

ATTACHMENT TO SUPPORTING STATEMENT

U.S. Department of Commerce National Telecommunications and Information Administration Broadband Technology Opportunities Program

Performance Progress Reporting Requirements

Federal Regulatory/Policy Authorities for the Collection of Information

The legislation authorizing the collection of performance progress information under the NTIA Broadband Technology Opportunities Program is the American Recovery and Reinvestment Act of 2009 (the Recovery Act). In addition to the ARRA, there are several other controlling authorities mandating this collection of information. The pertinent portions of these authorities are presented below:

Department of Commerce Uniform Administrative Requirements for Grants, 15 CFR § 14.26, § 14.50-14.51. Found at: <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&rgn=div5&view=text&node=15:1.1.1.1.19&idno=15>.

§ 14.26 Non-Federal audits.

(a) Recipients and subrecipients that are institutions of higher education or other non-profit organizations (including hospitals) shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 U.S.C. 7501–7507) and revised OMB Circular A–133, “Audits of States, Local Governments, and Non-Profit Organizations.”

(b) State and local governments shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 U.S.C. 7501–7507) and revised OMB Circular A–133, “Audits of States, Local Governments, and Non-Profit Organizations.”

(c) For-profit hospitals not covered by the audit provisions of revised OMB Circular A–133 shall be subject to the audit requirements as stipulated in the award document.

(d) Commercial and other organizations not covered by paragraph (a), (b), or (c) of this section shall be subject to the audit requirements as stipulated in the award document or the prime recipient as stipulated in the sub-award document.

§ 14.50 Purpose of reports and records.

Sections 14.51 through 14.53 set forth the procedures for monitoring and reporting on the recipient's financial and program performance and the necessary standard reporting forms. They also set forth record retention requirements.

§ 14.51 Monitoring and reporting program performance.

(a) Recipients are responsible for managing and monitoring each project, program, subaward, function or activity supported by the award. Recipients shall monitor subawards to ensure subrecipients have met the audit requirements as delineated in §14.26.

(b) The Grants Officer after coordination with the DoC operating unit shall prescribe the frequency with which the performance reports shall be submitted. Except as provided in paragraph (f) of this section, performance reports shall not be required more frequently than quarterly or, less frequently than annually. Annual reports shall be due 90 calendar days after the grant year; quarterly or semi-annual reports shall be due 30 days after the reporting period. The Grants Officer may require annual reports before the anniversary dates of multiple year awards in lieu of these requirements. The final performance reports are due 90 calendar days after the expiration or termination of the award.

(c) If inappropriate, a final technical or performance report shall not be required after completion of the project.

(d) When required, performance reports shall generally contain, for each award, brief information on each of the following:

(1) A comparison of actual accomplishments with the goals and objectives established for the period, the findings of the investigator, or both. Whenever appropriate and the output of programs or projects can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.

(2) Reasons why established goals were not met, if appropriate.

(3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(e) Recipients shall not be required to submit more than the original and two copies of performance reports.

(f) Recipients shall immediately notify the DoC operating unit of developments that have a significant impact on the award-supported activities. Also, notification shall be given in the case of problems, delays, or adverse conditions which materially impair the ability to meet the objectives of the award. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

(g) The DoC may make site visits, as needed.

(h) Federal awarding agencies shall comply with clearance requirements of 5 CFR part 1320 when requesting performance data from recipients.

OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, § .50 and .51. Found at:
<http://www.whitehouse.gov/omb/rewrite/circulars/a110/a110.html#21>.

SUBPART C - Post-Award Requirements

Reports and Records

____.50 Purpose of reports and records. Sections _____.51 through _____.53 set forth the procedures for monitoring and reporting on the recipient's financial and program performance and the necessary standard reporting forms. They also set forth record retention requirements.

____.51 Monitoring and reporting program performance.

(a) Recipients are responsible for managing and monitoring each project, program, subaward, function or activity supported by the award. Recipients shall monitor subawards to ensure subrecipients have met the audit requirements as delineated in Section _____.26.

(b) The Federal awarding agency shall prescribe the frequency with which the performance reports shall be submitted. Except as provided in paragraph _____.51 (f), performance reports shall not be required more frequently than quarterly or, less frequently than annually. Annual reports shall be due 90 calendar days after the grant year; quarterly or semi-annual reports shall be due 30 days after the reporting period. The Federal awarding agency may require annual reports before the anniversary dates of multiple year awards in lieu of these requirements. The final performance reports are due 90 calendar days after the expiration or termination of the award.

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(1) A comparison of actual accomplishments with the goals and objectives established for the period, the findings of the investigator, or both. Whenever appropriate and the output of programs or projects can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.

(2) Reasons why established goals were not met, if appropriate.

(3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(e) Recipients shall not be required to submit more than the original and two copies of performance reports.

(f) Recipients shall immediately notify the Federal awarding agency of developments that have a significant impact on the award-supported activities. Also, notification shall be given in the case of problems, delays, or adverse conditions which materially impair the ability to meet the objectives of the award. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

(g) Federal awarding agencies may make site visits, as needed.

(h) Federal awarding agencies shall comply with clearance requirements of 5 CFR part 1320 when requesting performance data from recipients.

OMB Circular A-136, Financial Reporting Requirements, § II.3. Found at: http://www.whitehouse.gov/omb/assets/agencyinformation_circulars_federalfinancial_pdf/a136_revised_2008.pdf.

II.3.1 General

The following information is taken from Circular No. A-11, Section 230 *Preparing and Submitting the annual Performance Report*. Agencies should refer to Section 230 of Circular No. A-11 for a more comprehensive discussion on what should be included in the annual performance report. The annual performance report required by GPRA provides information on an agency's actual performance and progress in achieving the goals in its strategic plan and performance budget.

Agencies prepare one annual performance report for a fiscal year. For most agencies, this is the Performance Section of your agency's PAR. For those agencies participating in the pilot, the APR will be combined with the Annual Performance Plan and included in the Congressional Budget Justification (CBJ).

II.3.2 Format

There is no prescribed format for the annual performance report. (*See Circular No. A-11, section 230.1(b)*). At management's discretion, agencies may present supplementary performance information in an Appendix to the PAR.

II.3.3 Combining the annual performance report and the annual PAR

Together, the CFO Act and the ATDA require all agencies to prepare an audited financial statement. (*see Circular No. A-11, section 230.1(c), par. 1*)

The CFO will submit the combined annual performance report and audited financial statement (the PAR), under agency head signature, to the President, Congress, and OMB

no later than November 17 (see section I.5). Agencies should provide the draft PAR to OMB for review and clearance at least 10 working days before the due date.

II.3.4 What does the annual program performance report contain?

Required elements (see Circular No. A-11, section 230.2 (a)):

An annual performance report must include the following elements:

- A comparison of actual performance with the projected (target) levels of performance as set out in the performance goals in the agency's annual performance budget (or annual performance plan for fiscal years prior to FY 2007);
- A Diagnostic Analyses of 2008 Program Performance Results – For PARTed programs, agencies/programs should perform a diagnostic analysis that identifies the root causes of their 2008 performance results as indicated by their PART measures reported in PARTWeb. The analysis should address and is informed (as appropriate) by the results of relevant, credible evaluation studies, investigations, and audits. Subsequent to the diagnostic analysis, the agency/program should identify improvement actions aimed to improve or ensure future program performance.
- Other Significant Program Performance Information Identified and Described in PARTWeb – Agencies/Programs should identify and describe the results of relevant, credible evaluation studies, investigations, and audits that address the performance of the program. Agencies/programs provide should Internet links to electronic copies of the source documents.
- An assessment by the agency head of the reliability and completeness of the performance data included in the report.
- Actual performance information for at least four fiscal years.
- GAO High Risk List Items- A description of the agency's plans to address any issues designated by the Government Accountability Office as High-Risk. With respect to any High-Risk issue affecting multiple agencies or designated as High-Risk on a government-wide basis by the Government Accountability Office, the Director of OMB shall identify one or more agencies, which may include OMB, as responsible for purposes of developing the performance plans. All such plans will include: a) a description of the high-risk issue the plan is addressing; b) measurable goals that demonstrate whether the plan is successful; and c) specific milestones the agency will accomplish to achieve the goal described in (b), including the agency official responsible for the milestone and the date by which it will be achieved.

II.3.4.1 Comparing actual performance to performance goal targets

The annual performance report must state the actual performance for every performance goal in the agency's annual performance budget, even if the goal was discontinued after that fiscal year. (*see Circular No. A-11, section 230.2 (b), par. 2*)

At the time a PAR is sent to the President and Congress, actual performance information may not be available, or the available information may be incomplete or preliminary. The annual report should identify those performance goals where actual performance information is missing, incomplete, preliminary, or estimated. For such goals, the annual performance report should indicate the approximate date when actual performance

information, sufficient to make an accurate comparison with performance goal target levels, will be available. Once available, the actual performance information and the comparison between actual and target performance is included in the performance budget and subsequent annual PAR. Agencies must also maintain current performance data on www.ExpectMore.gov as well as on their own website and include references to those sites in their APRs (*see Circular No. A-11, section 230.2 (b)*), par. 3)

II.3.4.2 Providing an explanation for non-achievement of a performance goal

If a performance goal was not achieved, the agency's annual performance report must explain why it was not met. There are two types of explanation: specific and generic. A specific explanation should show an understanding of why a performance shortfall occurred, and the consequences. The specific explanation should also support actions you are taking to eliminate or reduce future shortfalls for this goal. A generic explanation is provided if the difference between the goal target level and actual performance is slight. An agency may use the following language for its generic explanation: "The performance goal was set at an approximate target level, and the deviation from that level is slight. There was no effect on the overall program or activity performance." (*See Circular No. A-11, section 230.2(c) par. 1, 2, & 4 for additional guidance*).

II.3.4.3 Agency plans and schedules for improving program performance

In cases where a program failed to meet a performance target, the annual program performance report should provide a specific explanation, as well as describe the actions the agency is taking to achieve the goal in the future along with associated timelines. If future actions are dependent on funding or policy changes to be proposed in the President's Budget, they should be discussed in the performance budget not in the PAR. An agency may conclude, based on actual performance, that a performance goal cannot be achieved in the future. For such goals, the annual performance report should explain the basis for this conclusion and identify what course of action the agency will take. (*see Circular No. A-11, section 230.2(d), par. 3 and 4 for additional guidance*)

II.3.4.4 Assessing the completeness and reliability of performance data

The Government Performance and Results Act (GPRA) requires each agency to prepare an annual performance plan covering each program activity set forth in the agency's budget and that the plan describes the means to be used to verify and validate measured values. Agencies should apply good judgment when deciding which performance measures will be verified and validated. Agencies should consider priorities, spending, GAO high risk lists, IG reports and management challenges. The Reports Consolidation Act of 2000 specifies that the transmittal letter included in annual performance reports contain an assessment by the agency head of the completeness and reliability of the performance data included in it. Significant or known data limitations should be identified in the performance plan to include a description of the limitations, the impact it has on goal achievement, and the actions that will be employed to correct the limitations.

GPRA does not require the use of audits for performance data contained in GPRA reports. However, agencies may use audits or any other procedure that would support the credibility of the performance information at their discretion.

Performance data need not be perfect to be reliable, particularly if the cost and effort to secure the best performance data possible will exceed the value of any data so obtained. *(see Circular No. A-11, section 230.5 for detail guidance on verification and validation of performance data)*

II.3.4.5 Evaluating Performance Goal Levels in the Performance Budget relative to Actual Performance

The PAR should identify every change to performance goals made in the prior year's performance budget that primarily stemmed from the assessment of actual performance in the prior year's annual performance report. *(see Circular No. A-11, section 230.2 (e), paragraph 1)*

II.3.5 Including performance information from the PAR in the performance budget

The November 17 transmittal date for the PAR precedes the transmittal of the President's Budget. Potentially this may require the agency to omit certain information from the PAR, as it would be considered to be privileged and cannot be publicly released prior to transmittal of the President's budget. Agencies participating in the pilot will not be subject to this constraint since the APR will be submitted with the Congressional Budget Justification. *(see Circular No. A-11, section 230.2(i), par 2.)*

II.3.6 Other elements and features of an annual program performance report

These elements and features may selectively apply to an agency. An agency should omit any that do not apply from its annual performance report. *(see Circular No. A-11, section 230.2(h), par 1)*

Program evaluations. The agency performance report includes a summary of the findings and recommendations of the program evaluations completed during the fiscal year. If no evaluations were completed, the performance report should note such.

For the purposes of this requirement, a "program" shall be designated to include an agency's mission, functions, activities, services, projects, and processes and is defined as an organized set of activities directed toward a purpose or goal that an entity proposes to undertake to carry out its responsibilities. The Government Performance and Results Act of 1993 (GPRA), requires that the Annual Performance Report contain information on program evaluations that are relevant to the agency's efforts to achieve goals and objectives identified in its Strategic Plan or to performance measures and goals reported at the agency level. The evaluations identified should have been performed with sufficient scope, quality, and independence as defined in guidance for the Program Assessment Rating Tool (PART). Pursuant to Executive Order 13450, the Performance Improvement Officer, or his or her representative, should determine whether evaluations meet

PART criteria for scope, quality and independence. Although agencies may cite rigorous evaluations commissioned independently by organizations such as the Government Accountability Office, Office of the Inspector General, or other groups, these evaluations should not completely supplant rigorous evaluations commissioned by the agencies themselves.

Information on use of non-Federal parties. GPRA states that preparation of an annual performance report is inherently a government function. An agency's report should include an acknowledgment of the role and a brief description of any significant contribution made by a non-Federal entity in preparing the report.

Classified appendices not available to the public. An agency with a classified appendix for its annual performance budget may also prepare a similar classified appendix for its annual performance report. The agency should contact its OMB representative for approval prior to preparing such an appendix.

Budget information. In the annual performance report, an agency should include relevant budget information, consistent with the obligation amounts shown in the *Budget Appendix*, for the fiscal year covered by the report. The annual report does not present comparisons between the amounts originally requested for a fiscal year and the amounts actually obligated.