

***National Telecommunications
and Information
Administration***

***Public Safety Interoperable
Communications Grant Program:
Grantees Appear Unlikely to
Finish Projects Within Short
Funding Time Frame***

***Final Audit Report No. DEN-19003 No.
March 2009***

FOR PUBLIC RELEASE

Denver Regional Office of Audits





Report In Brief

U.S. Department of Commerce Office of Inspector General

March 2009



Why We Did this Review

The Implementing Recommendations of the 9/11 Commission Act of 2007 requires the Commerce Office of Inspector General to annually assess NTIA's management of the program.

This is our first review in fulfillment of the act's requirement, for the year ended September 30, 2008. We focused on whether NTIA efficiently managed and met statutory requirements for the following grant administration activities: formula allocations, grant awards, statewide communications interoperability plans, and grantees' applications and investment justifications.

Background

The Digital Television Transition and Public Safety Act of 2005 authorized NTIA, in consultation with the Department of Homeland Security (DHS), to implement the PSIC program—a \$1 billion one-time, formula-based matching grant program intended to enable public safety agencies to establish interoperable emergency communications systems. The Call Home Act of 2006 directed NTIA to award grants by September 30, 2007, and the Digital TV Act set a deadline of September 30, 2010, for grant funds to be expended. NTIA and DHS signed a memorandum of understanding to administer the PSIC program, with DHS' Federal Emergency Management Agency Grants Office responsible for issuing and overseeing the grants. Grants were issued for the period October 1, 2007, through September 30, 2010, to all 50 states, the District of Columbia, and the five U.S. territories (Puerto Rico, American Samoa, Guam, Northern Mariana Islands, and the U.S. Virgin Islands).

Grant terms and conditions cap the federal share for program acquisition and deployment costs at 80 percent. Grantees must cover the remaining 20 percent.

National Telecommunications & Information Administration

Public Safety Interoperable Communications (PSIC) Grant Program: Grantees Appear Unlikely to Finish Projects Within Short Funding Time Frame (DEN-19003)

What We Found

Overall, we found that NTIA's management of the PSIC program has complied with the statutory requirements of the Digital Television Transition and Public Safety Act and the Call Home Act. However, we identified an issue regarding the program's effectiveness that we believe warrants immediate attention from the Department and Congress: most grantees have made little progress in actually implementing their projects, and may not be able to meet the September 30, 2010, statutory deadline for completing them.

Unique Award Process Shortened Time for Implementing Projects. To meet the September 30, 2007, deadline for awarding grants, NTIA made awards before grantees had submitted their required interoperability plans and spending justifications. This process differed from many other Commerce grants programs, which award grants competitively based on the merit of an applicant's proposal. As a result, many PSIC recipients spent the first year of the grant period developing required plans and justifications, and awaiting approvals and subsequent release of funds. They therefore did not have the full 3-year award period for acquiring and deploying interoperable communications equipment.

As of February 28, 2009—17 months into the 36-month grant period—less than 7 percent (\$66.3 million) in PSIC grant funds had been drawn down. We surveyed grantees in the fall of 2008 regarding the status of their projects. Only 1 of the 22 grantees responding stated that it planned to acquire most of its interoperable communications equipment within the next 6 months. Eight others stated they are in the early stages of planning their acquisitions. The remaining 13 stated they will begin acquiring equipment in FY 2009 or early FY 2010.

Given all that must follow the purchase of equipment—installation, operational testing, and training, at a minimum—grantees who are still in the planning or acquisition stage as late as FY 2010 face the very real possibility of arriving at the program's September 30, 2010, deadline with partially completed projects but without funding to finish them.

What We Recommended

To assure that the benefits of the Public Safety Interoperable Communications Grant Program are achieved, we recommended that the Assistant Secretary for Communications and Information

- promptly identify those grantees at high risk of not meeting the statutory deadline for completing their projects, provide the technical assistance they need to accelerate the process, and carefully monitor their progress; and
- keep Congress informed of the PSIC program's status in achieving its objectives. If necessary, work with Congress to extend the deadline, on a case-by-case basis, for grantees to expend grant proceeds.



March 31, 2009

MEMORANDUM FOR: Anna Gomez
Deputy Assistant Secretary for Communications and
Information Administration

FROM: 
Dr. Brett M. Baker
Assistant Inspector General for Audit

SUBJECT: *Public Safety Interoperable Communications Grant
Program: Grantees Appear Unlikely to Finish Projects
Within Short Funding Time Frame
(Final Audit Report No. DEN-19003)*

This is our final audit report on the Office of Inspector General's first annual assessment of NTIA's administration of the Public Safety Interoperable Communications (PSIC) grant program, as required by *Implementing Recommendations of the 9/11 Commission Act of 2007*.

In short, we found that NTIA met statutory requirements for managing PSIC during the program's first year. But most grantees had made little progress in actually implementing their projects and are at risk of not meeting the mandated deadline for completion. We recommended that NTIA promptly provide technical assistance to grantees to accelerate the process, carefully monitor their progress, keep Congress informed of the PSIC program's status, and if necessary seek to extend the deadline for expending grant proceeds.

In a letter dated March 2, 2009, you indicated that you have set aside administrative funds to provide such technical assistance and plan to periodically update Congress regarding the PSIC program's status. Our report acknowledges these intentions, and we have included your letter in its entirety as an appendix.

Department Administrative Order 213-5 requires that you provide us with an action plan detailing the steps you have taken and intend to take in response to our recommendations. Please submit your plan to me by May 29, 2009.

If you would like to discuss the contents of the final report, please do not hesitate to contact me at (202) 482-2600, or John Bunting, our Denver regional inspector general, at (303) 312-7663. Please accept our thanks for the courtesies NTIA extended to us during our audit.

cc: Kathy Smith, NTIA chief counsel
Milton Brown, audit liaison
Laura Pettus, PSIC program manager

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Introduction

The *Digital Television Transition and Public Safety Act of 2005*¹ authorized the National Telecommunications and Information Administration (NTIA), in consultation with the Department of Homeland Security (DHS), to implement the Public Safety Interoperable Communications (PSIC) grant program—a \$1 billion one-time, formula-based matching grant program for public safety agencies to improve interoperable communications systems.

The *Call Home Act of 2006*² directed NTIA to make the grant awards by September 30, 2007, and the *Digital Television Transition and Public Safety Act of 2005* set a deadline of September 30, 2010, for grant funds to be expended. NTIA and DHS signed a memorandum of understanding in February 2007 to administer the PSIC program. DHS' Federal Emergency Management Agency (FEMA) Grants Office had the responsibility for issuing the NTIA PSIC grants and providing NTIA with grant administration reporting and oversight. The program made available \$968,385,000 in grants for the period October 1, 2007, through September 30, 2010, to the 56 grantees: 50 states, the District of Columbia, and the five U.S. territories (Puerto Rico, American Samoa, Guam, Northern Mariana Islands, and the U.S. Virgin Islands).

As required by the program, the governor of each state and territory designated a state administrative agency to apply and administer PSIC funds. Administrative agencies are required to pass through no less than 80 percent of the total award amount to local or tribal governments or authorized nongovernmental public safety agencies, unless the local entity opts, via written agreement, to have the state agency retain and spend the funds on its behalf. Grantees must meet a 20 percent nonfederal match for acquisitions and deployment.

The grants were originally to fund the purchase and deployment of communications equipment, as well as training for system users. The *Implementing Recommendations of the 9/11 Commission Act of 2007*³ later expanded allowable costs to include planning and coordination. The act further required the Commerce Office of Inspector General to monitor two aspects of the program annually beginning in 2008 through 2011: first, we are to assess NTIA's management of the PSIC program; second, we are to conduct financial audits of a representative sample of grant recipients, for a total of 25 grantees over the 4-year period.

This report details our first assessment of NTIA's grants management, for the year ended September 30, 2008. This initial review focused on whether NTIA efficiently managed and met statutory requirements for the following grant administration activities: formula allocations, grant awards, statewide communications

¹ Public Law 109-171, Sec. 3006

² Public Law 109-459, Sec. 4.

³ Public Law 110-53, Sec.2201.

interoperability plans, and grantees' applications and investment justifications. (See appendix A for a full discussion of our objectives, scope, and methodology.)

Overall, we found that NTIA, working with DHS/FEMA grants office, has complied with the statutory requirements of the *Digital Television Transition and Public Safety Act of 2005*, and the *Call Home Act of 2006* in managing the program and in issuing the 56 public safety interoperable communications grants: it has met deadlines for making grant awards; consistently applied the allocations formula in determining award amounts; implemented a rigorous review process for evaluating and approving grantee interoperable communications plans and investment justifications; and established required grant terms and conditions. We therefore had no recommendations on NTIA's management of the grants.

Apart from NTIA's management, our analysis of program data identified an issue about program effectiveness that we believe warrants close and immediate attention from the Department and Congress: most grantees have made little progress in actually implementing their projects, and much remains to be done within the short funding time frame that remains for the PSIC program. Consequently, grantees may not be able to finish their projects by the September 30, 2010, deadline.

Findings and Recommendations

I. Grantees May Not Be Able to Finish Projects Within Short Funding Time Frame

The unique structure of the PSIC grant award process has reduced time available for project implementation. To meet the Call Home Act's September 30, 2007, deadline for making grant awards, NTIA awarded PSIC grants before grantees submitted DHS-required statewide comprehensive interoperability plans and NTIA PSIC investment justifications. This was unlike many other Commerce grants programs, which make awards competitively, based on the merit of a grant applicant's proposal. As a result, many recipients have spent the first year of the 3-year grant period developing DHS-required plans and NTIA-required investment justifications, and awaiting NTIA and DHS approvals before release of funding. DHS approved all state communications interoperability plans in March and April 2008; and NTIA had approved all but five states' investment justifications and individual investments as of September 30, 2008. Grantees therefore will not have the full benefit of the 3-year grant award period for acquiring and deploying interoperable communications equipment to improve their statewide networks.

As of September 30, 2008, less than 1.5 percent, \$11.3 million of the \$968 million in PSIC grant funds, had been drawn down (table 1). One state, Louisiana, drew down \$6.3 million, which accounted for more than half the amount drawn down. As of February 28, 2009—17 months into the 36-month grant period—less than 7.0 percent or \$66.3 million in PSIC grant funds had been drawn down.

Table 1	
<u>Number of States</u>	<u>Cash Drawdowns</u>
	As of 9-30-08
25	\$ 0
18	\$ 1 to \$100,000
12	\$100,001 to \$750,000
<u>1</u>	<u>\$750,001+</u>
56	\$11,343,119
<i>Source:</i> Cash drawdown reports, U.S. Department of Homeland Security, Office of Policy and Program Analysis	

In September and October 2008, we contacted 23 grantees (table 2), and received responses from 19 of the 20 receiving the largest grants and 3 others with large cash drawdowns. Only 1 of the 22 grantees responding stated that it planned to acquire most of its interoperable communications equipment within the next 6 months. Eight others stated they were in the early stages of planning their acquisitions.

The remaining 13 stated they would begin acquiring their interoperable communications equipment in FY 2009 or early FY 2010. Given all that must follow the purchase of equipment—installation, operational testing, and training, at a minimum—grantees who are still in the planning or acquisition stage as late as FY 2010 face the very real possibility of arriving at the program’s September 30, 2010, deadline with partially completed projects but without funding to finish them.

Table 2. PSIC Grantee Allocations, by Size of Grant

California*	\$94,034,510	Nevada*	12,042,417
Texas*	65,069,247	District of Columbia	11,857,972
New York*	60,734,783	Oklahoma	11,684,183
Florida*	42,888,266	Arkansas*	11,169,402
Illinois*	36,414,263	Mississippi	10,989,345
Pennsylvania*	34,190,555	Iowa	10,935,974
New Jersey*	30,806,646	Kansas	10,667,169
Ohio*	29,377,337	Utah	10,353,261
Georgia*	25,311,354	Puerto Rico	9,590,025
Virginia*	25,012,521	Delaware	8,196,842
Michigan*	25,039,781	Nebraska	8,582,108
Maryland*	22,934,593	West Virginia	8,429,484
North Carolina*	22,130,199	New Mexico	8,288,725
Massachusetts*	21,191,988	Hawaii	8,069,879
Louisiana*	19,672,287	Maine	7,567,579
Washington*	19,180,347	Rhode Island	7,365,694
Indiana*	18,291,735	Idaho	7,289,795
Arizona*	17,713,050	Alaska	7,250,345
Tennessee*	17,540,752	North Dakota	7,052,490
Missouri*	17,465,576	South Dakota	6,549,691
Kentucky	15,405,625	Montana	6,549,685
Wisconsin	15,367,216	New Hampshire	5,966,760
Colorado	14,336,638	Wyoming	5,952,187
Minnesota	14,262,071	Vermont	4,476,761
Alabama*	13,585,399	Guam	2,600,678
South Carolina	13,499,308	U.S. Virgin Islands	856,907
Connecticut	12,999,879	Northern Mariana Islands	719,236
Oregon	12,182,532	American Samoa	691,948
*Contacted by OIG		Total	\$968,385,000

Source: www.ntia.doc.gov/psic/awardslist.html (OIG ranking)

The track records of similar grant programs suggest that PSIC's time frame would present risks even if grantees had the full 3 years to acquire and deploy equipment. The Government Accountability Office (GAO) found that spending at the local and state levels in similar DHS programs was slowed by state and local legal and procurement requirements, which in some cases added months to the purchasing process.⁴ For example, GAO testified before the House Subcommittee on Homeland Security in March 2008 that obligating DHS emergency preparedness grant dollars at the state level has historically taken up to 5 years: from fiscal years 2002 to 2007, DHS has made \$19.6 billion available to the states in disaster and preparedness grants⁵; \$7 billion of this amount remained unexpended as of January 2008.

There is a significant risk that grantees who are still acquiring interoperable communications equipment in FY 2010 will not be able to deploy it by the September 30, 2010, deadline for expending grant funds. Especially vulnerable are projects that are expanding interoperable communications networks with antennas and communication towers and require Federal Communications Commission (FCC) licensing before construction can begin. For the 14 states that share the international border with Canada, this can take a year, although other states may take only a few days, if their environmental and technical studies are in order. FCC usually requires construction to be complete within a year; however, extensions are not unusual if the vendor cannot complete installation and testing within a year.

According to NTIA's PSIC program manager, approximately 60 percent of the 56 grantees have readiness training that cannot be completed until all interoperable communications equipment is deployed. Therefore, funds to pay for training cannot be expended until the systems are complete. Clearly, unless grantees can accelerate the acquisition process, many may be unable to complete their interoperable communications improvements before the grants expire. Such an outcome would significantly diminish the program's effectiveness in improving local, tribal, and state interoperable communications nationwide.

Recommendations

To assure that the benefits of the Public Safety Interoperable Communications Grant Program are achieved, we recommend that the Assistant Secretary for Communications and Information

- promptly identify those grantees who are at high risk of not meeting the statutory deadline for completing their projects, provide the technical assistance they need to accelerate the process, and carefully monitor their progress; and

⁴ U.S. Government Accountability Office, March 11, 2008. *HOMELAND SECURITY: DHS Improved its Risk-Based Grant Programs' Allocation and Management Methods, But Measuring Programs' Impact on National Capabilities Remains a Challenge*, GAO-08-488T, Washington, D.C., p.16.

⁵ U.S. Government Accountability Office, March 11, 2008. *HOMELAND SECURITY*, pp. 15-16.

- keep Congress informed of the PSIC program's status toward achieving its objectives. If necessary, NTIA should work with Congress to allow NTIA to extend the deadline for grantees to expend the PSIC grant proceeds.

II. NTIA Is Meeting Requirements in Managing the PSIC Program

Our audit of NTIA's management of the grant program found that the agency and DHS met the statutory deadlines and requirements for making awards, and for reviewing and approving grantees' communications plans. A rigorous NTIA and DHS/FEMA peer review process was intended to ensure investment justifications supported feasible statewide communications interoperability plans (SCIP). We detail the specifics of our review in the five administrative categories we focused on below.

A. Formula Allocations

The PSIC program used a modified DHS/FEMA risk analysis methodology⁶ to allocate the \$968,385,000 among the 56 grantees. DHS has used a similar formula since 2006 for state homeland security grants. First, the modified PSIC formula awarded \$3 million to each of the 50 states, the District of Columbia, and Puerto Rico. The remaining four territories received a minimum of \$500,000 to make meaningful improvements to their interoperable communications capabilities. This left a balance of \$810,385,000, which was allocated to states and territories using the following risk analysis methodology: PSIC Allocation: Risk = Threat (10 percent) x Vulnerability x Consequence (90 percent). The PSIC allocation methodology reduced DHS' terrorism threat percentage from 20 percent to 10 percent since federal disasters have been declared in all 50 states, the District of Columbia, and five U.S. territories, and interoperable communications are used to respond to natural disasters as well as terrorism threats. For the same reason, weights increased for vulnerability and consequences, as shown on the next page.

⁶ U.S. Government Accountability Office, March 11, 2008, *HOMELAND SECURITY*.

Table 3
Comparison of DHS and NTIA Allocation Formula

<u>DHS Percentage</u>	<u>Factor</u>	<u>NTIA Percentage</u>
40	Population	45
20	Economic Output	23
15	Critical Infrastructure	17
5	National Security	5
<u>20</u>	Threat	<u>10</u>
100		100

Source: FY 2007 PSIC Allocation Methodology, U.S. Department of Homeland Security

A Commerce OIG mathematician analyzed the PSIC allocations and confirmed that they were consistently applied.

B. Grantee Applications

Grantees were required to submit applications for PSIC funding by August 22, 2007. The PSIC Program Guidance and Application Kit required the following:

- A brief narrative of the process for choosing proposals, an agreement to meet the nonfederal match, and, if applicable, a budget for the 5 percent of funds available to assist with the development of statewide plans.
- Application for federal assistance, standard form 424.
- Budget information, standard form 424 A.
- Assurance, standard form 424 B.
- Assurances for construction projects, standard form 424 D.
- Disclosure of lobbying activities, standard form LLL.
- Certification regarding debarment, suspension, and other responsible matters.
- Certification for non-supplantation.

The *Implementing Recommendations of the 9/11 Commission Act of 2007*⁷ established eligibility requirements for public safety interoperable communications grants: the states and territories had to submit an application and an investment justification of how the grant funds would be used to improve interoperable communications and ensure interoperability with other public safety agencies in an emergency or major disaster.

We examined the 56 grant applications and determined that all were filed as required by the PSIC application guidance and the *Implementing Recommendations of the 9/11 Commission Act of 2007*.

⁷ Public Law 110-53, Sec. 2201 (b).

C. Grant Awards

We examined all 56 grant documents for the award date, award amount, and grant terms and conditions and determined that the DHS/FEMA grants officer issued the PSIC grants for \$968,385,000 to the 50 states, the District of Columbia, and five U.S. territories on September 30, 2007, as required by the *Call Home Act of 2006*.⁸

The *Digital Television Transition and Public Safety Act of 2005*,⁹ which created the program, required a 20 percent nonfederal funding match for the acquisition and deployment of interoperable communications. Training and planning components of interoperable communications projects did not require a match. We determined that the grant award documents for all 56 grants contained the matching share stipulation.

The *Digital Television Transition and Public Safety Act of 2005* authorized payments “not to exceed \$1 billion.” The *Call Home Act of 2006* established the statutory deadline of September 30, 2007, for awarding grants and authorized an amount of “not less than \$1,000,000,000 for public safety interoperable communications grants.” The 56 PSIC grants were for less than the \$1 billion authorized by the *Call Home Act of 2006* but within the statutory borrowing authority of the *Digital Television Transition and Public Safety Act of 2005*. The funds not used for the 56 grants will be used for PSIC administrative expenses. NTIA’s chief counsel stated that the *Call Home Act* did not limit NTIA’s ability to expend funding for PSIC administrative costs since the provisions of the *Digital Television Transition and Public Safety Act of 2005*, as amended, required the agency to take all administrative actions necessary to establish and implement the PSIC program. Likewise, the *Call Home Act* did not eliminate NTIA’s authority to use necessary amounts from the \$1 billion in funds available for the administrative expenses of the program.

Overall, NTIA and the FEMA grants office issued the 56 public safety interoperable communications grants in compliance with the statutory requirements of the *Digital Television Transition and Public Safety Act of 2005* and the *Call Home Act of 2006*.

D. Statewide Communications Interoperability Plans

The Department of Homeland Security reviews and approves the statewide communications interoperability plans. These plans are to address locally driven interoperable communications capabilities among local and tribal entities and authorized nongovernment organizations. The development and adoption of a statewide plan is required by the 2006 DHS Homeland Security Grant Program

⁸ Public Law 109-459, Sec. 4.

⁹ Public Law 109-171, Sec. 3006.

Guidance and Application Kit. DHS conducted peer reviews of the 56 statewide plans and approved them in March and April 2008 (table 4).

Table 4
DHS Review of Statewide Communications
Interoperability Plans

<u>Review</u>	<u>Notification to NTIA of Approval</u>	<u>Number Approved</u>
First	March 18	47
Second	March 27	2
Third	April 14	5
Fourth	April 18	<u>2</u>
Total		56

Source: Letters dated March 18 and 27, and April 14 and 18, 2008, from DHS Office of Emergency Management

The PSIC grant program leveraged the requirement for states to develop, adopt, and submit Statewide Plans to DHS by December 3, 2007, by requiring grantees to submit their investment justifications on the same date, so that DHS and NTIA reviews could be conducted concurrently.

E. Investment Justifications

PSIC grants awarded on September 30, 2007, contained the following special condition:

“The recipient may only fund investments that are included in the PSIC Investment Justifications approved by the National Telecommunications and Information Administration, Department of Commerce, and supported by the Statewide Communications Interoperability Plans (SCIP) that are submitted to DHS and evaluated through the peer review process.”

The 56 grantees were required to submit an investment justification with up to 10 interoperable communication investments each. NTIA and FEMA conducted a joint peer review of these in February and March 2008. More than 100 public sector employees, including federal, state, local, and tribal representatives with expertise and experience in emergency operations, interoperable communications, public safety operations, or grants management participated in the SCIP and PSIC investment review process. On April 3, 2008, states were notified of the initial results (table 5). Afterwards, states and territories had opportunities to address concerns and resubmit investment justifications or investments for further consideration.

Table 5
NTIA and DHS/FEMA Investment Justification
Peer Review and Evaluations

<u>Review</u>	<u>Date</u>	<u>States Fully Approved</u>	<u>States Partially Approved</u>	<u>Number of Investments</u>	<u>Value of Approved Investments (Millions)^d</u>
First	April 3	14	6 ^a	113	\$467
Second	April 18	01	3 ^a	20	58
Third	May 22	12	0	47 ^b	63
Fourth	June 30	12	1 ^a	57 ^{b,c}	135
Fifth	July 24	4	0	19 ^c	85
Sixth	July 25	3	0	10	27
Seventh	September 2	<u>5</u>	<u>0</u>	<u>15^c</u>	<u>41</u>
Subtotal		51	0	281 ^{b,c}	\$876 ^d
Unapproved					
Pending		<u>5</u>		<u>13</u>	
Total		56		294	

^aTen partially approved investment justifications were later fully approved.

^bFive states deleted eight investments from their justifications.

^cFour states added ten investments to their justifications.

^dDoes not include funding for management, administration, or planning.

Source: NTIA and DHS/FEMA Investment Justification Approvals

As of September 30, 2008, NTIA and DHS/FEMA had approved 51 of 56 (91 percent) investment justifications and 281 of 294 (approximately 95 percent) of the individual investments contained within them, representing \$876 million in interoperable communications improvements. The remaining 5 states provided additional information for their investment justifications and received approval on October 15, 2008; December 29, 2008 (2 approvals); January 15, 2009; and February 17, 2009.

This rigorous NTIA and DHS/FEMA peer review process was intended to ensure investment justifications supported feasible statewide communications interoperability plans. The process resulted in substantially higher quality investment strategies than were reported by GAO in a 2007¹⁰ review of DHS interoperable communications grants made from 2003-2005. GAO reported:

¹⁰ U.S. Government Accountability Office, April 2007. *First Responders: Much Work Remains to Improve Communications Interoperability*, GAO-07-301, Washington, D.C. 16, 44.

- None of the states it reviewed had used strategic planning to guide investments and improve communications interoperability,
- Not all states had plans in place to guide their investments toward long-term interoperability gains.
- No process had been established for ensuring that states' grant requests were consistent with their statewide plans.

Summary of Agency Responses

(See appendix B for the full text of agency responses.)

NTIA

In response to our finding that PSIC grantees may be unable to finish their projects within the mandated deadline, NTIA reported that it is working closely with FEMA to identify the projects most at risk for not meeting statutory and program requirements, and has set aside administrative funds for technical assistance to help grantees, among other things, define technical specifications, optimize and integrate systems, conduct acceptance testing, establish standard operating procedures, and conduct training.

With regard to our recommendation for keeping Congress apprised of the program's status and seeking to extend the deadline if necessary, NTIA responded that it will periodically update Congress regarding the status of grantees' projects and expenditure of funds in an effort to track which grantees cannot meet the September 30, 2010, deadline.

We note that our financial and performance audits of individual PSIC grantees should aid NTIA's tracking efforts. And we reiterate the importance of seeking a deadline extension pending NTIA's continuing assessment of grantees' progress.

DHS/FEMA

The DHS/FEMA Grants Office agreed with our recommendation that NTIA identify grantees at high risk of not completing their projects on time, and described the expanded technical and other assistance it is developing with NTIA to supplement existing monitoring and technical assistance activities.

Appendix A: Objectives, Scope, and Methodology

The objectives of our review were to assess NTIA's management of the Public Safety Interoperable Communications grant program and report our findings to the Senate Committee on Commerce, Science and Transportation and the House Committee on Energy and Commerce, as required by the *Implementing Recommendations of the 9/11 Commission Act*. This report details our first assessment of NTIA's management of the program for the year ended September 30, 2008.

To meet our objectives, we focused on the following grant administration activities: formula allocations, grant awards, statewide communications interoperability plans, and grantees' applications and investment justifications. We coordinated our assessment and met periodically with officials of the DHS Office of Inspector General.

To gain an understanding of the DHS formula allocation for grants to states, we met with DHS officials and with GAO staff. We also reviewed related GAO testimony, *HOMELAND SECURITY: DHS Improved its Risk-Based Grant Programs' Allocation and Management Methods, But Measuring Programs' Impact on National Capabilities Remains a Challenge*, GAO-08-488T.

To determine the consistency of the formula allocation used to make NTIA Public Safety Interoperable Communications grants to states, we reviewed source documents at the DHS Office of Emergency Management. A Commerce OIG staff mathematician replicated calculations for the formula allocation and determined that the formula was consistently applied.

To determine if NTIA PSIC applications were timely filed and grants awards were made by the statutory deadline, we reviewed grant applications and grant award documents from the FEMA Grants Office against the statutory requirements of the *Digital Television Transition and Public Safety Act of 2005*, the *Call Home Act of 2006* and *Implementing Recommendations of the 9/11 Commission Act of 2007*. To determine the amounts of cash drawn down by grantees, we analyzed cash drawdown reports provided by DHS Office of Policy and Program Analysis.

To determine whether statewide communications interoperability plans and investment justifications were reviewed by DHS and NTIA, we obtained and reviewed copies of the documents, but we limited our analysis of the plans to determining whether DHS had approved them before approving the states' investment justifications and releasing funding. Our review of the states' investment justifications included analysis of the investment justification documents, the individual investments, and NTIA and DHS decision documents to verify that the justifications had been approved.

To gain a better understanding of interoperable communications and to follow up on prior audit recommendations, we met with GAO staff and reviewed their report on interoperable communications, *First Responders: Much Work Remains to Improve Communications Interoperability*, GAO-07-301.

To assess grantees' progress in interoperable communications, we contacted 23 grantees. We received responses from 19 of the 20 grantees receiving the largest grants and 3 others that had large cash drawdowns.

We assessed the validity and reliability of computer-processed data supplied by NTIA and the FEMA Grants Office by directly testing the data against supporting documentation. Based on our tests, we concluded that the computerized data was reliable for use in meeting our objectives.

The *Implementing Recommendations of the 9/11 Commission Act of 2007* requires the Commerce Inspector General to conduct financial audits, over 4 years, of a representative sample of at least 25 interoperable communications grantees. Because the majority of grant funds were not released until April 3, 2008, we did not conduct any grantee financial audits in fiscal year 2008. We have notified state auditors and state agencies receiving the interoperable communications grants that we began our financial audits in October 2008. We plan to conduct four or more financial audits semiannually for the next 2 years.

We conducted this audit in accordance with generally accepted government auditing standards and under the authority of the *Implementing Recommendations of the 9/11 Commission Act of 2007*, the *Inspector General Act of 1978*, as amended, and Department Organization Order 10-13. Generally accepted government auditing standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We performed our fieldwork from October 2007 to September 2008 in Washington, D.C., at NTIA headquarters, the DHS FEMA Grants Office, and the DHS Office of Emergency Management.

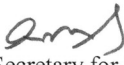
Appendix B: Agency Response



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, D.C. 20230

FEB 27 2009

MEMORANDUM FOR: Judith J. Gordon
Assistant Inspector General for Audit and Evaluation

FROM: Anna M. Gomez 
Acting Assistant Secretary for Communications
and Information

SUBJECT: Draft Audit Report No. DEN-19003: *NTIA Public Safety
Interoperable Communications Grant Program: Grantees
Appear Unlikely to Finish Projects Within Mandated
Time Frame*

In accordance with Department Administrative Order 213-3, and as requested in your memorandum of January 30, 2009, transmitting the Office of Inspector General's (OIG) Draft Audit Report No. DEN-19003, I am pleased to submit the National Telecommunications and Information Administration's (NTIA) response to the report. As an update, NTIA and the Department of Homeland Security's Federal Emergency Management Agency (DHS/FEMA) have approved all 56 State and Territory investment justifications for a total of 301 individual investments representing \$968,385,000 in interoperable communications improvements. NTIA's specific comments to the report are provided below.

Draft Audit Report Recommendations

The Draft Audit Report recommends that:

...the Assistant Secretary for Communications and Information expeditiously identify those grantees who are at high risk of not meeting the statutory deadline for completing their projects, provide the technical assistance they need to accelerate the process, and carefully monitor their progress.

Recognizing the importance of public safety interoperable communications and achieving the goals set out in the program, NTIA has set aside administrative funds to provide technical assistance to the States and Territories on the implementation of the projects, including, but not limited to, support with defining technical specifications, system optimization and integration, acceptance testing, standard operating procedures, training, and exercises. Additionally, NTIA is working closely with FEMA to identify the projects most at risk for not meeting statutory and programmatic requirements, including the grant program deadline, and will provide extensive programmatic and environmental assistance, as required.

The Draft Audit Report recommends that:

...the Assistant Secretary for Communications and Information keep Congress informed of the PSIC program's status toward achieving its objectives, and if necessary, NTIA should work with Congress to allow NTIA to extend the deadline for grantees to expend the PSIC grant proceeds.


NTIA will provide periodic updates to Congress on how States are progressing with their interoperable communications projects, as well as summaries of the overall expenditure of funds to examine the extent to which grantees are unable to meet the statutory deadline of September 30, 2010.

U.S. Department of Homeland Security
Washington, DC 20472



FEMA

MEMORANDUM FOR: John Bunting, JD, CPA, CFE
Regional Inspector General for Audits
U.S Department of Commerce

FROM: W. Ross Ashley 
Assistant Administrator, Grant Programs Directorate

SUBJECT: Response to DEN-19003, Department of Commerce OIG Audit of
Public Safety Interoperable Communication Grant Program: Grantees
Appear Unlikely to Finish Projects Within Mandated Time Frame

This is in response to your request for comments on our corrective action plan to implement the two recommendations contained in the subject Office of the Inspector General audit report. Per your request, the report specifically addresses how FEMA GPD Program Staff are addressing the recommendations.

Thank you for the opportunity to respond to the report and to work with the Department of Commerce Office of the Inspector General during this engagement.

Attachment

cc: Annette Hampton
Mildred Lloyd
Tracey Trautman
Lisa Lewis

**FEMA GPD Response to DEN-19003, Department of Commerce OIG Audit of
Public Safety Interoperable Communication Grant Program: Grantees Appear
Unlikely to Finish Projects Within Mandated Time Frame**

The OIG was directed by Congress to assess the DOC National Telecommunications and Information Administration (NTIA) management of the PSIC program and to conduct financial audits on no less than 25 grantees over a four year period. Findings are to be reported annually to Congress.

This draft report is the first report to Congress and covers activities from the inception of the grant program through September 30, 2008. This report focuses entirely on the management of the grant program, since audits of grantees did not begin until October 2008. Both NTIA and FEMA have been given an opportunity to comment on the report prior to final delivery to Congress.

1. Grantees may not be able to finish projects within short funding timeframe

The unique structure of the PSIC grant award process (grant awards were made prior to review of Investment Justifications in order to meet the Call Home Act statutory deadline for making awards) and a no- extension-allowable period of performance for grantees, has increased the risk that Grantees will not be able to complete their projects by the end of the period of performance.

2. NTIA is meeting the requirements in managing the PSIC Program:

OIG examined several factors in reaching its conclusions:

- **Formula Allocations**
 - Discusses how the PSIC formula is based on HSGP risk formula and determines that allocations were applied accurately.
- **Grant Applications and Awards**
 - Determined that grantees properly submitted applications and all related mandatory form by the application due date of August 22, 2007
 - Determined that FEMA awarded all PSIC funds to States and Territories by the Call Home Act statutory deadline of September 30, 2007
- **Statewide Communications Interoperability Plans (SCIP)**
 - Determined that no PSIC funds were released prior to the approval of OEC of each State and Territory's SCIP plans
- **Investment Justifications**
 - Determined that NTIA and FEMA conducted a "rigorous" review process of Investment Justifications. Further, the report states: "...NTIA and DHS/FEMA peer review process supported feasible statewide communications interoperability plans. The process resulted in substantially higher quality investment strategies than were reported by GAO in a 2007 review of DHS interoperable communications grants made from 2003-2005."

There were two findings, along with the associated recommendations:

OIG Recommendation #1:

To assure that the public benefits of the Public Safety Interoperable Communication Grant Program are achieved, we recommend that the Assistant Secretary for Communications and Information

- a) *Expediently identify those grantees who are at high risk of not meeting the statutory deadline for completing their projects, provide technical assistance they need to accelerate the process, and carefully monitor their progress; and*

- b) *Keep Congress informed of the PSIC program status toward achieving its objectives, and if necessary, NTIA should work with Congress to allow NTIA to extend the deadline for grantees to expend the PSIC grant proceeds.*

OIG Recommendation #2:

OIG was fully satisfied with the management of the program and had no recommendations in this area.

FEMA Program Staff response to OIG's recommendations:

We concur that the PSIC Investments will require careful monitoring and assistance, given the tight period of performance. In coordination with NTIA, FEMA GPD is addressing OIG Recommendation 1(a) by developing a robust Grantee Assistance Program to supplement existing FEMA GPD monitoring and technical assistance activities. This program is designed to assist all Grantees, but especially at-risk Grantees and will be implemented in the near future. The program will have three focus areas and will be customized to the individual needs of the Grantee:

- **Program Management Assistance (PMA):** Assistance to ensure that all programmatic and statutory requirements are met, including financial reporting, match, project management, and documentation
- **Technical Assistance (TA):** Assistance to ensure the successful implementation of PSIC Investments, including support with technical specifications, system optimization and integration, acceptance testing, standard operating procedures, training and exercises, etc.
- **Environmental Assistance (EA):** Assistance to ensure that grantees meet all environmental requirements for all PSIC Investments including evaluation of whether approved projects are covered under PSIC PEA and assistance if projects are not.

Appendix C: NTIA PSIC Chronology

February 8, 2006	Public Law 109-171 <i>Digital Television Transition and Public Safety Act of 2005</i> <ul style="list-style-type: none">• Creates NTIA PSIC Program with \$1 billion in borrowing authority.• Requires 20 percent match for grants.
December 22, 2006	Public Law 109-459 <i>Call Home Act of 2006</i> <ul style="list-style-type: none">• Requires NTIA PSIC grants be issued by September 30, 2007.
April 2007	Government Accountability Office Report: GAO-07-301 <i>First Responders: Much Work Remains to Improve Communications Interoperability</i>
July 18, 2007	Commerce Secretary Gutierrez and Homeland Security Secretary Chertoff announce nearly \$1 billion in grants for first responder communications for all 50 states, the District of Columbia, and five U.S. territories.
July 23, 2007	NTIA published a Notice of Availability of Funds in the Federal Register, 72 Fed. Reg. 40120, for the Public Safety Interoperable Communications (PSIC) Grant Program.
August 3, 2007	Public Law 110-53 <i>Implementing Recommendations of the 9/11 Commission Act of 2007</i> <ul style="list-style-type: none">• Requires an NTIA PSIC application.• Establishes \$75 million for Strategic Technology Reserve.• Requires Commerce Inspector General annual assessment of NTIA PSIC grant management and 25 audits before the end of fiscal year 2011.
August 20, 2007	NTIA published an Amendment to Notice of Availability of Funds in the Federal Register, 72 Fed. Reg. 46442.
August 22, 2007	Grant applications due for NTIA PSIC grants.
September 30, 2007	FEMA Grants Office issues 56 NTIA PSIC grants.
December 3, 2007	Statewide Communications Interoperability Plan and NTIA PSIC investment justifications due.

Feb. 11-15, 2008	Investment justifications and individual investments are evaluated by a panel of peer reviewers.
March 11, 2008	Government Accountability Office Testimony: GAO-08-488T <i>Homeland Security: DHS Improved Its Risk-Based Grant Programs' Allocation and Management Methods, But Measuring Programs' Impact on National Capabilities Remains a Challenge</i>
March 18, 2008	NTIA was notified that 1 st review of Statewide Communication Interoperability Plans had been approved.
March 27, 2008	NTIA was notified that 2 nd review of Statewide Communication Interoperability Plans had been approved.
April 3, 2008	1 st review of approved and partially approved investment justifications completed.
April 14, 2008	NTIA is notified that 3 rd review of Statewide Communication Interoperability Plans had been approved.
April 18, 2008	2 nd review of approved and partially approved investment justifications completed.
April 18, 2008	NTIA was notified that 4 th and final review of Statewide Communication Interoperability Plans had been approved.
May 22, 2008	3 rd review of approved and partially approved investment justifications completed.
June 25, 2008	4 th review of approved and partially approved investment justifications completed.
July 24, 2008	5 th review of approved investment justifications completed.
July 25, 2008	6 th review of approved investment justifications completed.
Sept. 2, 2008	7 th review of approved and partially approved investment justifications completed.
September 30, 2008	Fiscal Year 2008 NTIA PSIC Reporting Period Ends.
September 30, 2009	Fiscal Year 2009 NTIA PSIC Reporting Period Ends.
September 30, 2010	Fiscal Year 2010 NTIA PSIC Reporting Period Ends and the NTIA PSIC grants expire.

September 30, 2011	Fiscal Year 2011 NTIA PSIC Reporting Period Ends.
September 30, 2011	Commerce Inspector General specific statutory requirement expires.

Appendix D: NTIA PSIC Statutes

A. *Digital Television Transition and Public Safety Act of 2005*

Public Law 109-171 Sec. 3006

February 8, 2006

SEC. 3006. PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS.

(a) CREATION OF PROGRAM.—The Assistant Secretary, in consultation with the Secretary of the Department of Homeland Security—

(1) may take such administrative action as is necessary to establish and implement a grant program to assist public safety agencies in the acquisition of, deployment of, or training for the use of interoperable communications systems that utilize, or enable interoperability with communications systems that can utilize, reallocated public safety spectrum for radio communication; and

(2) shall make payments of not to exceed \$1,000,000,000, in the aggregate, through fiscal year 2010 to carry out that program from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)).

(b) CREDIT.—The Assistant Secretary may borrow from the Treasury beginning on October 1, 2006, such sums as may be necessary, but not to exceed \$1,000,000,000, to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

(c) CONDITION OF GRANTS.—In order to obtain a grant under the grant program, a public safety agency shall agree to provide, from non-Federal sources, not less than 20 percent of the costs of acquiring and deploying the interoperable communications systems funded under the grant program.

(d) DEFINITIONS.—For purposes of this section:

(1) PUBLIC SAFETY AGENCY.—The term “public safety agency” means any State, local, or tribal government entity, or nongovernmental organization authorized by such entity, whose sole or principal purpose is to protect the safety of life, health, or property.

(2) INTEROPERABLE COMMUNICATIONS SYSTEMS.—The term “interoperable communications systems” means communications systems which enable public safety agencies to share information amongst local, State, Federal, and tribal public safety agencies in the same area via voice or data signals.

(3) REALLOCATED PUBLIC SAFETY SPECTRUM.—The term “reallocated public safety spectrum” means the bands of spectrum located at 764–776 megahertz and 794–806 megahertz, inclusive.

B. *Call Home Act of 2006*

Public Law 109-459, Sec. 4

December 22, 2006

SEC. 4. PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS GRANTS.

Pursuant to section 3006 of Public Law 109–171 (47 U.S.C. 309 note), the Assistant Secretary for Communications and Information of the Department of Commerce, in consultation with the Secretary of the Department of Homeland Security, shall award no less than \$1,000,000,000 for public safety interoperable communications grants no later than September 30, 2007 subject to the receipt of qualified applications as determined by the Assistant Secretary.

C. *Implementing Recommendations of the 9/11 Commission Act of 2007,*
Sec. 2201

Public Law 110–53—121 STAT. 537

August 3, 2007

TITLE XXII—INTEROPERABLE EMERGENCY COMMUNICATIONS

SEC. 2201. INTEROPERABLE EMERGENCY COMMUNICATIONS.

(a) IN GENERAL.—Section 3006 of Public Law 109–171 (47 U.S.C. 309 note) is amended—

(1) by striking paragraphs (1) and (2) of subsection (a) and inserting the following:

“(1) may take such administrative action as is necessary to establish and implement—

“(A) a grant program to assist public safety agencies in the planning and coordination associated with, the acquisition of, deployment of, or training for the use of interoperable communications equipment, software and systems that—

“(i) utilize reallocated public safety spectrum for radio communication;

“(ii) enable interoperability with communications systems that can utilize reallocated public safety spectrum for radio communication; or

“(iii) otherwise improve or advance the interoperability of public safety communications systems that utilize other public safety spectrum bands; and

“(B) are used to establish and implement a strategic technology reserve to pre-position or secure interoperable communications in advance for immediate deployment in an emergency or major disaster;

“(2) shall make payments of not to exceed \$1,000,000,000, in the aggregate, through fiscal year 2010 from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to carry out the grant program established under paragraph (1), of which at least \$75,000,000, in the aggregate, shall be used for purposes described in paragraph (1)(B); and

“(3) shall permit any funds allocated for use under paragraph (1)(B) to be used for purposes identified under paragraph (1)(A), if the public safety agency demonstrates that it has already implemented such a strategic technology reserve or demonstrates higher priority public safety communications needs.”;

(2) by redesignating subsections (b), (c), and (d) as subsections (h), (i), and (j), respectively, and inserting after subsection (a) the following:

“(b) ELIGIBILITY.—To be eligible for assistance under the grant program established under subparagraph (a)(1)(A), an applicant shall submit an application, at such time, in such form, and containing such information as the Assistant Secretary may require, including a detailed explanation of how assistance received under the program would be used to improve communications interoperability and ensure interoperability with other public safety agencies in an emergency or a major disaster.

“(c) CRITERIA FOR STRATEGIC TECHNOLOGY RESERVES.—

“(1) IN GENERAL.—In evaluating permitted uses under subparagraph (a)(1)(B), the Assistant Secretary shall consider the continuing technological evolution of communications technologies and devices, with its implicit risk of obsolescence, and shall ensure, to the maximum extent feasible, that a substantial part of the reserve involves prenegotiated contracts and other arrangements for rapid deployment of equipment, supplies, and systems (and communications service related to such equipment, supplies, and systems), rather than the warehousing or storage of equipment and supplies currently available at the time the reserve is established.

“(2) REQUIREMENTS AND CHARACTERISTICS.—Funds provided to meet uses described in paragraph (1) shall be used in support of reserves that—

“(A) are capable of re-establishing communications when existing critical infrastructure is damaged or destroyed in an emergency or a major disaster;

C. *Implementing Recommendations of the 9/11 Commission Act of 2007, Sec.2201 (Continuation from the previous page.)*

“(B) include appropriate current, widely-used equipment, such as Land Mobile Radio Systems, cellular telephones and satellite-enabled equipment (and related communications service), Cells-On-Wheels, Cells-On-Light-Trucks, or other self-contained mobile cell sites that can be towed, backup batteries, generators, fuel, and computers;

“(C) include equipment on hand for the Governor of each State, key emergency response officials, and appropriate State or local personnel;

“(D) include contracts (including prenegotiated contracts) for rapid delivery of the most current technology available from commercial sources; and

“(E) include arrangements for training to ensure that personnel are familiar with the operation of the equipment and devices to be delivered pursuant to such contracts.

“(3) ADDITIONAL CHARACTERISTICS.—Portions of the reserve may be virtual and may include items donated on an in-kind contribution basis.

“(4) ALLOCATION OF FUNDS.—In evaluating permitted uses under subparagraph (a)(1)(B), the Assistant Secretary shall take into account barriers to immediate deployment, including time and distance, that may slow the rapid deployment of equipment, supplies, and systems (and communications service related to such equipment, supplies, and systems) in the event of an emergency in any State.

“(d) VOLUNTARY CONSENSUS STANDARDS.—In carrying out this section, the Assistant Secretary, in cooperation with the Secretary of Homeland Security, shall identify and, if necessary, encourage the development and implementation of, voluntary consensus standards for interoperable communications systems to the greatest extent practicable, but shall not require any such standard.

“(e) INSPECTOR GENERAL REPORT AND AUDITS.—

“(1) REPORT.—Beginning with the first fiscal year beginning after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Inspector General of the Department of Commerce shall conduct an annual assessment of the management of the grant program implemented under subsection (a)(1) and transmit a report containing the findings of that assessment and any recommendations related thereto to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce.

“(2) AUDITS.—Beginning with the first fiscal year beginning after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Inspector General of the Department of Commerce shall conduct financial audits of entities receiving grants from the program implemented under subsection (a)(1), and shall ensure that, over the course of 4 years, such audits cover recipients in a representative sample of not fewer than 25 States or territories. The results of any such audits shall be made publicly available via web site, subject to redaction as the Inspector General determines necessary to protect classified and other sensitive information.

“(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed or interpreted to preclude the use of funds under this section by any public safety agency for interim- or long-term Internet Protocol-based interoperable solutions.”; and (3) by striking paragraph (3) of subsection (j), as so redesignated.