure out the security
19 interest within the first six months, otherwise you're
20 not getting any money. We didn't say that. So,
21 because we know that this takes time. And so, I want
22 you to all know that, you know, relax. It does take

1 time. And we'll get to a solution, you know. And
2 whatever that solution is, it's going to hopefully
3 meet the success of your goals and aims.

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

20 And so, you have this management assertion
21 that you provide to us. You're required to give it to
22 us within 30 days. It used to be a CPA certification

1 that was required. We changed that, working with the
2 AICPA organization as well as OMB, because after
3 Sarbanes-Oxley, of course, a lot of accountants don't
4 want to give certifications to accounting systems that
5 haven't been put in place yet because they can't test
6 them. And so, therefore, this is one of the areas
7 where you'll see the agility and the swiftness with
8 which we work to try and make things easier for you.
9 And by asking just for a management assertion, get it
10 to us in 30 days, and that will lift the restriction
11 on that particular SAC to allow you to start drawing
12 down funds.

13 Why did we do that? Because this is
14 critical. This is where a lot of findings come in in
15 the audits. So, it's to highlight to the heads of
16 organizations, as well as the authorized organization
17 representative, that this is important, right?
18 Prioritize this as you're setting up your grants so
19 that you have the proper financial management systems
20 in place, or you are building them out to prepare to
21 properly administer these funds within your
22 organization and then, vis-à-vis, your interactions

1 with the Federal Government on this. Okay.

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

6 (Laughter.)

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

21 It's the little things sometimes that matter
22 most, that people oversee in an organization. And

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

13 Well, where is it? I don't know. You know,
14 these are the kinds of things that will create a lot
15 of problems and will cost you a lot of resources, and
16 will cost us a lot of resources, right? And we don't
17 really want to spend our money doing that if we don't
18 have to, but we will, because it is our, you know, our
19 obligation. So I say, if you have one person and your
20 are a sizable grant, please think about a redundant
21 backup system that you have in place, that somebody
22 else in your organization understands your

1 recordkeeping. So, if it's John or Jay or Mary or
2 Jane, it's not just about them. What happens if
3 they're in an accident or they're taken ill, or they
4 decide to take another job? You have to have
5 redundancy built in here because this is important to,
6 one, administering under your responsibilities of this
7 grant. So, please take note of that. And also,
8 remember that you've got to keep your documents up to
9 3 years after the award closeout. There's an audit
10 going on, you know, after that time period, that
11 closes. If there's litigation, and we don't want to
12 see that here, it would be after that closes, and that
13 could be time eternal. So, of course, we don't ever
14 want to be in that environment.

15 Cost principles. This is an area that, if
16 you don't know what cost principles are, make sure
17 you've got an accountant in your organization who
18 does. And if it's fuzzy to you, it's everything to
19 you in the grant as you're going through on your
20 budgets, and you're doing budget modifications. You
21 have to understand the basics of costs principles in
22 the Federal Government. And so, we are now turning to

1 the cost principles and leaving the, you know, the
2 administrative requirements. Basically, they've got
3 to be consistent, reasonable and allocable, right?
4 This is the reasonable mind test. Cost principles, we
5 have direct and indirect costs. We don't allow
6 operating expenses under the infrastructure. We do
7 under SBA, PCC in this program. I'm not going to
8 spend a lot of time on this because it's very fact-
9 specific to your awards. But please become familiar
10 with these principles. Make sure that you understand
11 what a direct cost is versus an indirect cost, whether
12 or not it is eligible. Generally speaking, if you've
13 got a direct cost, it had to be a line item in your
14 budget. You have to have a negotiated indirect cost
15 rate in the Federal Government, also known as a NICRA,
16 which goes to this next slide.

17 So it gives you some idea of the direct
18 costs and the indirect costs. And it really tells you
19 the definition. I mean, if you can specifically
20 identify it with a particular cost objective and it
21 follows through with the allowable guidelines, it's
22 going to be a direct cost, versus the indirect costs

1 of running your organization. I'm not going to spend
2 a lot of time on the negotiated indirect cost rate.
3 For those of you who are familiar with Federal grants,
4 you probably will know that indirect costs is probably
5 one of the most complicated areas in Federal grants.
6 And so, of course, I don't want to talk about
7 complicated things.

8 (Laughter.)

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

21 I'm going to just highlight, right? There's
22 eligible and ineligible costs for these programs. And

1 these next slides go through some of them. I'm not
2 going to read them out loud to you. I'm putting them
3 there so that you can use this as a reference point.
4 Really, where you go, you go to the NOFA, is one of
5 the areas. You look at the, you know, NOFA, what is
6 allowable, what's not allowable. Remember that, that
7 really is the controlling, you know, law of our
8 program, so to speak, that regulates everything we do
9 and how we think within the program. So, you're under
10 NOFA 2, being the Round 2 recipients. Please be
11 aware, if you're speaking to Round 1 recipients that
12 the NOFAs differ in various areas.

13 And so, you have to be familiar with what
14 your area is. A woman asked this morning, for
15 example, about the pre-application expenses that were
16 spent by Gates Foundation that went through a
17 consultant and, you know, what do we do with that?
18 Well, the NOFA 1 said from the time of the issuance of
19 the NOFA to the time of the submission of the
20 application, that would be the time period where pre-
21 application expenses would be allowed, if approved by
22 whom? Our Grants Office. So, you'd have to go there.

1 NOFA 2 doesn't say that. NOFA 2 says, from the time
2 of the date of the issuance of the NOFA to the time of
3 the date of the issuance of the award. So, it's
4 different. So you get a longer period of time to
5 cover pre-application expenses. So, that's just one
6 example where you have to know what your NOFA says.

7 So, please make sure that somebody in your
8 organization is responsible for understanding the ins
9 and outs of that NOFA as it applies to your projects,
10 as well as the policies I'm talking about. There's a
11 pre-award notification, a Federal register notice.
12 That's all on the Grants Management site. Somebody's
13 got to read them in your organization, and then
14 they've got to brief you, if you're not the one
15 reading them, with the highlights of what's most
16 important. And only you know what those are in your
17 organization. We don't know what they are for each
18 and every one of you. So again, on the PCC projects,
19 these next slides really take the infrastructure, they
20 give you ideas of what's eligible costs and the
21 ineligible on the PCC projects. You know, Laura
22 Dodson and her team are here on the infrastructure.

1 Laura Breeden and her team are here on the PCC and
2 SBA. And I would encourage you to talk to them if you
3 have any questions about the eligibility or
4 ineligibility costs for anything related to your
5 projects. These are the SBA, again, and so if this is
6 new to you, again, please refer to it, and then ask
7 questions.

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

11 (Laughter.)

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

22 Another thing I should tell you is, the

1 Recipient Handbook will be hyperlinked by section on
2 our website. And, as well, if you go onto our website
3 and you click -- and we've gone through that effort of
4 hyperlinking every document we've referred to, so it
5 makes it really for all to access these documents.
6 Or, send the right person in your organization. If
7 you happen to hate tax, then don't click on that
8 button. Send it to the person who loves that stuff,
9 and ask them to read about it.

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

1 world.

2 So, if A-133 audits apply to you, you're
3 going to want to make sure when you're hiring a CPA
4 that they know what A-133 means. And if you say, you
5 know, I've got to comply with all this A-133 and, you
6 know, I give you a hint. You know, go find section
7 210, for example. I talked about it. Say, you know,
8 and that section 210, what do you think about it? And
9 if they look at you dazed, you know, you're going to
10 have an idea about whether or not they know anything
11 about A-133 audits. But, you know, interview them,
12 okay? Interview them, and say, this is really
13 important to our organization, you know, what do we
14 need to do to prepare for it? And what do we need to
15 do to succeed? And all of those kinds of things. The
16 For-Profits, again, there's a reference in A-133. A-
17 133, as it stands, does not apply to For-Profit
18 entities, okay? But there is a section in there --
19 it's called subpart 235 -- and it makes reference to
20 program-specific audits. And you can imagine the
21 reason for this. I mean, I'm going to just take a
22 Fortune 100 For-Profit company in our country. They

1 don't want to go through an organization-wide audit
2 because they've received, you know, a \$20 million
3 grant, and all of a sudden we have to do an
4 organization-wide audit on \$33 billion, or \$100
5 billion, right? That's not going to happen.

6 So, the reason why is that there's a subpart
7 235 that says program-specific on it. In that, what
8 we are doing at NTIA, working very closely with our
9 IG, who helps us in this, because For-Profits don't
10 generally get Federal grants. But in Commerce we do
11 have a program under the ATP that did allow grants for
12 For-Profits, and the IG helped them out there, too, to
13 make sure that you got the right guidance. So, we're
14 going to put out For-Profit guidance for you. I,
15 we're just finishing up on the compliance supplement.
16 If that's a new term to you, let me just tell you
17 quickly what it is. OMB puts out, for every single
18 agency and every single grant program to the extent an
19 operating unit within the Federal Government
20 participates, a compliance supplement. So, for BTOP
21 last year we had a compliance supplement for 2010.

22 This year we're just finalizing our

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

14 A couple of things that I want to point out
15 here. If you are a recipient and a For-Profit, and
16 you're getting audited, and you have a subrecipient
17 who's a Non-Profit, they have to go through an A-133
18 audit, right? Because A-133 applies to Non-Profits,
19 State and local governments. So, that A-133 audit is
20 going to apply to that Non-Profit. You are
21 responsible for making sure that, you know, one,
22 they're getting that audit, two, if there are findings

1 in that audit, that they are taking corrective action
2 to shore those up. You're responsible for that. Not
3 us. We're responsible for making sure that you are
4 monitoring your subrecipients. We are not going to go
5 into your subrecipient level, however. The auditors
6 will, but our FPOs won't, because that's not the
7 relationship.

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

1 those requirements are.

2 As far as the timelines for it, the IG went
3 over it in its presentation, you can find in here.

4 And again, we just posted a fact sheet on audit
5 guidelines that gives you the general basics of, you
6 know, about auditing. There will be another fact
7 sheet that we'll be working on, and perhaps a
8 presentation, a webinar that we'll give on audits as
9 we get closer to that time period. I would encourage
10 you all to participate in that and to ask your great
11 questions that you do, you know, so that you come to
12 understand exactly, how does this work? You know, if
13 there are findings, what takes place? Our audit fact
14 sheet that you'll find in the Recipient Handbook now
15 does not really cover the correction action part of
16 it. That's sort of a "stay-tuned," coming out as we
17 work through those issues.

18 But, basically, so what happens? I mean,
19 let's just talk a little bit about that. Let's say
20 you get material findings. You know, audits will come
21 through in different ways. The For-Profits, if you're
22 a For-Profit, you've got to submit it to Atlanta,

1 right? To the IG. There's an address in Atlanta.
2 You also have to submit it to us, right? You have to
3 submit it, upload into GOL, you have to, you know,
4 submit it to, I think, the Grants Office. And if
5 you're an A-133, there's an different process for you
6 in doing that. But For-Profits have a different path.
7 So, the IG will be looking at the A-133 material
8 findings, right? And they'll be opining, and they'll
9 be talking to us about it. We'll be talking to you
10 all about it. They'll also be looking at the For-
11 Profit audit. So, let's say there are material
12 findings. Well, then the dialogue begins. And we're
13 not going to find anything about, you didn't have the
14 documents, right? Because you're all going to get
15 that one right.

16 So, that's not going to be a finding in our
17 program. But there may be some other things that will
18 become findings. And so, we're going to have to
19 dialogue back and forth on how to resolve them. We'll
20 have to dialogue internally, and we'll have to
21 dialogue with you. And I want you to know that it is
22 a dialogue. And so, what you bring, and your

1 arguments, and how cogent they are, and how much
2 supporting documentation you have to back up, is going
3 to be really, really important for you to succeed on
4 that finding, right? And you can succeed on it. I
5 mean, just because it's a material finding. There may
6 be back and forth. But there's, you know, don't lose
7 all hope on that just because that happens.

8 If we have a material finding and it stands,
9 does that mean we're going to take the money back?

10 Well, maybe. It depends on what the finding is. But
11 we can also impose what we call -- and you'll see in
12 the monitoring plan -- performance improvement plans
13 and corrective action. Generally, in an audit finding
14 I would guess that you're probably see a corrective
15 action plan that's put in place -- How are you going
16 to correct what you did wrong? And you're going to
17 have a time period to do it, and then you're going to
18 have to prove it. And you're going to work out that
19 corrective action plan with the Grants Officer and the
20 FPO on the project, okay?

21 And then, you know, take it seriously. If
22 you land -- even before an audit you can get into a

1 performance improvement plan. If we find at a desk
2 review you're doing something that's off, you know,
3 you're off course, we can then put a performance
4 improvement plan in place on these grants. We can
5 also put corrective action plans in place on these
6 grants. Remember, when we do that, it's not, again, a
7 "gotcha". It's to help you, right? Get back on
8 course. You're just steering off course. And if you
9 steer off course and you don't understand, you know,
10 the wind vane and this, that you've got to get to the
11 end in three years, and you've got to be substantially
12 complete within two, our job is not only to monitor
13 and administer these Federal funds, and make sure that
14 you're spending them properly, but it's also to help
15 you in that monitoring to get, you know, across the
16 finish line successfully and stay on course.

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

22 All right. I'm going to move into some of

1 the key ARRA requirements now in the few minutes that
2 we have left together. And remember, I'm here over
3 the next couple of days, so feel free to come up to me
4 and talk to me about anything that's on your mind, or
5 any of my colleagues here will be happy to help you
6 out.

7 Davis-Bacon. So, Davis-Bacon applies. And
8 if you're not watching Davis-Bacon and you don't know
9 what Davis-Bacon is, this morning it's important for
10 you to understand it. I'm not going to spend a great
11 deal of time on it. We have a Davis-Bacon fact sheet
12 that I'm going to ask you to read so that you can go
13 and understand more about it. You can also, we have
14 contacts at the Department of Labor. But, let it
15 suffice to say that if you're working on projects that
16 have construction and it's over \$2,000, you have to
17 pay prevailing wages. And we work very closely with
18 the Department of Labor, and we have a Federal
19 responsibility, as you do as the recipients in this.
20 And it's a very important responsibility. We have
21 delegated this responsibility to you as the prime
22 recipients. You have to monitor the payroll

1 certifications weekly on your projects, okay? It's
2 your responsibility. It will come in an audit. So,
3 make sure somebody is doing that within your
4 organization. Here's one tip that I'll tell you --
5 how you do that, a lot of organizations already do
6 that. If you don't you're going to have to set up
7 these processes and procedures.

8 The other thing that you're going to find
9 when you go to prevailing wages -- this is technology,
10 and what's the great thing about technology? It
11 changes almost every day, right? It has a new name,
12 new hat, new this, new toy. And so, you know, one of
13 the things, I think we have, Vint Cerf is the Father,
14 you know, of the Internet, and he's the Chief
15 Evangelist now. I mean, that's a new C-word. And,
16 you know, so, what's going to happen here is, you
17 might get to a labor category and you don't find
18 yourself, or you don't find, you know, that doesn't
19 fit in technology. What do I do? Well, then you're
20 going to need to get a Conformance, it's called. And
21 so, you're going to have to apply for that. We have a
22 process and procedure. So look at the Recipient

1 Handbook of how to do that. And we work, then, with
2 DOL. And they're pretty committed to getting a result
3 back to you in 30 days, right? Not a lot of time.

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

14 Buy American. Well, you heard our IG talk
15 about Buy American. But the thing about the program
16 for us is, basically, while Buy American does apply as
17 an ARRA requirement, within the world of BTOP and
18 technology, our Secretary, Secretary Locke, signed a
19 waiver, I think back in July of 2009, waiving the Buy
20 American requirement across the board for certain
21 things. As you see, switching, routing equipment,
22 transport, access, customer premises equipment. And

1 that was done in large part because, you know, we
2 don't manufacture those items in the United States,
3 and we didn't want an onslaught of waivers coming in.
4 And so, another way that your Government is working
5 for you and streamlining the process to make things
6 easier for you, and this is one of those ways.

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

15 So, I'm just going to highlight the Special
16 Award Conditions here. You've got a whole bunch of
17 them. Pay attention to them. Some of them are what
18 we call actionable, right? I talked about the
19 accounting verification. The other big one for the
20 CCI and infrastructure projects, of course, is the
21 environmental assessment that's due, the draft, within
22 6 months. And you cannot draw down funds, except in,

1 you know, limited circumstances, only if you have
2 provided us with a budget, a 6-month budget which was
3 approved by our Grants Office.

4 So, this is a lot of language that may look
5 like small print on your contract, but it's real
6 critical language. Special Award Conditions is like,
7 you know, what we talk about every day. SAC. What's
8 SAC? This is what you hear in the halls where we're
9 at, right? You know, what did they do with that SAC?
10 And, was this SAC lifted? Is that SAC, I mean, can
11 get they get it lifted? And so, you need to
12 understand which SACs apply to you, which Special
13 Award Conditions apply to your award, and then put
14 somebody on this to be monitoring them, right? So
15 that you know when they're getting lifted and, most
16 importantly, the ones that are actionable. Then,
17 those are the ones you prioritize. Why? Because they
18 affect the drawdown of your money. And what does that
19 do, actually, in our program? The whole reason behind
20 ARRA was to, you know, really, you know, kick start
21 our economy and get jobs back, right? And get money
22 back into the economy. And so, we're very interested.

1 So is this Administration, our President, our
2 Assistant Secretary, our Secretary. I mean, they
3 watch this very closely, and they ask us all the time,
4 how is this doing? We monitor it very closely.

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

22 So, don't be afraid. Ask them questions.

1 And listen to their advice. We've got a lot to
2 accomplish for you to get that draft environmental
3 assessment in. It's not something you wait for the
4 5th month to start on. If you have an environmental
5 assessment SAC, I'm here to tell you, that is a high
6 priority in your infrastructure project today. So if
7 you don't have an environmental consultant onboard,
8 and you have to put that RFP out because you don't
9 have that in-house, you need to start thinking about
10 that this week, okay? And get started on that. And
11 then, we've put in a checklist for you of a schedule
12 to help you along the lines. There's a tremendous
13 amount of information on environmental assessments and
14 guidance to help you walk through this.

15 So I really want you to pay attention to
16 that, because you cannot begin construction, and you
17 cannot begin ground-disturbing activities, until you
18 receive a finding of no significant impact, or a
19 mitigated finding of no significant impact, or a
20 programmatic agreement. It is a Federal violation for
21 you to do that. And money that you expend on that
22 without, before-time, becomes ineligible if you are

1 engaged in construction and ground-disturbing
2 activity. So, I'm stressing this here. Make sure you
3 take that word back, because we cannot reimburse on
4 those funds if you've begun work without the Federal
5 clearance on the FONSI. And we're here to partner, to
6 make sure you get through that. All right.

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

15 We know you've got the challenges. Our
16 responsibility as Federal officials is to, you know,
17 administer and be the safe-keeper of this money,
18 working collaboratively with you, monitoring your
19 progress to your milestones to make sure that you meet
20 the entire BTOP objectives. At the end of the day,
21 you know, if you don't take this seriously, or, things
22 start to happen or unravel, you know, the Federal

1 Government does have a lot of various things in place
2 that it can do to enforce, you know, proper execution
3 of these grants. And we are required, obviously, to
4 do that. And I'd think you would think no less of us,
5 you would require us as also stewards of these awards
6 to make sure that we take appropriate action when we
7 see that that's required or necessary. And so, these
8 are just some of the things that we can do. We can
9 suspend payments, and that may happen to you in some
10 periods throughout the award, you know. That just
11 means you're not paying attention and you've got to
12 wake up and pay attention, and get back on track. We
13 can suspend an award. We can terminate for cause. We
14 can do all of those thing. But what I'm here to tell
15 you is, we really don't want to do any of those
16 things.

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

21 Thank you very much.

22 (Applause.)

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

10 (Applause.)

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

16 (Applause.)

17 Ms. Schultz: So, we're just about out of
18 time. I don't know if anybody has, you know, we have
19 time maybe for just a couple of questions. If you
20 have one, if you'd come to the mic. Otherwise, we're
21 going to be breaking here, I believe, for lunch.
22 Great.

1 (Laughter.)

2 Ms. Schultz: So, enjoy your lunch, and
3 we're around. Yes. Okay.

4 Mr. Preston: I have a question.

5 Ms. Schultz: Okay. Shucks. Yeah.

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

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

14 Mr. Preston: Thank you.

15 Ms. Schultz: That was an easy one.

16 (Laughter.)

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

22 Bill: All right. Thank you very much,

1 Cynthia. So, this morning you heard from us, from
2 NTIA, from the Office of the Inspector General. At
3 lunch we want to give you all the opportunity to hear
4 from one other. As one who's read a lot of your
5 applications, I know that you have a lot to share with
6 one another -- best practices, experience, you have
7 connections within your state and your region that can
8 be valuable to other organizations who receive BTOP
9 awards from your region.

10 So, I encouraged you to sit geographically.
11 And what we'd like you to do -- if I could get that
12 first slide. What we'd like you to do during a
13 working lunch is introduce yourself to one another.
14 You'll see that you're all wearing different colored
15 stickers. If you look down and see that you're not
16 wearing a red sticker, and someone else is wearing a
17 red sticker, that means they have a different project
18 type than you do. So, tell them a little bit about
19 your project type, about your key objectives, your
20 geographic reach, the communities you're serving, and
21 the clients you're serving. I think it's, you know,
22 very easy to understand what we're trying to do. We

1 think there's a lot that you all can share with one
2 another. Our hope is that you start some of that
3 sharing during lunch, and that we'll continue to work
4 on those, sort of, sharing, and talk a little bit more
5 about third party outreach after lunch at a group
6 exercise.

7 So, with that, lunch is served. There are
8 400 lunch boxes out in the foyer. Please bring them
9 back to your table and enjoy. For BTOP staff, I'd
10 like to invite you to the Skyline Suite for a brief
11 lunch, and then I encourage you to come back and enjoy
12 the conversations and discussions.

13 Thank you all.

14 (End of Audio.)

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