

BTOP Compliance and BTOP and ARRA Reporting Requirements





What Are Grants?

- Grants are cost reimbursable
- No fee or profit allowed
- Federal Rules and Regulations govern grants. Some key examples of requirements:
 - Financial Management System in place that can record the federal funds separately
 - Written procedures in place for minimizing fund draw downs, procurement, property standards
 - Accounting records must be kept and must include supporting source documentation for all costs
 - Cannot keep advanced funds for longer than 30 days.
 - Prior approvals for budget changes, change in key personnel, others
 - Access to all records by DOC Office of Inspector General
 - Cost principles stating which costs are allowable
 - Quarterly or Semi-annual financial and technical reports



Who Administers Grants?

- Program Officer (NTIA)--Responsible for documenting, evaluation and recommendation for award to grants officer and for monitoring and oversight of the work conducted under the award.
- Grants Officer--Only official with authority to bind the government, obligate funds, amend award, suspend or terminate award, resolve audits, and other administrative aspects.



Chart of Key Applicable Regulations That Govern Grants

Applicable Regulations Specific to Organization Type

Type	Administrative*	Cost Principles**	Audits***
For Profit	15 CFR Part 14	48 CFR Part 31.2	OMB Circular A-133
Higher-Education	15 CFR Part 14	2 C.F.R. Part 220 (OMB Circular A-21)	OMB Circular A-133
Non-Profit	15 CFR Part 14	2 C.F.R. Part 230 (OMB Circular A-122)	OMB Circular A-133
Hospitals	15 CFR Part 14	45 CFR, Part 74(E)	OMB Circular A-133
State and Local Governments	15 CFR Part 24	2 C.F.R. Part 225 (OMB Circular A-87)	OMB Circular A-133

NOTE: IN CONJUNCTION WITH ABOVE REFERENCED REGULATIONS, ALL AWARDEES MUST ALSO FOLLOW (as applicable):

Department of Commerce Financial Assistance Standard Terms and Conditions <http://oam.ocs.doc.gov/docs/GRANTS/DOC%20STCSMAR08Rev.pdf>
Special Award Conditions Under The Program

Department of Commerce American Recovery and Reinvestment Act Award Terms

<http://oam.ocs.doc.gov/docs/ARRA%20DOC%20Award%20Terms%20Final%205-20-09PDF.doc.pdf>

•Administrative Requirements can be found at <http://oam.ocs.doc.gov/docs/GRANTS/15cfr14.pdf> (15 CFR Part 14) or

•<http://oam.ocs.doc.gov/docs/GRANTS/15cfr24.pdf> (15 CFR Part 24)

** Cost Principles can be found at http://www.whitehouse.gov/omb/grants_circulars/

*** <http://www.gao.gov/govaud/ybk01.htm>



DOC Pre-Award Notification Requirements

- Contains applicable Federal policies and procedures found at 73 Fed. Reg. 7696 (Feb. 11, 2008).
- Pre-Award screening for management capabilities, financial condition and responsibility
- Administrative requirements and cost principles
- Audits
- Debarment, suspension, drug-free workplace, lobbying
- Freedom of Information Act
- Identifies forms requirements



Government-wide Administrative Regulations for Grant Recipients

- Uniform Administrative Requirements
 - OMB Circular A-110 (15 CFR Part 14) applies to higher educational institutions, hospitals, other non-profits, and commercial organizations.
 - OMB Circular A-102 (15 CFR Part 24) applies to state and local governments and Indian tribal governments.
 - Financial and program management, including matching, cost share and program income requirements
 - Property and procurement standards, reports and record keeping
 - Flow down requirements to subgrantees
 - Grantee must receive prior approval from grants officer to use subgrantees.



Uniform Administrative Regulations: Procurement Standards

- Subcontractor disputes--no recourse to federal agency
- Recipient must have codes of conduct for employees participating in contracting
- Recipient must have written procurement procedures
- Competition is required unless justified
- Recipient must document (a) basis for contractor selection; (b) justification if not competed (c) cost and price analysis



Uniform Administrative Regulations: Procurement Standards-- Codes of Conduct

- Grantees and subgrantees must have a written code of conduct governing performance of employees engaged in the awarding and administration of contracts.
- No employee, officer, or agent of the grantee or subgrantee may participate in the selection, award, or administration of a contract, subcontract, or subgrant supported by Federal funds if a real or apparent conflict exists.
- Conflict exists when a recipient employee, officer, or agent, any immediate family member, a partner, or organization which employs or is about to employ one of the above, has a financial or other interest in the firm selected for the award.
- Grantees or subgrantees may not solicit or accept gratuities or favors from contractors, potential contractors, or subcontractors.



Uniform Administrative Regulations: Financial Reporting and Records Retention Requirements

- Financial Reporting
 - Applicants are required to submit financial reports in accordance with the schedule set forth in the terms of the award.
 - Recipients must manage and monitor subrecipient's performance and assure they comply with audit requirements.
- Record Retention Requirement
 - All records pertinent to the grant award must be kept for 3 years after the submission of the final expenditure report (final closeout report).
 - Exception: All records must be retained longer for any audit, litigation, or claim commenced within the three year period. All records must be retained until the matters are resolved.
 - OIG has unrestricted access and may interview recipient's personnel for as long as records are retained.



Government-wide Cost Principles for Grant Recipients

- OMB Circular A-21--Applies to educational institutions.
- OMB Circular A-87--Applies to state and local governments.
- OMB Circular A-122--Applies to non-profits.
- 48 CFR Part 31(FAR) --Applies to commercial organizations (for-profit entities).



Cost Principles: Three Basic Guidelines

- For costs to be allowable they must be:
 - Allowable Costs: necessary, consistent treatment, not used as match for any other Federal award.
 - Reasonable Costs: ordinary and necessary, market prices, prudent person, established practices.
 - Allocable Costs: relative benefits received, all activities share cost, cost allocation plan



Cost Principles: Direct Costs

- Costs that can be identified specifically with a particular cost objective, including:
 - Personnel
 - Travel
 - Equipment
 - Materials/supplies
 - Contracts
 - Other



Cost Principles: Indirect Costs

- Costs that cannot be readily identified with a single cost objective, but identified with common or joint objectives, including:
 - General administration
 - Salaries/expenses of executive officers
 - Personnel administration
 - Accounting
 - Fringe benefits
 - Office rent
 - Maintenance
 - Library expenses
 - Office supplies
 - General purpose office equipment, computers, printers, copiers, etc.



Grant Recipient Certifications and Assurances

- **Applicants will be required to certify their compliance with federal rules and programmatic rules in the initial application.**
 - **General Certifications contained in Applications**
 - **SF 424B and SF 424D and other federal form requirements such as SF LLL and CD-511.**
- **Successful grantees will be required to comply with additional certification requirements at the time of the award.**
 - **DOC Standard Terms and Conditions**
 - **DOC ARRA Standard Terms and Conditions**
 - **Environmental Questionnaire for infrastructure projects**
 - **Special Award Conditions, as applicable**
 - **Other**



Key ARRA Requirements: Section 1605--Buy American

- Requires that projects funded by ARRA for the construction, alteration, maintenance, or repair of a public building or public work use American iron, steel and manufactured goods in projects, unless one of several specified exemptions applies. This requirement is to be applied in a manner consistent with U.S. obligations under international agreements.
- Limited waiver (74 FR 31410, July 1, 2009) of the Buy American requirements for certain broadband equipment in BTOP projects, which include:
 - Broadband Switching Equipment
 - Broadband Routing Equipment
 - Broadband Transport Equipment
 - Broadband Access Equipment
 - Broadband Customer Premises Equipment and End-User Devices
 - Billing/Operations Systems
- For equipment not covered by waiver, applicants may seek waiver on a case-by-case basis.



Key ARRA Requirements:

Section 1606--Wage Rate Requirements

- Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor.
- Standard Davis-Bacon contract clauses should be incorporated into any covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).



NEPA and NHPA

- Separate federal statutes each with its own regulatory compliance process
 - Actions categorically excluded under NEPA are not excluded from review under Section 106
- Integrated reviews to reduce duplication and achieve efficiencies
- Both NEPA and Section 106 must be completed prior to project approval/start of construction



NEPA and NHPA: Federal Agency Roles and Responsibilities

- Legally responsible for compliance including any public participation and consultation
- Decision making regarding effects to any resources/historic properties
- Completing the environmental review process



NEPA and NHPA: Applicant Roles and Responsibilities

- Gather and organize information
- Obtain required permits, authorizations, letters from appropriate governmental authorities
- Conduct any necessary studies as determined necessary by the federal agency
- Provide and submit the information to the appropriate official at the federal agency



NEPA Environmental Process

- NEPA documentation can include Categorical Exclusions (CEs), Environmental Assessments (EAs), or Environmental Impact Statements (EISs).
- A CE is a category of actions that has been found, through procedures adopted by a Federal agency, to have no significant impact, either individually or cumulatively, on the environment.
- NTIA and RUS will review applications to determine whether CEs may be appropriate or whether a more detailed EA or EIS will be required.



NEPA Environmental Process

- If a CE is not determined to be appropriate, the applicant may be required to prepare an EA or an EIS.
- An EA is a document that identifies potential environmental impacts, mitigation measures, and alternatives.
- If an EA indicates significant impacts, a more detailed EIS may be required.
- The relevant federal agencies will review all EAs and EISs for sufficiency with NEPA requirements. Some projects that may require an EA or EIS are:
 - Projects that require large amounts of ground disturbance (e.g., new facility construction)
 - Projects sited in sensitive areas (e.g., wetlands, critical habitat, traditional cultural properties)
 - Projects that harm a threatened or endangered species



Tiered Approach to Broadband Infrastructure Environmental Review

- In Step 2, complete environmental questionnaire for infrastructure projects only
- NTIA or RUS, as applicable, will screen environmental questionnaire
- NTIA or RUS, as applicable, will identify any necessary steps required to comply with NEPA and Section 106



Streamlined Environmental Review Process for Public Computer Centers and Sustainable Adoption Programs

- Applicants required to respond to DOC environmental checklist in their applications.
- NTIA will review applications to determine whether any Categorical Exclusion applies.
- Applicant will be notified by NTIA if there are any necessary steps to complete NEPA and Section 106 requirements.



ARRA Recipient Reporting

- Office of Management and Budget (OMB) guidance document M-09-21 at http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-21.pdf
- Recipient reporting required by Section 1512 of the Recovery Act is intended to answer important questions, such as:
 - Who is receiving Recovery Act dollars and in what amounts?
 - What projects or activities are being funded with Recovery Act dollars?
 - What is the completion status of such projects or activities?
 - What impact have the projects or activities had on job creation and retention?



ARRA Recipient Reporting

- Who is required to report?
 - Prime recipients of all programs
- What is required?
 - Quarterly reporting, beginning the quarter ending 9/30/09
 - No later than 10 days after close of quarter
 - Federal agency providing funds will make reports publicly available no later than 30 days after close of quarter



ARRA Recipient Reporting

- What is required to report?
 - Total amount of funds received; and of that, amounts spent on projects and activities
 - List of projects and activities funded by name to include:
 - Description
 - Completion status
 - Estimates on jobs created or retained
- Details on subawards and other payments
- Nationwide data collection system at the website: www.FederalReporting.gov
- Initial training second half of July through webinars



BIP and BTOP Recipient Reporting

- In addition to the general Recovery Act reporting requirements, BIP and BTOP awardees must also report quarterly on information specified in NOFA. The information requested will vary depending on the type of project being funded.
 - Infrastructure: Information regarding uses of funds, finances, broadband deployment and speeds, network management and interconnection, prices, and subscriptions.
 - Public Computer Centers: Information regarding uses of funds, technology and services offered, customers served.
 - Sustainable Broadband Adoption: Information regarding uses of funds, technology and services offered, individuals served, and broadband users generated



Enforcement

- High Risk Special Award Conditions
- Suspension of payments
- Suspension of award
- Termination for cause
- Termination for convenience
- Debarment and Suspension
- Deobligation



Questions and Compliance Contact?

- Please write your questions on an index card and pass them forward.
- Answers to frequently asked questions can be found at www.broadbandusa.gov
- Please send compliance questions and inquiries to btopcompliance@ntia.doc.gov



U.S. Department of Commerce Office of Inspector General

RECOVERY ACT: Transparency and Accountability in Broadband Grants



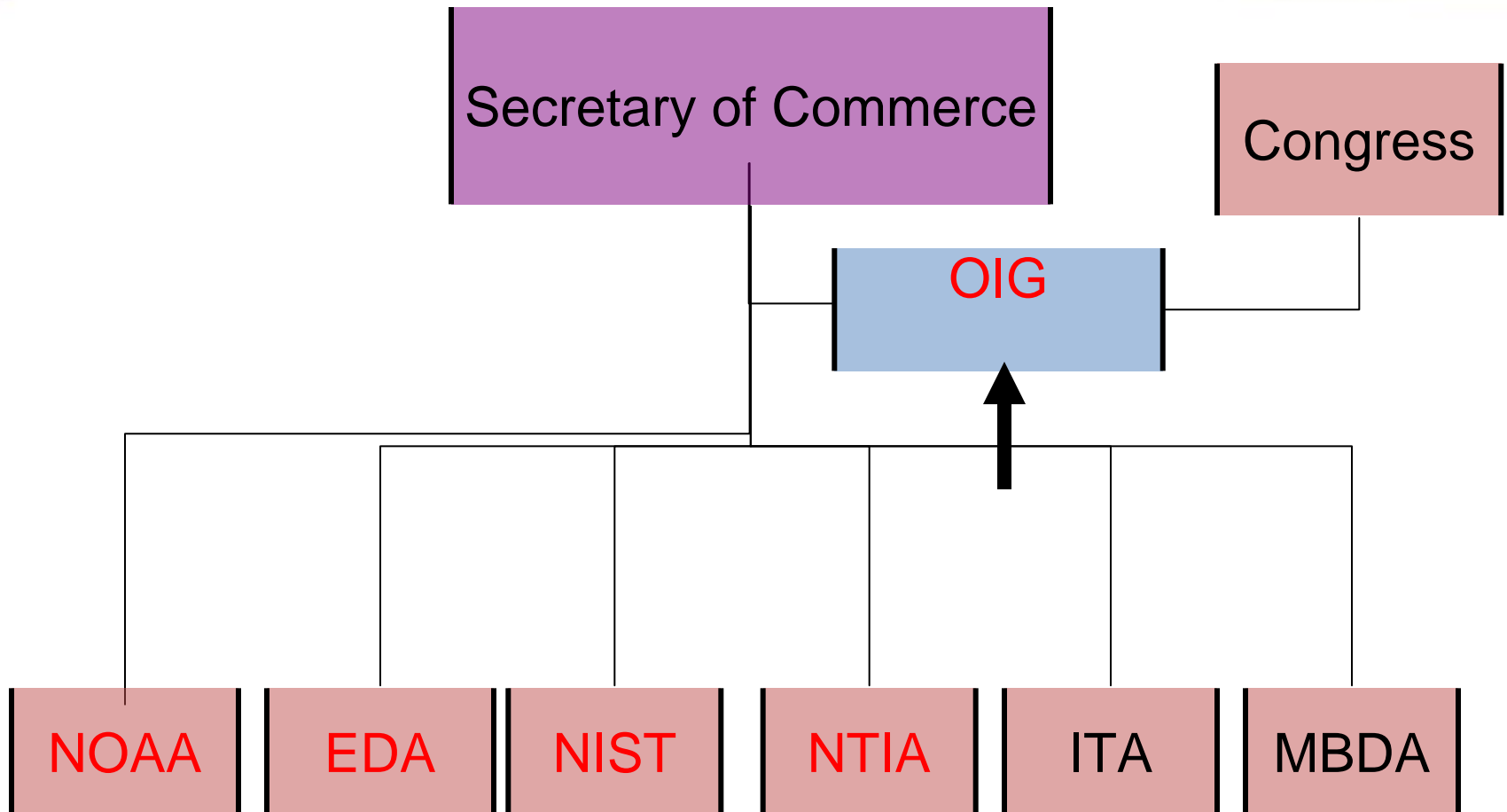


Recovery Act

"We cannot overstate the importance of this effort. We are asking the American people to trust their government with an unprecedented level of funding to address the economic emergency. In return, we must prove to them that their dollars are being invested in initiatives and strategies that make a difference in their communities and across the country. Following through on our commitments for accountability and openness will create a foundation upon which we can build as we continue to tackle the economic crisis and the many other challenges facing our nation."

OMB Memorandum to Heads of Departments and Agencies, February 9, 2009
www.recovery.gov/files/recoverylegislationmemo.pdf

U.S. Department of Commerce Grantor Agencies





Department of Commerce OIG Washington DC and 3 Regional Offices – Atlanta, Denver, and Seattle





Type of Audits

- **OIG Audits**
 - Cost and Compliance Audits
 - Performance Audits
- **Single Audits**
 - Governmental
 - Non-Profit Organizations
- **Program Specific Audits**
 - For Profit Entities





Administrative and Other Compliance Areas Covered in an Audit

- Financial Management System
- Matching Funds/In-kind Contributions
- Scope/Budget Revisions
- Procurement Practices
- Property Management
- Subrecipient Monitoring
- Financial/Performance Reporting
- Program Income





An Example of a Common Audit Finding

- **Matching Share**
 - American Recovery and Reinvestment Act of 2009 (Recovery Act)
 - Notification of Funds Availability
 - Uniform Administrative Requirements 15 Code of Federal Regulations (CFR) part 14 and 15 CFR part 24
- **Audit Issues with Matching Share**
 - Documentation
 - Valuation





Items of Cost Included in Most Audits

- Salary Distribution
- Fringe Benefits
- Travel Costs
- Entertainment Costs
- Contributions & Gifts
- Indirect Costs and Cost Allocation Plans
- Equipment
- Contracts and Subawards





An Example of a Common Cost Audit Finding

- **Salary Distribution**

A program manager is working an average of 40 hours a week on a federal grant and 20 hours a week on other projects. All of the program manager's salary is being charged to the federal grant. The auditor questions one-third of the salary costs.

- **Audit Issues with Salary Distribution**

- Documentation
- Valuation





Annual Single Audits Performed by Nonfederal Auditors

Nonfederal entities (States, local governments, tribes, and nonprofit organizations) are required by the Single Audit Act of 1996 to have an annual audit of their federal awards.





Implementing Single Audits

- Single Audit Act Amendment of 1996
Public Law 111-5
- OMB Circular A-133
<http://www.whitehouse.gov/omb/circulars/a133/a133.html>
- Compliance Supplement
http://www.whitehouse.gov/omb/grants/grants_circulars.html#audit
- Federal Audit Clearinghouse
<https://harvester.census.gov/fac>



Single Audit Requirements

- Required when the entity has \$500,000 in annual expenditures of federal funds.
- Major programs receive the greatest audit coverage.
- Must be submitted to the Clearinghouse within 9 months of the end of the recipient's fiscal year.
- For fiscal year ending after January 1, 2008, all single audit reports will be submitted to the Federal Audit Clearinghouse electronically.



Single Audit Requirements and the Recovery Act

- OMB will use the OMB Circular A-133 Compliance Supplement to notify auditors of compliance requirements that should be tested for Recovery Act awards.
- 2009 Compliance Supplement was issued in May. Appendix VII has been added to highlight known Recovery Act requirements for single audits.
 - Schedule of Expenditure of Federal Awards requirements for Recovery Act funds
 - Major program changes for Recovery Act funds
 - Discussion of Reporting Requirements for Recipients and Subrecipient
- OMB will issue interim updates as necessary to keep Recovery Act requirements current.



Single Audit Requirements and the Recovery Act

- For fiscal years ending September 30, 2009, and later, all Single Audit reports filed with the Federal Audit Clearinghouse will be made publicly available on the Internet. A link will be provided from Recovery.gov.
- Federal agencies will review Single Audits that include Recovery Act funding and provide a synopsis of audit findings relating to obligations and expenditures of Recovery Act funding.



Program Specific Audits Performed by Nonfederal Auditors

- For-profit recipients are not covered by the Single Audit Act.
- Program Specific Audit Guidelines will be developed for those for-profit recipients that receive Broadband Grants.



How to Avoid Audit Findings

- ✓ Prepare a thorough, fact-based proposal.
- ✓ Review financial, administrative, and project management systems.
- ✓ READ and UNDERSTAND the award before signing and revisit award requirements frequently during the project.
- ✓ Ensure all staff understand the project and award requirements and that they communicate fully and frequently throughout the project.



How to Avoid Audit Findings



- ✓ If in doubt, **ASK QUESTIONS** and get answers and approvals **BEFORE** acting.
- ✓ Know your Agency or Department contacts.
- ✓ **DOCUMENT, DOCUMENT, DOCUMENT!**
- ✓ Attend training like this.
- ✓ Respond fully and timely at every opportunity during the audit and resolution process.

How Audits Are Performed



In accordance with criteria:

- Award
- Terms and Conditions
- Proposal and Amending Letters
- Assurances
- Uniform Administrative Requirements
- Federal Cost Principles
- Laws, Regulations, and Program Guidance
- Prudent Business Person



Hotline Complaints

“There is no kind of dishonesty into which otherwise good people more easily and frequently fall than that of defrauding the government.”

~ *Ben Franklin*

- Credible Complaints
- Significant or Material Issues
- Often Referred to Grants Officer
- OIG Hotline Number

1-800-424-5197





Questions



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Accounting and Auditing Compliance Requirements for ARRA Broadband Loan and Grant Recipients

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Audit Requirements for Loan & Grant Recipients

- What kind of business are you?
 - For profit
 - Not for profit
 - State or local government
 - Tribal Authority



Loans and Grants

	<\$500,000	>\$500,000
For profit – incl. co-ops	7 CFR Part 1773	7 CFR Part 1773
Not for profit	No Audit Required	Circular A-133
State or Local Government	No Audit Required	Circular A-133
Tribal Authority	No Audit Required	Circular A-133



7 CFR Part 1773

Policy on Audits of RUS Borrowers

- Annual audit prepared by an independent auditor/audit firm
- Establish audit as of date within 12 months of the first advance/reimbursement
- Submit audits within 120 days of audit as of date



7 CFR Part 1773

Recipient's responsibilities:

- Auditor must be qualified, experienced and able to meet the deadlines
- Notification of selection of auditor
- Enter into audit engagement letter
- Ensure that auditor has not been debarred or suspended
- Submit audit within 120 days
- Submit plan of corrective action in response to any findings and recommendations of auditor



7 CFR Part 1773

Qualifications of CPA

- CPA in good standing with the state governing authority
- Independent
- Meet the Peer Review requirement



7 CFR Part 1773

Peer Review Requirements

- CPA must belong to and participate in a peer review program
- Must have undergone a successful peer review within the last 3 years unless a waiver is granted by the Rural Utilities Service
- Subsequent peer reviews must be completed at least every 36 months



7 CFR Part 1773

Peer Review Requirements

- CPA that receives a “Pass with deficiencies” or “Fail” must have another peer review performed within 18 months
- A CPA that receives consecutive “Pass with deficiencies” or “Fail” reports is not qualified to perform audits of ARRA Loan and Grant Recipients until undergoing a Peer Review that receives a “Pass”



7 CFR Part 1773

- Audit is performed in accordance with Generally Accepted Government Auditing Standards (GAGAS)
- CPA must make all audit-related documents, including auditors' reports, workpapers, and management letters available to RUS, its designated representative, or the OIG upon request and must permit RUS to copy all audit-related documents



7 CFR Part 1773

Annual audit prepared by an independent auditor/audit firm must include:

- Auditor's report
- Report on compliance and on internal control over financial reporting
- Management letter

(Examples are found in
Appendices A & B of 7 CFR Part 1773)



Electronic Filing

- Permit electronic filing of audits
 - Letter issued 2/19/09
- Portable Document Format (PDF)
- Email to rd-audits@wdc.usda.gov
- Will continue to accept paper audits (3 copies)



Functions of Field Accountants

- Compliance Reviews
 - Verify receipt and disbursement of all loan and grant funds
 - Verify all loan and grant costs



Recordkeeping & Documentation

RUS shall have reasonable opportunity, at all times during business hours and upon prior notice, to have access to and the right to inspect the broadband system, and any other property encumbered by the mortgage or security agreement, and any or all books, records, accounts, invoices, contracts, leases, payrolls, timesheets, cancelled checks, statements, and other documents, electronic or paper of every kind belonging to or in the possession of the awardee or in any way pertaining to its property or business, including its subsidiaries, if any, and to make copies or extracts therefrom.



Committed to the future of rural communities.

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