U.S. DEPARTMENT OF COMMERCE
Office of Inspector General

National Telecommunications and Information Administration

Review of BTOP Award for the San Francisco Bay Area Wireless Enhanced Broadband (BayWEB) Project

Final Report No. OIG-11-024-I
May 6, 2011

Office of Audit and Evaluation

UNITED STATES DEPARTMENT OF COMMERCE
The Inspector General
Washington, D.C. 20230

May 6, 2011

MEMORANDUM FOR: Lawrence E. Strickling
Assistant Secretary
For Communications and Information
National Telecommunications and Information Administration

FROM: Todd J. Zinser

SUBJECT: *Review of BTOP Award for the San Francisco Bay Area Wireless Enhanced Broadband (BayWEB) Project*
Final Report No. OIG-11-024-I

This memorandum provides our final report on the review we conducted in response to a November 1, 2010, letter from the County of Santa Clara, California. The letter from the County expressed concerns over a $50.6 million Broadband Technology Opportunities Program (BTOP) grant to Motorola, Inc., for deploying a public safety network and a public access wireless broadband network in the San Francisco Bay Area.

The objectives of our review were to (1) examine the procedures the National Telecommunications and Information Administration (NTIA) followed in its response to a complaint from the County of Santa Clara and the City of San Jose about the grant to Motorola, and (2) evaluate how NTIA handled Motorola's request for deviating from the approved equipment valuation method.

We identified areas in which NTIA could have better handled both matters. For example, NTIA did not promptly engage the program's Grants Officer to help address the complaint made against the award or to respond to Motorola's requests to be exempted from an award requirement. We recommend that NTIA improve its procedures for handling complaints associated with BTOP awards, and remind its Federal Program Officers (FPOs) assigned to monitor BTOP grants to work with grants officers to address important issues. We discussed our concerns and recommendations with NTIA officials on February 17, 2011, and with you on March 21, 2011. As we

BayWEB Quick Facts

- The award was made to Motorola on August 13, 2010, and accepted by the firm on September 16, 2010.
- The National Oceanic and Atmospheric Administration (NOAA) awarded the grant on NTIA's behalf.
- The award amount for this infrastructure project is $50,593,551, and the recipient share of the cost is $21,890,086.The total estimated cost of the project is $72,483,637.
- The goal of the project is to deploy an interoperable wireless public safety broadband network and public access wireless broadband network in the greater San Francisco Bay Area.

discussed, we plan to further review the complaint to examine issues that were outside the scope of this review, and that you indicated are also outside the scope of NTIA's program responsibilities.

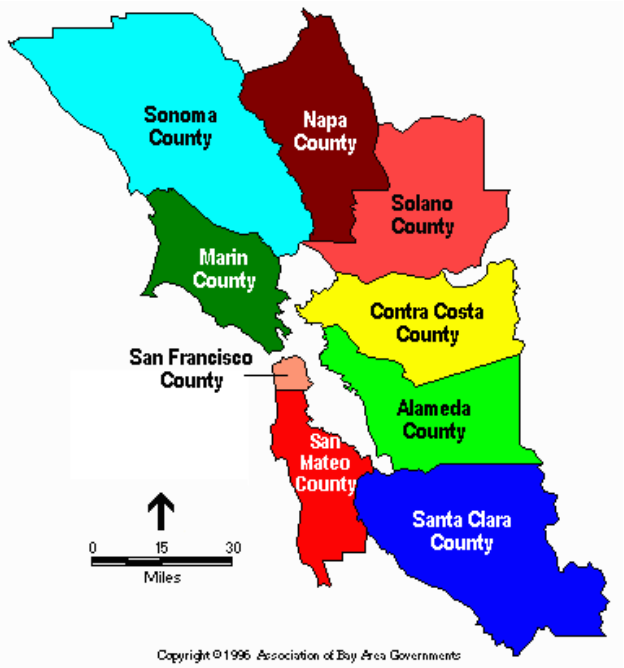
Your written response to our draft report notes that NTIA has already begun to address our recommendations. We summarize your response in this report and have included it in its entirety as attachment A.

Background

On February 17, 2009, the President signed the American Recovery and Reinvestment Act of 2009 into law. The Recovery Act gave NTIA $4.7 billion to establish BTOP,[1] and NTIA has awarded $3.9 billion in more than 230 BTOP grants to deploy broadband for infrastructure, public computer centers, and sustainable broadband adoption projects. Of these awards, 123 were infrastructure related—grants made to deploy new or improved Internet facilities and connect community anchor institutions such as schools, libraries, hospitals, and public safety facilities.

One of these infrastructure awards, the San Francisco Bay Area Wireless Enhanced Broadband (BayWEB) project, is a nearly $50.6 million grant awarded to Motorola Solutions, Inc. (formerly Motorola, Inc.) in August 2010. The project is a public-private partnership between Motorola and public safety entities throughout the counties that comprise the Bay Area (pictured in figure 1, plus the County of Santa Cruz, which is not shown). The goal of the project is to build a 700 MHz interoperable wireless public safety broadband network and a public access wireless broadband network.

Figure 1. Bay Area Counties



Our review of the award focuses on concerns in two areas of the award monitoring process:

- In September 2010, the Mayor of San Jose and the County Executive of Santa Clara County submitted a letter to the Secretary of Commerce requesting suspension of the award until concerns about the application process for the award and the implementation of the project were answered—specifically, the process followed to select Motorola to apply for the award on the Bay Area's behalf, a question relating to the legitimacy of the organization acting on behalf of the Bay Area, and a lack of adequate communications of the resources

[1] BTOP is a competitive grant program intended to provide funds for deploying broadband infrastructure in the United States, enhance broadband capacity at public computer centers, improve access to broadband services for public safety agencies, and promote sustainable broadband adoption projects.

participants would need to support the project. On October 1, 2010, the Director of BTOP replied with a letter stating that as of that date, NTIA had no information that called into question the recipient's ability or intent to execute the project in accordance with the terms of the grant. This response did not satisfy Santa Clara's and San Jose's concerns; therefore, Santa Clara sent a letter to OIG, dated November 1, 2010, requesting an investigation into the award. (See attachment B for a timeline of the award and subsequent contacts between NTIA and Santa Clara and San Jose.)

- Motorola plans to manufacture a portion of the equipment intended for the BayWEB project, some of which will satisfy its match contribution. Both before and after receiving the grant award, Motorola sought from NTIA the approval to use market value in assigning value to Motorola-manufactured equipment instead of following the requirement in Title 48, part 31, of the Code of Federal Regulations (48 CFR part 31; Contract Cost Principles and Procedures). Because the cost principles state that equipment purchased for the project with federal funds and equipment that the grantee contributes must be valued at cost, using market value would not be an appropriate valuation method.

NTIA and the NOAA grants office (which made the Motorola award on NTIA's behalf) share responsibility for administering and monitoring the award. Therefore, successful award monitoring, including addressing concerns about specific awards or grant terms and conditions, requires effective coordination between the grants and program offices.

We initiated our review in December 2010 to determine how effectively the BTOP program office, with the assistance of the NOAA Grants Office, was handling these issues. Attachment C of this report outlines the objectives, scope, and methodology we followed for the review. The following sections of this report detail our concerns with NTIA's processes and the recommendations we communicated to NTIA as a result.

NTIA Needs to Strengthen Its Procedures to Address Post-Award Complaints Regarding BTOP Awards

NTIA's handling of the complaint from San Jose and Santa Clara was insufficient for several reasons. The award to Motorola is a significant investment (it is 1 of around 20 awards of more than $50 million); it is complicated (it involves the support of multiple county and local governments); and it is part of a key initiative for public safety. These factors suggest that a complaint about the project deserves a rigorous review, timely responses, and clearly documented review results. However, we found several problems in the handling of the initial and subsequent complaints:

- ***NTIA's documentation does not demonstrate sufficient research into complaints.*** Our review of NTIA's documentation supporting its October 1, 2010, response to the complaints by Santa Clara and San Jose suggests that the bureau did not perform sufficient research before it responded to the officials. NTIA's response was based largely on its review of the grant application's original letters of support for the project from San Jose and Santa Clara. Both of these parties noted that the letters were in support of the project concept, not the project as it was awarded.

In its response, NTIA claimed that when it researched the complaint, it reviewed the grant application and documentation regarding the award's governance structure. However, our review of the records supplied by NTIA does not demonstrate that these factors were considered in formulating its response. We also reviewed an NTIA timeline that tracked meetings held in response to the BayWEB complaint. The timeline identified internal discussions, status updates provided to senior leadership, research, and discussions held between NTIA and external entities such as Motorola and Bay Area representatives; however, it lacked sufficient detail for us to ascertain what was discussed or any actions taken as a result.

NTIA explained it did not reference the minutes for the meetings in the timeline because, due to its limited resources, maintaining such records would be unduly burdensome. However, we cannot reach a conclusion regarding the thoroughness of NTIA's review process without an adequate record. To ensure transparency in its complaint review and decision making process, NTIA needs to develop the necessary policies and procedures for reviewing complaints and documenting results.

- ***Inadequate communications with the grants office.*** The Grants Officer makes awards and amendments, suspends or terminates awards, makes determinations of non-responsibility, and approves less-restrictive requirements, while the program office recommends courses of action to mitigate existing and prevent future issues. NTIA did not clearly articulate the issues associated with the Santa Clara and San Jose complaints to the Grants Officer until January 2011, around 4 months after the complaint was made.

  The *Department of Commerce Grants and Cooperative Agreements Manual* states that program officers are responsible for reporting potential or existing problems to the Grants Officer within 30 days, and for providing recommendations for remedy. We were told that weekly meetings were held to discuss BTOP awards, but the complaint and NTIA's initial response to it were not discussed during these meetings. Therefore, NTIA's actions were inconsistent with the Department's guidance.

- ***Inadequate policies and procedures for handling complaints.*** NTIA did not have procedures in place to handle complaints and inquires about awards. Consequently, NTIA was not consistent in how they were handled. The FPO handbook states all third-party inquiries must be input into the Customer Service Management (CSM) tool, a computer program for tracking major programmatic or project issues, including allegations of waste, fraud, and abuse. However, a review of the CSM entries provided by NTIA revealed only select inquiries received from San Jose and Santa Clara. For example, there were entries in CSM for the initial inquiry dated September 8, 2010, but we did not find entries for San Jose and Santa Clara's October 12 response to NTIA's October 1 letter. We also did not find a documented decision to stop logging these inquiries into CSM or to provide a formal response to the complaint.

  Also, while NTIA documented its intent to answer inquiries promptly, we found that it did not identify specific complaint resolution procedures or give metrics for responding in a timely fashion. The Government Accountability Office (GAO) *Standards for Internal Control in the Federal Government* states that internal controls should be documented in

management directives, administrative policies, or operating manuals.[2] NTIA stated that its Program Services team is responsible for working with the FPO to resolve various compliance issues, but this team does not have specific procedures in place for handling third-party inquiries. While it may not be feasible to know the precise steps or amount of time required to resolve a complaint, NTIA can still develop general guidance for responding to requests. Establishing ways to measure timeliness and resolve inquiries will allow NTIA to periodically analyze its complaint resolution process and identify improvements, which will lead to a more efficient and effective customer service response.

- ***No process for independent review of complaints.*** Complaints such as those made by San Jose and Santa Clara require NTIA to have a credible process for addressing areas of concern. Currently, the structure of NTIA's program office is such that the same organization that reviews original applications (including performing due diligence and making recommendations to award specific grants) also reviews any complaints received against those awards. The objectivity of NTIA's complaint review processes could, therefore, be questioned. Parties concerned with awards and projects need assurance that their concerns are receiving an objective analysis, but in our view NTIA does not currently have the right internal structure or mechanisms to perform this independent review.

Overall, we found that NTIA did not respond in a manner sufficient to resolve Santa Clara's and San Jose's requests for investigation of the BayWEB award. On February 24, 2011, NTIA responded to Santa Clara's and San Jose's letters from January 18, January 31, and February 15, explaining its decision that there was an insufficient basis to de-obligate or suspend the award or to impose special award conditions. On February 28, 2011, Santa Clara responded to NTIA, expressing disagreement with this decision. Given the fact that the success of the grant depends upon the participation and financial commitment of several local government bodies, it is important to address unresolved concerns about the award process. Accordingly, we plan to further review the issues raised in the complaint.

Recommendations

We recommend that the Assistant Secretary for Communications and Information

1. establish a process for ensuring an independent review of difficult complaints—one that benefits from input from independent parties such as the Office of Secretary and grants office and stresses the importance of documenting actions taken by NTIA in response to the complaints, and their results;
2. develop policies and procedures for responding to complaints, including establishing metrics for measuring timely response and formal protocols for communicating issues with the Office of Inspector General; and
3. promptly address the BTOP office's lack of coordination with the grants office by issuing a memorandum to BTOP staff on the importance of communicating with and enlisting the support of the grants office when responding to complaints and other issues.

[2] GAO, November 1999. *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1, 15.

BTOP Program Office's Handling of Motorola's Request to Depart from Grant Terms and Conditions Demonstrates the Need to Improve Communications with the NOAA Grants Office

The financial assistance award (form CD-450) signed by Motorola, Inc., and by the NOAA Grants Officer on behalf of NTIA represents the government's award offer and the recipient's agreement to comply with award terms and conditions. One of the terms Motorola agreed to comply with was 48 CFR part 31, Contract Cost Principles and Procedures, which state that both the equipment purchased for a project with federal funds and the equipment that a grantee contributes must be valued at cost.

The federal grant is matched by Motorola's contribution of $22 million. The estimated total project cost of $72 million is composed of $44 million in equipment, with the remainder representing services and other costs. Of this $44 million, Motorola plans to contribute a significant portion as equipment that the company will manufacture itself with the rest to be provided by third-party vendors. Even before it accepted the award, Motorola discussed with NTIA the applicability of the contract cost principles and Motorola's desire to use an alternative valuation methodology (based on market value) for the equipment it planned to manufacture.

However, under the terms of the grant, using market value would not be an appropriate valuation method. Because Motorola is required to provide a matching share, and Motorola has indicated that a significant portion of its matching share will be equipment, the proper valuation of equipment is key in ensuring compliance with the cost principles applicable under this program.

The grants office did not become aware of Motorola's challenges related to compliance with the terms of the grant agreement until January 14, 2011, after receiving our request for a meeting on cost valuation for the project. Discussions between the NTIA program office and Motorola regarding these challenges occurred for approximately 4 months before the Grants Officer was properly notified of a potential departure from the award terms and conditions. This action was inconsistent with the Department's grants manual, which states that program officers are responsible for reporting potential problems, inconsistencies, or instances of noncompliance to the Grants Officer within 30 days.

Per version 2.0 of the FPO handbook (December 2010), program officers are also responsible for providing "written background and recommendations to the Grants Officer on recipient award action requests and programmatic issues, such as amendments to the project description, budget or transfer requests." (*Award actions* are changes or amendments to the original terms and conditions of an accepted award package, such as a change of address, changes to the approved project budget or original scope of work, or extension of the performance period.) Award recipients typically initiate requests by submitting an award action request form to their FPO via one of two systems used by NTIA to administer awards: Grants Online (GOL) or the Post Award Monitoring System. The FPO then makes a recommendation based on the request form and its analysis of the pertinent issues, and the Grants Officer evaluates and approves or disapproves the request.

Because Motorola's first two valuation proposals were submitted via e-mail, not as an award action request, NTIA lacked a formal submission and an adequate record of related discussions.

NTIA's position is that a formal request was not submitted because the discussions with Motorola were preliminary.

The grants office has taken a firm position that the terms of the grant agreement must be upheld. On February 10, 2011, the Department's Office of General Counsel also determined Motorola must comply with 48 CFR part 31 cost principles. However, NTIA had let the issue go unresolved for more than 4 months, when it should have been promptly communicated to the grants office for resolution. The grants office was surprised to find out about Motorola's requests and NTIA's subsequent actions. The office was also surprised that this matter continued be an issue, as Motorola had submitted a request in March 2010 to waive the requirement to comply with 48 CFR part 31; that request had been denied in June by NTIA on the grounds that Motorola did not provide adequate support for the request or demonstrate why the waiver would be in the best interest of the government.

In a meeting with us on January 18, 2011, the grants office confirmed that NTIA had not consulted with it prior to our meeting request. The office reaffirmed that it still believed the cost principles applied, and that NTIA had been told that it should inform Motorola of this promptly. NTIA subsequently sent a formal denial letter to Motorola, dated January 24, 2011. The letter stated Motorola did not provide sufficient support for its proposal, nor did Motorola show how an alternative cost principle would provide benefit to the government.

In addition, the extent to which NTIA allowed this issue to continue without consulting the Grants Officer (the appropriate person for addressing requests to change award terms and conditions) is unclear. Prompt action (i.e., communicating with the grants office and Office of General Counsel) would have been prudent in order to resolve the issue, which was pending even before the grantee signed the award document in September 2010.

On February 4, 2011, Motorola submitted an award action request in GOL for the review of its third valuation proposal. On March 7, the NOAA grants office, on behalf of NTIA, issued a letter to Motorola stating that 48 CFR part 31 must still be followed and that this matter is considered closed.

Recommendations

We recommend that the Assistant Secretary for Communications and Information

1. ensure, in NTIA's monitoring of the award, that any equipment is valued at cost, consistent with the cost principles; and

2. take immediate action—similar to our earlier recommendation to improve coordination with the grants office—directing BTOP personnel to promptly communicate any potential problems or deviations to the Grants Officer.

Summary of Agency Comments and OIG Response

In responding to our draft report (attachment A), the Assistant Secretary for Communications and Information states that NTIA will take the appropriate steps to address our

recommendations. He further notes that NTIA "is committed to making process improvements, strengthening its compliance function, and enhancing [the bureau's] customer service to ensure transparency and accountability."

NTIA summarizes the steps it is taking to address our recommendations. The Assistant Secretary reports that he has notified NTIA staff that they must promptly communicate issues to the grants office consistent with the Commerce grants manual. NTIA also discusses its new policy for complaints that raise particularly difficult, sensitive, or chronic allegations to BTOP-funded projects, noting that the process will be handled outside the program office. We are pleased that NTIA has already initiated corrective actions.

Within 60 days of the date of this memorandum, please provide us with an action plan that responds to all of the report recommendations. We would like to extend our thanks to the BTOP team for the courtesies shown to us during our fieldwork, and we look forward to reviewing the action plan. If you have any questions, please contact me at (202) 482-2754, Katie McKevitt at (202) 482-0264, or Chris Rose at (202) 482-5558.

Attachment

cc: Scott Quehl, Chief Financial Officer and Assistant Secretary for Administration
Kathy Smith, NTIA Chief Counsel

Attachment A: NTIA Response

UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Communications and Information
Washington, D.C. 20230

APR 27 2011

Mr. Todd J. Zinser
Inspector General
United States Department of Commerce
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

Dear Inspector General Zinser:

Thank you for the opportunity to comment on the Office of Inspector General's (OIG) draft report entitled *Review of BTOP Award for the San Francisco Bay Area Wireless Enhanced Broadband (BayWEB) Project* (the Report). I am grateful for our ongoing collaboration to prevent waste, fraud, and abuse of taxpayer funds and your oversight of the National Telecommunications and Information Administration's (NTIA) broadband programs.

With respect to your draft report, I appreciate your recommendations that NTIA can continue to improve the handling of its responses to complaints, such as those from the City of San Jose and Santa Clara County about the Broadband Technology Opportunities Program (BTOP) award to Motorola, and can bolster processes and Grants Office communications surrounding potential post-award project modifications such as Motorola's alternative match valuation request. To enhance its management and oversight of all BTOP grants, NTIA is committed to making process improvements, strengthening its compliance function, and enhancing our customer service to ensure transparency and accountability. We will take appropriate steps to address the recommendations detailed in the Report.

Since completing the award of BTOP grants last September, NTIA has focused on providing vigorous oversight and high-quality technical assistance to grant recipients to ensure they complete their projects on schedule, within budget, and deliver the benefits promised to the communities they serve. To address issues and challenges that arise with grant recipients effectively, and to ensure the rigorous implementation schedule required of BTOP projects is maintained, NTIA instituted a program-wide oversight strategy to mitigate waste, fraud, and abuse; to ensure compliance with award conditions; and to monitor each project's progress toward its timely completion.

NTIA's comprehensive monitoring strategy, risk-based analysis, and rigorous approach to addressing third-party inquiries underscores how seriously the Agency takes its responsibilities. NTIA thoroughly reviewed San Jose and Santa Clara's claims with respect to the Motorola award. This review included involvement from the Federal Program Officer (FPO) and appropriate senior NTIA staff who researched the due diligence process, the award file, and the application, and incorporated discussions with the parties involved, including San Jose and Santa Clara. NTIA staff spent over 100 hours and held more than 35 meetings to determine the appropriate resolution of the concerns. While NTIA believes that this situation was handled

thoroughly and addressed appropriately, NTIA recognizes that we can enhance our processes to improve customer service management and record-keeping. As a result, the Agency has taken steps responsive to the areas you raised as follows:

Develop Written Policies and Procedures for Handling Third-Party Correspondence

The Department of Commerce Grants Manual does not require NTIA to respond to third-party correspondence regarding grant recipients. Consistent with the Agency's goals of transparency and openness, however, NTIA has sought to provide timely and accurate responses to public inquiries about BTOP. In fact, NTIA developed a process to manage and track all such correspondence and, during the transition to the post-award phase of the program, NTIA modified this system to better track correspondence relating to BTOP inquiries and issues.

In response to the OIG's recommendation, NTIA has reviewed and formalized its policy for BTOP responses to third-party correspondence, including those containing concerns regarding BTOP projects or processes. More specifically, NTIA has improved the process by requiring OIG notification of all such correspondence to help characterize the proper scope of NTIA's response. This, of course, involves NTIA deference to and support of OIG's duty and prerogative to exercise principal authority to address serious allegation of waste, fraud, or abuse. NTIA has also established service-level standards to which Program staff should adhere. Further, BTOP's Correspondence Team[1] will continue to provide regular updates regarding outstanding issues the system tracks, including any trends identified in third-party correspondence. As an output of this process, NTIA will continually improve customer service with additional recipient or FPO guidance (*e.g.*, fact sheets, training, or technical assistance), as needed, in response to such trends.

NTIA also enhanced the third-party correspondence policy with a new review process for complaints that raise particularly difficult, sensitive, or chronic allegations related to BTOP-funded projects where, after consultation with OIG, it is decided that we will handle the complaint. Moving forward, these complaints will follow a review process that will be escalated through NTIA's Chief Financial Officer (CFO). To ensure an optimal and objective review, BTOP's Compliance Team[2] will review and prepare initial responses to these types of complaints. To avoid any appearance of conflict, the Compliance Team member assigned to an issue will not have participated in pre-award due diligence, and any Team Lead assigned to review draft responses will not have reviewed the project in question during pre-award. The Compliance Team will also seek input during the review process from the appropriate Grants Office, NTIA's Office of the Chief Counsel, the Department's Office of General Counsel, and the OIG, as appropriate. Following its review, the Compliance Team will review findings with NTIA's Office of the Chief Counsel and the Grants Office, and report findings to senior

[1] The Correspondence Team is a component of the BTOP Program Services Office, which oversees external programmatic guidance and provides processing support for third-party correspondence.

[2] The Compliance Team is a component of the BTOP Program Services Office, which provides advice to the Program Office regarding programmatic issues and grant compliance.

management through the CFO. Consistent with OIG's recommendation, this new process will be handled outside of the BTOP Program Office.

Enhance Grants Office Coordination

Since the beginning of Grants Office involvement with BTOP in 2009, NTIA has worked in close partnership with the National Institute of Standards and Technology (NIST) and the National Oceanic Atmospheric Administration (NOAA) as the BTOP Grants Offices. To that end, NTIA sought NIST and NOAA Grants Office input on BTOP programmatic guidance including the BTOP Notices of Funds Availability, the BTOP Recipient Handbook, and the Program-Specific Audit Guide, among others. In addition, NTIA has held weekly calls with the NIST and NOAA Grants Office since fall 2009. Based on the OIG's recommendations, NTIA has continued to improve its communications with the Grants Offices. These improvements include: enhancing documentation of the weekly calls; formalizing protocols related to BTOP issue notification to the Grants Office; seeking input on recipient correspondence; and encouraging participation in monitoring visits. NTIA FPOs have also invited grants specialists from the NIST and NOAA Grants Office to participate in regular monitoring calls with recipients. Most recently, I have issued a notice to BTOP staff directing them to continue to improve Grants Office communications by, at a minimum, promptly communicating issues to NIST and NOAA consistent with the Department of Commerce Grants Manual.

Better Monitor Award Terms and Conditions

From the outset, NTIA works closely with each BTOP recipient to ensure that it understands its obligations under the grant award terms and conditions. NTIA's interaction with Motorola has been consistent with this practice both generally and related specifically to the proper use of cost principles for the valuation of in-kind matching funds. NTIA denied Motorola's request for a waiver of the cost principles prior to issuing the award. Because BTOP staff was aware of Motorola's initial request and waiver denial, staff worked to ensure that Motorola was fully aware of its obligations under 48 CFR §31. Similar to other grant recipients post award, Motorola hypothetically and informally asked its FPO whether rules related to cost principles could be waived. While, initially, we did not inform the Grants Office of these informal discussions, NTIA recognizes the benefits of continuing to improve its coordination with the NOAA and NIST Grants Offices overall and, as noted above, has taken actions in response to the OIG's recommendations to improve those communications.

NTIA directly and frequently engages with grant recipients via regularly scheduled conference calls, email exchanges, drop-in calls on specific administrative or programmatic topics, and in-person conferences. These contacts serve as both a monitoring tool and a means to reinforce the terms and conditions associated with each award, and helps ensure that NTIA quickly addresses challenges that arise during implementation. As part of this monitoring approach, NTIA has instituted a robust process for identifying and escalating issues that require intervention in order to keep projects on track. The process includes informing the Grants Office in a timely manner of potential issues. Consistent with NTIA's overall monitoring and OIG's recommendation, NTIA will continue to monitor Motorola's award closely to reinforce award terms and conditions.

I look forward to continuing to work with you as NTIA oversees this important program. If NTIA may be of further assistance, please contact Milton Brown, NTIA's Liaison to OIG, at (202) 482-1853.

Sincerely,

Lawrence E. Strickling

Lawrence E. Strickling

Attachment B: Timeline for the BayWEB Project and Correspondence on the Award

Date	Event
March 26, 2010	Motorola submits application to NTIA or BayWEB project.
June 28, 2010	NTIA Assistant Secretary denies Motorola's request for a waiver of the Federal Acquisition Regulation (FAR) cost principles.
July 7, 2010	NTIA Assistant Secretary sends memorandum to NOAA Grants Office recommending award to Motorola for the BayWEB project.
August 13, 2010	NOAA Grants Office makes BTOP grant award to Motorola.
September 8, 2010	Chuck Reed (Mayor, San Jose), and Jeffrey Smith (County Executive, Santa Clara), send a letter to Secretary Locke requesting the award be suspended or postponed until concerns regarding the procurement and vendor selection processes have been addressed.
September 16, 2010	Motorola agrees to the award by signing the Form CD-450 "Financial Assistance Award.
October 1, 2010	Director of BTOP responds to Santa Clara, stating that to date NTIA has not received any information calling into question the recipient's ability or intent to execute the project in accordance with the grant terms. The letter cites NTIA's review of the memorandum of understanding between the five local governments involved and letters of support encouraging NTIA to award the grant.
October 12, 2010	County Executive for Santa Clara and Mayor of San Jose send a response to NTIA's October 1 letter, outlining their concerns regarding the Bay Area Urban Area Security Initiative (UASI) General Manager circumvention of the Bay Area UASI Approval Authority process, the process used to select Motorola, misrepresentations in the application and potential conflicts of interest with former Motorola employees
November 1, 2010	County Executive of Santa Clara sends a letter to Todd Zinser, Inspector General for the Department of Commerce, requesting an investigation of the award.
December 2, 2010	Secretary Locke responds to Mayor of San Jose, indicating NTIA evaluated Motorola's application according to requirements established in the second Notice of Funds Availability. In addition, NTIA found no reason to question the process by which the Bay Area jurisdictions chose to participate in the BayWEB project.
December 13, 2010	Mayor of San Jose replies to the Secretary's December 2 letter, stating that although his concerns are local in nature, they could be of some interest to NTIA because they resulted in misinformation and misrepresentations in the application. Mr. Reed also indicates his letter of support was obtained under false pretenses and that he does not wish to be a party to misleading NTIA.
January 18, 2011	County Executive for Santa Clara and Mayor of San Jose send a letter to NTIA, the NOAA Grants Office, and the Recovery Accountability and Transparency Board to provide additional information related to the BayWEB complaint, request an additional investigation, and ask that the award be suspended or high-risk special award conditions be imposed.
January 31, 2011	County Executive for Santa Clara sends a letter to NTIA following up on request to investigate the Motorola award.
February 4, 2011	Motorola submits award action request not to follow the cost principles found at 48 CFR part 31 to place a value on the equipment it contributes to the project.

Date	Event
February 15, 2011	County Executive for Santa Clara sends a letter to NTIA to follow up on January 18, 2011, complaint and identify actions that NTIA should take to address problems with the award and the project.
February 24, 2011	NTIA sends a response to Santa Clara and San Jose, stating that it has declined to de-obligate, suspend, or impose special award conditions at this time.
February 28, 2011	Santa Clara responds to NTIA with a letter expressing that they disagree with NTIA's decision that there is insufficient reason to de-obligate or suspend the award or impose special award conditions.
March 7, 2011	NOAA grant office issues a letter to Motorola stating that 48 CFR part 31 must continue to be followed and they consider this matter closed.

Attachment C: Objectives, Scope, and Methodology

We initiated this review in December 2010 based on the concerns San Jose and Santa Clara raised about the Motorola award and NTIA's process addressing those concerns. Our work was performed in accordance with the Quality Standard for Inspections (January 2005) issued by the President's Council on Integrity and Efficiency and under authority of the IG Act of 1978, as amended, and Department Organizational Order 10-13 (August 2006). We conducted our review from November 2010 through March 2011 at the Department of Commerce headquarters in Washington, D.C.

The objectives of our review were to (1) examine the procedures NTIA followed in its response to the initial complaint from the County of Santa Clara and City of San Jose about the grant to Motorola, and (2) review how NTIA handled Motorola's request for deviating from the approved equipment valuation method. The scope of our review did not include a final determination of the concerns raised by the County of Santa Clara and City of San Jose or the appropriateness of Motorola's equipment valuation proposals.

To accomplish these objectives, we interviewed officials from NTIA, NOAA, Motorola, the County of Santa Clara, the City of San Jose, Alameda County, and the State of California. We also reviewed documentation, including

- The initial September 8, 2010, letter submitted by the County of Santa Clara and City of San Jose expressing concerns with the application process and the progress of the project, and subsequent letters identifying concerns with the project.

- The October 1, 2010, NTIA response to the complaint and internal documentation associated with developing the response.

- The application submitted by Motorola, documentation associated with the review of the application, and the CD-450 Financial Assistance Award form.

- Documentation associated with Motorola's request to follow a valuation process other than the one outlined in the grant terms and conditions, and NTIA's response that it would not waive the condition.

- The *Department of Commerce Grants and Cooperative Agreements Manual* and *Broadband Technology Opportunities Program: Federal Program Officer Handbook.*

(BTOP-000116)