

U.S. DEPARTMENT OF COMMERCE
Office of Inspector General



**PUBLIC
RELEASE**

*NATIONAL OCEANIC AND
ATMOSPHERIC ADMINISTRATION*

*NOS's Coastal Services Center Awards
Were Not Competitively Selected
CFDA No. 11.473*

Audit Report No. ATL-11000-0-0001/March 2000

Office of Audits, Atlanta Regional Office



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EXECUTIVE SUMMARY

The Office of Inspector General conducted an audit of the fiscal year 1997 criteria, procedures, and practices for soliciting, reviewing, and selecting applications for financial assistance of the National Oceanic and Atmospheric Administration's National Ocean Service's (NOS) Coastal Services Center (CSC) located in Charleston, South Carolina. Through CSC, NOS makes financial assistance awards in the following eight program areas: Coastal Management Services; Training, Outreach, and Education; Integration and Development; Analysis and Characterization; Information Resources; Coastal and Environmental Technology Commercialization; Remote Sensing; and Coastal Management Fellowships. CSC's financial assistance program is classified as No.11.473 in the *Catalog of Federal Domestic Assistance* (CFDA). The audit was conducted as part of a Department-wide review of Commerce's discretionary financial assistance programs initiated at the request of the Chairman of the Senate Commerce, Science, and Transportation Committee.

Discretionary financial assistance programs are those programs for which federal agencies have the authority to independently determine the recipients and funding levels of awards. Collectively, these programs involve a significant portion of the Commerce Department's budget and operations, approximately \$1 billion annually.

Through CSC, NOS provides financial assistance to universities, state and local governments, and public nonprofit organizations to support projects aimed at developing a science-based, multi-dimensional approach to improving environmental quality and promoting economic growth of the nation's coasts. During fiscal year 1997, CSC awarded \$2 million in the form of seven new grants and one renewal to an existing cooperative agreement, under three of the eight program areas.

We found that NOS's criteria, procedures, and practices for the solicitation, review, and selection of applications for funding under both its (1) Information Resources program area and (2) Coastal and Environmental Technology Commercialization program area did not comply with statutory, departmental, and NOAA requirements. Specifically, we found that NOS:

- Did not develop and publish merit-based evaluation criteria against which applications for financial assistance could be reviewed;
- Did not comply with the Department's and NOAA's requirement that a notice be placed in the Federal Register, at least annually, announcing the availability of funding, soliciting award applications, and specifying the criteria and the process to be used in reviewing and selecting applications for funding; and
- Did not comply with the Department's and NOAA's requirements that (1) all financial assistance awards be made on the basis of a competitive review process, unless a special

waiver is obtained, and (2) the competitive review process meet minimum standards established by the Department.

In addition, the two awards in these areas were made noncompetitively without appropriate documentation to support the sole source awards.

By not following competitive award procedures, for both the Information Resources and Coastal and Environmental Technology Commercialization program areas, there is a greater potential for NOS to make questionable or even inappropriate noncompetitive program awards in instances where competition from other sources is available. NOS also risks forgoing the receipt of research proposals from a broad range of eligible applicants and thus may lose opportunities to increase the quality and effectiveness of CSC program areas.

NOS generally followed competitive processes in making six awards under the Coastal Management Fellowship program area in fiscal year 1997. However, we found that CSC officials failed to maintain pertinent panel members' review forms and other evaluation documentation needed to support their selections of host state recipients, as required by DAO 4.05b (see page 12).

We also found that the NOAA Grants Management Division did not question NOS's lack of competitive award procedures or the appropriateness of the noncompetitive awards (see page 12).

In its response to the draft report, NOAA stated that it generally agrees with our recommendations and that it is reviewing all financial assistance programs to determine which noncompetitive awards can be competed. NOAA also stated that, subsequent to the audit period, it published program descriptions and specific evaluation and selection information for the program areas in which it expects to make awards. In addition, NOAA agreed to require reviews for proposed competitive and noncompetitive awards to determine their compliance with Commerce policy.

Finally, regarding the Coastal Management Fellowship program area, NOAA stated that it is now documenting the entire award process. NOAA's response is provided as Appendix III to this report.

We welcome NOAA's commitment to ensure that its discretionary financial assistance programs comply with departmental policy and maximize the use of competition in its grants and cooperative agreements. We recognize that departmental policy allows for noncompetitive awards under certain conditions and that the awards can be justified by one or more acceptable reasons. However, we reiterate our finding that none of the fiscal year 1997 awards under the Information Resources and Coastal and Environmental Technology Commercialization program areas were made on a competitive basis and we believe that, absent acceptable justifications for noncompetitive awards, a competitive process should have been used to make these awards.

1. We recommend that the Assistant Administrator for Ocean Services and Coastal Zone Management ensure that CSC financial assistance awards are made based on a competitive, merit-based process, unless otherwise mandated by law or adequately justified, and that the award process complies with Department policies and procedures and includes the following four elements:
 - A. Widespread solicitation of eligible applications and disclosure of essential application and program information in written solicitations, as required by DAO 203-26, Sections 4.02a. and b., and Financial Assistance Notice No. 17, Sections .01 and .03;
 - B. Independent application reviews that consistently apply published program evaluation criteria, as required by DAO 203-26, Section 4.02h.1.;
 - C. Written justifications for award decisions that deviate from recommendations made by application reviewers, as required by DAO 203-26, Section 4.05b.; and,
 - D. Adequate written justifications for noncompetitive awards, as required by DAO 203-26, Section 4.02i., which should, in the case of sole source awards, document appropriate market search efforts to validate the determination that there is only one source available to perform the anticipated award. Also, justifications for noncompetitive awards that are made on a basis other than sole source, e.g., to meet congressional intent or extend an existing award, should reflect the appropriate basis for the lack of competition.
2. We recommend that the Assistant Administrator for Ocean Services and Coastal Zone Management ensure that all program area descriptions contained in the CFDA include specific criteria and other technical information relative to all CSC program areas, as required by OMB Circular A-89.
3. We recommend that the Assistant Administrator for Ocean Services and Coastal Zone Management ensure that panel members' review forms and other information prepared for the Coastal Management Fellowship program area competitive award selection process are adequately documented, as required by DAO 203-26, Section 4.05b.
4. We recommend that the Chief Financial Officer/Chief Administrative Officer, as Director of the Office of Finance and Administration, which includes the Grants Management Division, require that grants officer reviews of proposed noncompetitive awards include procedures designed to objectively determine compliance with Department and NOAA competitive requirements.

Our recommendations begin on page 14.

INTRODUCTION

The National Oceanic and Atmospheric Administration's mission is to describe and predict changes in the Earth's environment and to conserve and manage wisely the nation's coastal resources. NOAA's National Ocean Service's (NOS) Coastal Services Center (CSC), located in Charleston, South Carolina, administers a multifaceted financial assistance program, which is classified as No. 11.473 in the (CFDA) *Catalog of Federal Domestic Assistance*. Through CSC, NOS makes financial assistance awards in any of eight program areas: Coastal Management Services; Training, Outreach, and Education; Integration and Development; Analysis and Characterization; Information Resources; Coastal and Environmental Technology Commercialization; Remote Sensing; and Coastal Management Fellowships. CSC's objective is to develop a science based, multi-dimensional approach that will allow for the maintenance of the environment and economic well being of the nation's coasts by linking people, information, and technology.

In fiscal year 1997, CSC made eight awards totaling \$2 million under three of the eight program areas it administers. The awards consisted of one grant under the Information Resources program area, one renewal of an existing cooperative agreement under the Coastal and Environmental Technology Commercialization program area, and six grants under the Coastal Management Fellowship program area. According to program authorization information provided by NOAA's Office of Legislative Affairs and published in the CFDA, the fiscal year 1997 awards were made under the authority of the Marine Protection, Research, and Sanctuaries Act of 1972.

Discretionary assistance programs are those for which federal agency officials have the authority to decide (1) which eligible applicants will receive awards, and (2) the amount of federal financial assistance that will be awarded. The use of competitive selection procedures is generally agreed to be the most effective method of ensuring that financial assistance awards are made on the basis of merit. One of the primary purposes of the Federal Grant and Cooperative Agreement Act (31 U.S.C. §6301) is to encourage competition in the award of federal financial assistance to the maximum extent practicable in order to fairly and objectively identify and fund, based on merit, the best possible projects proposed by applicants, and thereby more effectively achieve program objectives.

The Office of Management and Budget (OMB) has issued guidelines on administering competition-based financial assistance programs for use by federal agencies. An interagency study group, convened in 1979 by OMB to examine competition in financial assistance programs, determined that financial assistance award processes, to ensure effective competition, should include three basic elements. These elements, which were discussed in OMB's June 1980 report, *Managing Federal Assistance in the 1980's*, and are still applicable, include:

- widespread solicitation of eligible applicants and disclosure of essential application and program information in written solicitations;

- Independent application reviews that consistently apply written program evaluation criteria; and
- Written justifications for award decisions that deviate from recommendations made by application reviewers.

Also, OMB has issued the following circulars which set forth the policies and procedures to be followed in administering assistance programs:

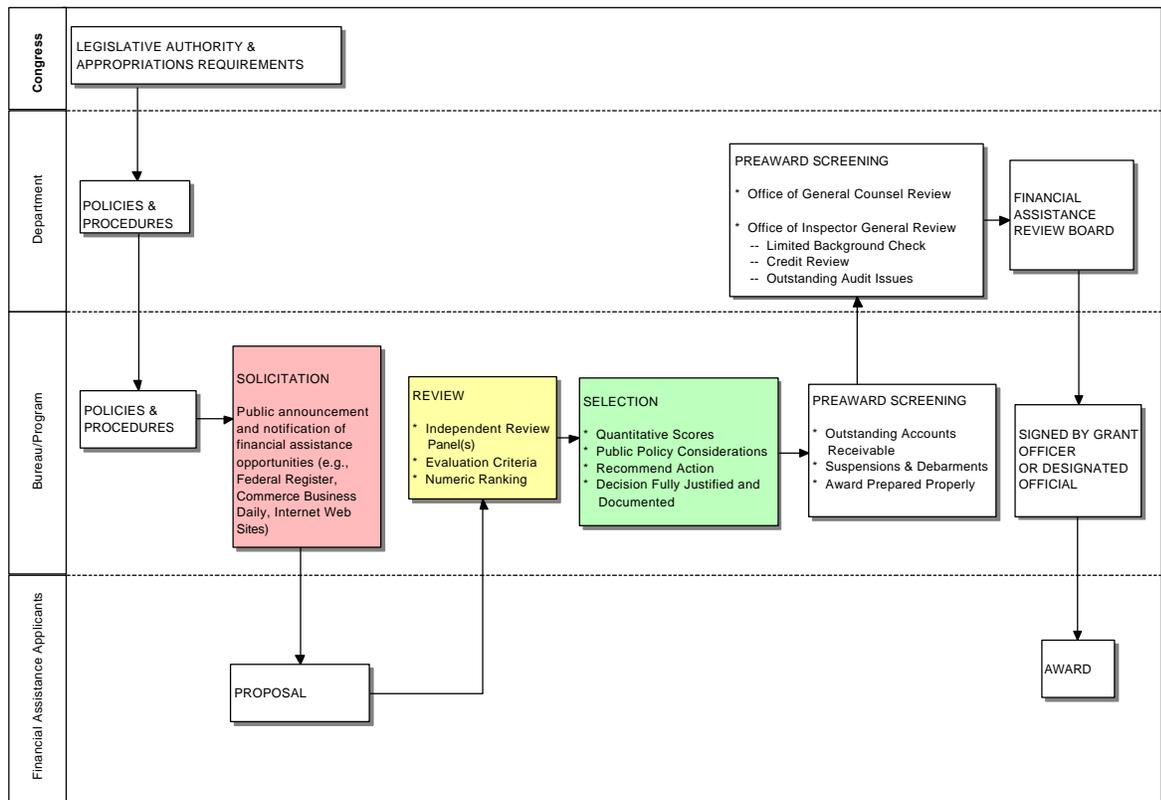
- OMB Circular A-89, *Federal Domestic Assistance Program Information*, implements the Federal Program Information Act (P.L. 95-220) requiring agencies to systematically and periodically collect and distribute current information to the public on federal domestic assistance programs, which is accomplished through the semiannual publication of the CFDA.
- OMB Circular A-102, *Grants and Cooperative Agreements with State and Local Governments*, requires agencies to provide the public with advance notice in the *Federal Register*, or by other appropriate means, of their intended funding priorities for discretionary assistance programs unless such priorities are established by federal statute. Under A-102, when time permits, an agency must provide the public with an opportunity to comment on funding priorities. Finally, A-102 requires all grant awards over \$25,000 to be reviewed for consistency with agency priorities by a policy level official.
- OMB Circular A-110, *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations*, requires agencies to provide the public with advance notice of their intended funding priorities for discretionary assistance programs unless such priorities are established by federal statute.
- OMB Circular A-123, *Management Accountability and Control*, implements the Federal Managers' Financial Integrity Act (P.L. 97-255) requiring agencies to establish written procedures for all programs and administrative activities, including financial assistance programs, that provide reasonable assurance that activities are effectively and efficiently managed to achieve agency goals.

Commerce has relied on these guidelines and circulars in developing and issuing policies and procedures for its discretionary funding programs. Department Administrative Order (DAO) 203-26, *Department of Commerce Grants Administration*, requires that (1) all Commerce financial assistance awards be made on the basis of competitive reviews unless a special waiver is obtained, (2) competitive review processes meet minimum standards outlined in the DAO, and (3) all Commerce agencies publish, at least annually, a notice in the *Federal Register* announcing the availability of funding, soliciting award applications, and specifying the criteria and the

process to be used in reviewing and selecting applications for funding. In addition, noncompetitive awards, if any, should be adequately justified in writing as part of an internal control system as defined in OMB Circular A-123 and required by DAO 203-26, Section 4.02i.

The chart presented below depicts the basic process and controls for the solicitation, review, and selection of financial assistance awards as set forth in DAO 203-26. The processes we reviewed during our audit are color coded for this chart and the NOAA/NOS process charts located in Appendices I and II.

Department of Commerce Financial Assistance Awards Process



PURPOSE AND SCOPE

This audit was conducted as part of a comprehensive review of the Department of Commerce's discretionary funding programs initiated at the request of the Chairman of the Senate Commerce, Science, and Transportation Committee. The Chairman requested that the Inspectors General of the Departments of Commerce and Transportation and the National Science Foundation review the discretionary funding programs of their respective agencies to assess the manner in which discretionary funding decisions are made. More specifically, the Chairman requested that each IG review and report on the criteria developed, either statutorily or administratively, to guide agency officials in making discretionary spending decisions, and on the extent to which the criteria are appropriately applied.

We are conducting our Department-wide review in two phases: a survey phase (completed) and an individual program audit phase (on-going). During the survey phase, we identified and examined the body of laws, regulations, and other guidance applicable to the administration of federal financial assistance programs. We also examined the authorizing legislation, provided by Department officials, for each Commerce financial assistance program and classified each program as either a "full discretion" program or a "limited discretion" program, based on the extent to which the legislation limits the agency's authority to independently determine the recipients and funding levels of the awards made under the program. Finally, we examined the fiscal year 1997 appropriations legislation to identify all legislatively mandated awards.

During the second phase of our review, we are conducting individual audits of the application solicitation, review, and selection processes of each program we have classified as a "full discretion" program, including the program areas administered by the Costal Services Center. We are evaluating the adequacy of each program's established award criteria and procedures for evaluating individual applications. For those programs with procedures deemed to be adequate, we are ascertaining whether they were followed in making awards in fiscal year 1997. For those programs with procedures considered to be inadequate or lacking, we are reviewing how the fiscal year 1997 award decisions were made. Finally, we are examining any legislatively mandated projects identified for each program and determining their significance and impact on fiscal year 1997 award decisions. We plan to issue individual reports, with any appropriate recommendations, on each program, followed by a capping report summarizing the results of the individual audits and providing recommendations for the Department and/or its bureaus.

On July 21, 1998, the Acting Inspector General and the Chief Financial Officer and Assistant Secretary for Administration testified before the Senate Commerce, Science, and Transportation Committee on the Department's discretionary funding programs. The Acting IG reported on the results of the preliminary, survey phase of the OIG's review, and discussed some of the preliminary observations from the individual program audits.

This performance audit focused on all new awards and renewals made during fiscal year 1997 by CSC. Specifically, we:

- Reviewed the program authorization information provided by NOAA's Office of Legislative Affairs and information on the CSC published in the CFDA to identify criteria for funding decisions.
- Reviewed NOAA/NOS policies and procedures for soliciting, reviewing and selecting applications for funding (see Appendices I and II for flowcharts of processes). We also reviewed NOAA's *Grants and Cooperative Agreements Manual* as it applied to the solicitation, review, and selection process and assessed whether it was adequate and in accordance with DAO 203-26, *Department of Commerce Grants Administration*, and Office of Federal Assistance Financial Assistance Notice No. 17, *Department of Commerce Guidelines for the Preparation of Federal Register Notices Announcing the Availability of Financial Assistance Funds – Requests for Applications*.
- Compared the NOAA/NOS procedures with their award practices for fiscal year 1997 to determine if the process contained adequate internal controls to provide for competitive, merit-based awards.
- Examined pertinent documents in individual program award files to determine if Departmental and NOAA policies and procedures were followed.
- Interviewed NOAA/NOS program office officials concerning NOAA/NOS's solicitation, review, and selection procedures.
- Examined fiscal year 1997 appropriations legislation to identify legislatively mandated projects for CSC. None were found.

We did not rely on computer-based data supplied by NOAA and the Department's Office of Executive Assistance Management (OEAM) as a basis for our audit findings and recommendations. Consequently, we did not conduct tests of either the reliability of the data or the controls over the computer-based system that produced the data.

We performed the audit fieldwork at CSC's offices in Charleston, South Carolina, during May 1998. We conducted the audit in accordance with generally accepted government auditing standards, and under the authority of the Inspector General Act of 1978, as amended, and Department Organization Order 10-13, dated May 22, 1980, as amended.

FINDINGS AND RECOMMENDATIONS

We found that NOS's criteria, procedures, and practices for the solicitation, review, and selection of applications for awards under its Information Resources and Coastal and Environmental Technology Commercialization program areas did not comply with statutory, departmental, and NOAA requirements and were not adequate to guide agency officials in making merit-based discretionary funding decisions. Specifically, CSC made a new award under the Information Resources program area and a renewal award under the Coastal and Environmental Technology Commercialization program area noncompetitively in response to unsolicited proposals, did not announce these program areas in the *Federal Register*, and did not develop and publish merit-based evaluation criteria against which applications for funding could be reviewed.

In addition, the justifications for the new and renewal awards made in fiscal year 1997 did not reflect the appropriate basis for the lack of competition. We also found that reviews performed by the NOAA grants office of the proposed awards did not question NOS's lack of competitive award procedures or the adequacy of the noncompetitive award justifications. As a result of these deficiencies, CSC could not provide reasonable assurance that noncompetitive awards made under the Information Resources and Coastal and Environmental Technology Commercialization program areas were merit-based and represented the most effective means of achieving program objectives.

The six awards made under the Coastal Management Fellowship program area generally appeared to be made on a competitive basis; however, CSC officials failed to maintain proposal evaluation forms for two of the seven members of the review panel.

I. Information Resources and Coastal and Environmental Technology Commercialization Awards Were Not Made on a Competitive Basis

NOS's Information Resources and Coastal and Environmental Technology Commercialization program area awards were not made on a competitive basis, as encouraged by federal laws and regulations and Department and NOAA policies and procedures. The new award and the renewal award made under these program areas were made noncompetitively in response to unsolicited proposals. Specifically, we found that NOS, in administering the Information Resources and Coastal and Environmental Technology Commercialization program areas:

- Did not develop and publish merit-based evaluation criteria against which applications for financial assistance could be reviewed;
- Did not comply with the Department's and NOAA's requirement that a notice be placed in the *Federal Register*, at least annually, announcing the availability of funding, soliciting award applications, and specifying the criteria and the process to be used in reviewing and selecting applications for funding; and

- Did not comply with the Department's and NOAA's requirements that (1) all financial assistance awards be made on the basis of a competitive review process, unless a special waiver is obtained, and (2) the competitive review process meet minimum standards established by the Department.

A. NOS did not develop and publish merit-based evaluation criteria

The NOAA *Grants and Cooperative Agreements Policy Manual*, Chapter 1, Section A.4., requires that applications for financial assistance be reviewed by a panel of independent reviewers in accordance with published criteria. The manual states that the criteria used for evaluating applications must be published as part of the request for applications and prohibits scoring against unpublished criteria. However, NOS did not develop and publish merit-based evaluation criteria, as required by DAO 203-26, Sections 4.02a. and b. and Financial Assistance Notice No. 17, Sections .01 and .03, against which applications for financial assistance could be reviewed for the Information Resources and Coastal and Environmental Technology Commercialization program areas.

In particular, the agency did not place a notice in the *Federal Register* announcing the availability of funding, soliciting competing applications, and specifying the criteria and the process to be used in reviewing and selecting applications for funding under the Information Resources and Coastal and Environmental Technology Commercialization program areas for fiscal year 1997. Moreover, the CFDA descriptions for program areas administered by CSC are incomplete. OMB Circular A-89, *Federal Domestic Program Information*, implements the Federal Program Information Act (P.L. 95-220) requiring agencies to systematically and periodically collect and distribute current information to the public on federal domestic assistance programs, which is accomplished through the semiannual publication of the CFDA. However, the CFDA did not publish program area summaries and, therefore, did not cite specific evaluation criteria for CSC program areas eligible for awards during fiscal year 1997. The CFDA simply states that applications are evaluated technically and administratively taking into consideration scientific merit and relevance to NOAA goals and objectives. In order to be adequate to facilitate a merit-based evaluation process, criteria used to evaluate applications for federal financial assistance should not be general in nature, but as specific as possible with weights assigned to each criterion.

B. Solicitation and review process did not comply with competitive requirements

DAO 203-26, Section 4.02b., requires Commerce bureaus to publish an annual notice in the *Federal Register* announcing the availability of funding, soliciting competing applications for funding, and specifying the criteria and the process to be used in reviewing and selecting applications for funding. It also encourages the bureaus to publish notices in other widely distributed publications, such as the *Commerce Business Daily*, to ensure widespread solicitation of applications.

Moreover, NOAA's *Grants and Cooperative Agreements Policy Manual*, Chapter 1, Section A.4., states that it is NOAA's policy to seek maximum competition for its discretionary grants and cooperative agreements. To accomplish this, the manual states that when appropriate, program offices should publish requests for applications in the *Federal Register* or otherwise solicit applications from all eligible organizations.

In addition, DAO 203-26, Section 4.02a., requires the establishment of selection criteria for use in evaluating applications submitted for new awards. Section 4.02h. requires awards be made on the basis of competitive review, and Section 4.02h.1.(e) requires the use of the selection criteria in evaluating individual applications. Unless a waiver of competitive review requirements has been obtained, awards must be made on the basis of competitive review.

Despite the Department and NOAA policies, NOS did not announce CSC's Information Resources and Coastal and Environmental Technology Commercialization program areas in the *Federal Register* or the *Commerce Business Daily*, and did not establish competitive award selection criteria.

In the absence of an annual *Federal Register* notice announcing the CSC programs' existence and availability, NOS still could have placed preaward notices in the *Federal Register* announcing its intent to fund specific program area projects and requesting proposals or inviting inquiries from interested organizations. However, NOS did not publish individual preaward notices in the *Federal Register* for either of these two program areas funded during fiscal year 1997.

C. Noncompetitive awards lacked appropriate justification

In fiscal year 1997, NOS awarded, through CSC, a new grant award to the University of Rhode Island, in the amount of \$1.3 million, and a renewal of an existing award to the University of Texas in the amount of \$240,000. In both cases, the awards were made noncompetitively on the basis of unsolicited proposals submitted for NOS funding consideration. The written justification for each of the new awards stated that the proposed recipient possessed unique capabilities that made it the only organization qualified to do the work.

NOS awarded grant No. NA76OC0512 to the University of Rhode Island in September 1997. The grant was for a two-year period and required no matching share. The award's purpose was to create a coastal data and information resource center at the university. The written noncompetitive justification characterized the award as sole source, stating that the university was the only entity with the necessary capabilities to implement and establish a national coastal data center to provide quick access to coastal information from around the nation. However, the justification was inappropriate because it inadequately supported the sole source rationale and failed to attribute the lack of competition to an effort to meet congressional intent. Instead, it was prepared to support the award to the university as a sole source award.

NOS also made a fiscal year 1997 award to the University of Texas (No. NA57OC0565) to renew an existing cooperative agreement awarded to the university during fiscal year 1995, the purpose of which was to establish a coastal environmental technology commercialization center to facilitate the commercialization of innovative technologies for sustaining healthy coastal ecosystems and economic prosperity. NOS amended the original award to add additional funds of \$240,000 and extend the performance period through May 31, 1998. The written noncompetitive justification characterized the amendment as a sole source award indicating that the university had unique capabilities and had been actively involved in research and teaching in the areas of technology management since 1977. However, the noncompetitive justification was inappropriate because it did not reflect the actual basis for the lack of competition, i.e., that it was an extension of an existing award.

Unsolicited proposals are applications for financial assistance that are not submitted in response to a formal solicitation notice published in the *Federal Register*. Because unsolicited proposals are a means by which unique or innovative ideas can be made available to accomplish specific projects, scientific organizations like NOAA and NOS encourage their submission. DAO 203-26, Section 4.02i., allows the receipt of unsolicited proposals, but states that no unsolicited proposal may be funded outside the competitive process if that proposal addresses subject areas that fall within the program goals of a competitive program. In addition, the receipt of a technically acceptable unsolicited proposal does not, in itself, justify a noncompetitive award. DAO 203-26, Section 4.02i., also states that the decision to fund an unsolicited proposal must be fully justified and included in the official grant file.

Because NOS did not comply with the Department's requirement that a notice be published in the *Federal Register* soliciting applications for fiscal year 1997 awards under the Information Resources and Coastal and Environmental Technology Commercialization program areas, it lacked support for its conclusions that the organizations that submitted unsolicited proposals were the only ones that could perform the work. Instead, the justifications contained statements and conclusions by program office officials based on their personal knowledge. A belief that an organization possesses unique qualifications should be verified through a competitive review process that includes widespread solicitation of eligible applicants through announcement in the *Federal Register* and other means.

II. NOS Developed Merit-Based Evaluation Criteria and Procedures for Coastal Management Fellowship Host State Awards; However, Documentation of Review Practices Was Inadequate

The Coastal Management Fellowship program awards each host state recipient \$64,000 in financial assistance to fund a 24-month fellowship to provide professional on-the-job education and training opportunities for post-graduate students in coastal resource management and policy. The host state is required to contribute a matching share of \$12,000 during the second year of the project for a total cost of each fellowship of \$76,000. The host state project selection process is completed before the fellow selection process takes place in order to give the Sea Grant directors

of the host states and prospective fellows better guidance as to the nature of the projects for which they will be competing. NOS/CSC administers and participates in the separate selection of the fellowship candidates, who are nominated by the Sea Grant directors of the eligible states and competitively selected. However, because the subsequent selection of the fellows does not result in a NOAA/NOS financial assistance award it was outside the scope of our audit.

NOS established merit-based criteria and procedures for soliciting, reviewing, and selecting applications for funding under the Coastal Management Fellowship program area that were designed to result in competitive, merit-based awards. However, during fiscal year 1997, NOS failed to maintain adequate documentation for the review panel's evaluation of host state applications.

A. NOS developed and published merit-based evaluation criteria

DAO 203-26, Section 4.02b., requires Commerce bureaus to publish an annual notice in the *Federal Register* announcing the availability of funding, soliciting competing applications for funding, and specifying the criteria and the process to be used in reviewing and selecting applications for funding. It also encourages the bureaus to publish notices in other widely distributed publications, such as the *Commerce Business Daily*, to ensure widespread solicitation of applications. In addition, the NOAA *Grants and Cooperative Agreements Policy Manual*, Chapter 1, Section A.4., requires that applications for financial assistance be reviewed by a panel of independent reviewers in accordance with the published criteria. The manual prohibits scoring of applications against unpublished criteria. NOS developed merit-based technical and public policy criteria that were consistent with the objectives of the Coastal Management Fellowship program area for use in evaluating applications to serve as host states. NOS did not publish the criteria in the *Federal Register*; instead, the criteria were published in a December 1996 solicitation notice mailed to all state coastal management agencies for states with federally approved coastal zone management programs and states developing such programs. This method of solicitation technically does not comply with DAO 203-26; however, it achieves the result intended by the DAO by providing notice to all eligible participants. It is a method also allowed by OMB Circular A-102, Section 6b.

NOS included the December 1996 CSC document *Coastal Management Fellowship Project Selection* in the solicitation notice mailed to state coastal management agencies. The document described the project application requirements and listed the project evaluation criteria. The solicitation stated that CSC was seeking project proposals from state coastal zone management programs for fellowship projects in natural coastal hazards planning, mitigation, and recovery; habitat evaluation or restoration; and mitigation of habitat impacts caused by a major project or type of projects. It stated that projects addressing at least two of the following project areas would be considered:

- (1) Develop and apply a coastal resource management technique or methodology:

- (2) Design and author state and/or local regulations or policies to address a specific issue;
- (3) Produce documentation for transfer to and application by others;
- (4) Develop and implement an information management system;
- (5) Resolve a specific management problem or issue relating to natural coastal hazards or habitat evaluation, mitigation and restoration; and,
- (6) Improve public awareness (industry and/or general public) of a coastal hazard or habitat evaluation, mitigation, or restoration issue.

The solicitation notice listed the following criteria which were to be used by the panel to evaluate and rank applications:

- (1) Addresses two or more of the project areas with focus on problem solving (10 points);
- (2) Severity of the problem/immediacy of the need (10 points);
- (3) Technical merit (25 points);
- (4) Degree to which the project advances or integrates existing activities (10 points);
- (5) Capability of the host to mentor and provide an educational experience (25 points);
- (6) In-kind support services such as office space with a computer, and telephone and fax access (20 points); and,
- (7) Project proposals should include a description of the source of the \$12,000 fellowship match cost-sharing for the project's second year. Projects that show cost sharing during both years will be given additional consideration as part of the project selection criteria.

Based on our review, we concluded that the criteria for evaluating proposals under the Coastal Management Fellowship program area were designed to result in competitive merit-based funding decisions. Although NOS did not technically comply with the Department's requirement that the criteria be published in the *Federal Register* as part of the required annual notice, its direct mailing of a solicitation notice to all eligible states was a practical method that achieved the same results.

B. Solicitation process obtained an adequate response

As discussed in Section B on page 8 of this report, DAO 203-26 requires public announcement of funding availability and a description of the related review and selection process. In addition, NOAA's *Grants and Cooperative Agreements Policy Manual*, Chapter 1, Section A.4., states that it is NOAA's policy to seek maximum competition for its discretionary financial assistance awards.

NOS received applications for fiscal year 1997 awards from 10 of the 29 eligible states. As discussed above, NOS notified all eligible agencies of the project proposal application process by a direct mailing in December 1996. Only states with federally approved coastal zone management programs, and states developing such programs, were eligible to submit an application.

C. Documentation of review practices was inadequate

As discussed beginning on page 10 of this report, NOS established merit-based criteria and procedures for reviewing and selecting applications for funding under the Coastal Management Fellowship program area. However, NOS's application review procedures were not adequately documented, as required by DAO 203-26, Section 4.05b.

NOS officials convened a project selection panel to review applications and rank the applicants. The seven member panel consisted of three technical evaluators from CSC and four general-purpose evaluators from the NOAA Sea Grants and Ocean and Coastal Resource Management divisions and an organization of coastal states. NOS officials provided a summary score sheet showing that panel members reviewed the 10 proposals received using the evaluation criteria discussed on pages 11 and 12. The panel members combined individual scores to arrive at an average panel score for each application and recommended to the selecting official that the six applications with the highest scores be selected for funding. The panel's average scores for the six recommended applications ranged from 65.14 to 69.86, while the four applicants not recommended scored in the range of 58.29 to 62.43. However, NOS officials were unable to locate two of the panel members' project proposal evaluation forms. Consequently, we were only able to verify the accuracy of the rankings and overall scores provided by two of the four general-purpose evaluators.

D. Coastal Management Fellowship selection process complied with competitive procedures

The CSC Coastal Management Fellowship Program Coordinator followed the review panel's recommendations in selecting applications for fiscal year 1997 funding. NOS officials decided to combine the administration for two projects, which decreased the number of Coastal Management Fellowship program area awards from 1997 applications from six to five. In addition, a fiscal year 1997 award was made to Michigan based on the fiscal year 1996

competition. Michigan had been selected as a host state during the fiscal year 1996 competition, but none of the individuals selected as fellowship finalists were interested in that state's project. NOS officials stated that they agreed at the time to allow Michigan to have the opportunity to be a host state the next year. The fiscal year 1997 award to Michigan was funded with carryover funding from fiscal year 1996.

III. NOAA Reviews of Proposed NOS Noncompetitive Awards Were Not Effective

Reviews performed by the NOAA Grants Management Division (GMD) of the two proposed noncompetitive awards under the Information Resources and Coastal and Environmental Technology Commercialization program areas did not question NOS's lack of competitive award procedures or the validity of the noncompetitive award justifications. The Assistant Administrator for NOS forwarded, as required, the program office's justification and related documents for the proposed noncompetitive awards to the grants office for review and approval. However, GMD's review of the proposed awards did not ensure the program office's compliance with applicable Department and NOAA competitive requirements.

DAO 203-26, Section 4.01., requires that each bureau establish a central liaison to ensure that its programs comply with federal, departmental and organization grant requirements and to review grant documents for compliance. The Grants Management Division within NOAA's Office of Finance and Administration fulfills that responsibility for NOAA.

The grant files do not indicate whether the GMD questioned why the NOS program office did not prepare and submit the required annual CSC *Federal Register* program announcement. The files also do not show whether the grants office determined if the noncompetitive justifications were factually based or if the program office had made any attempts to identify other qualified sources before submitting the noncompetitive awards. Grants Management Division Personnel stated that they relied on and accepted as valid the technical descriptions of perceived unique capabilities presented in the program office's award justifications. Grants Management Division personnel limit their reviews of the justifications to determining whether they addressed one or more of the acceptable reasons for a noncompetitive award, but do not attempt to verify the information. Therefore, we believe the reviews were not effective in ensuring the program office's compliance with Department and NOAA competitive policies.

IV. NOAA Response

In its response to the draft report, NOAA stated that it generally agrees with our recommendations and that it has already begun a review of all financial assistance programs to determine which noncompetitive awards can be competed. NOAA anticipates the review will conclude in fiscal year 2000. NOAA also stated that, subsequent to the audit period, it published

program descriptions and specific evaluation and selection information for the program areas in which it expects to make awards. NOAA agreed with the draft report recommendation that proposed noncompetitive awards be effectively reviewed and stated that it will require internal reviews for proposed competitive and noncompetitive awards to determine their compliance with policy.

NOAA stated that it is now documenting the entire award process in the Coastal Management Fellowship program area. However, NOAA disagreed with the draft report's finding regarding the fellowship project award to Michigan. It contends that the fiscal year 1997 award was funded with fiscal year 1996 carryover funds and therefore was not made outside of fiscal year 1997 competitive procedures. NOAA submitted evidence to support its contention. NOAA's response is included as Appendix III to this report.

V. OIG Comments

We welcome NOAA's commitment to ensure that its discretionary financial assistance programs comply with departmental policy and maximize the use of competition in its grants and cooperative agreements. We also agree with NOAA's explanation regarding the fellowship host state award to Michigan and have removed that finding from the final report.

We recognize that departmental policy allows for noncompetitive awards under certain conditions and that the awards can be justified by one or more acceptable reasons. However, we reiterate our finding that none of the fiscal year 1997 awards under the Information Resources and Coastal and Environmental Technology Commercialization Awards were made on a competitive basis and we believe that, absent acceptable justifications for noncompetitive awards, a competitive process should have been used to make these awards.

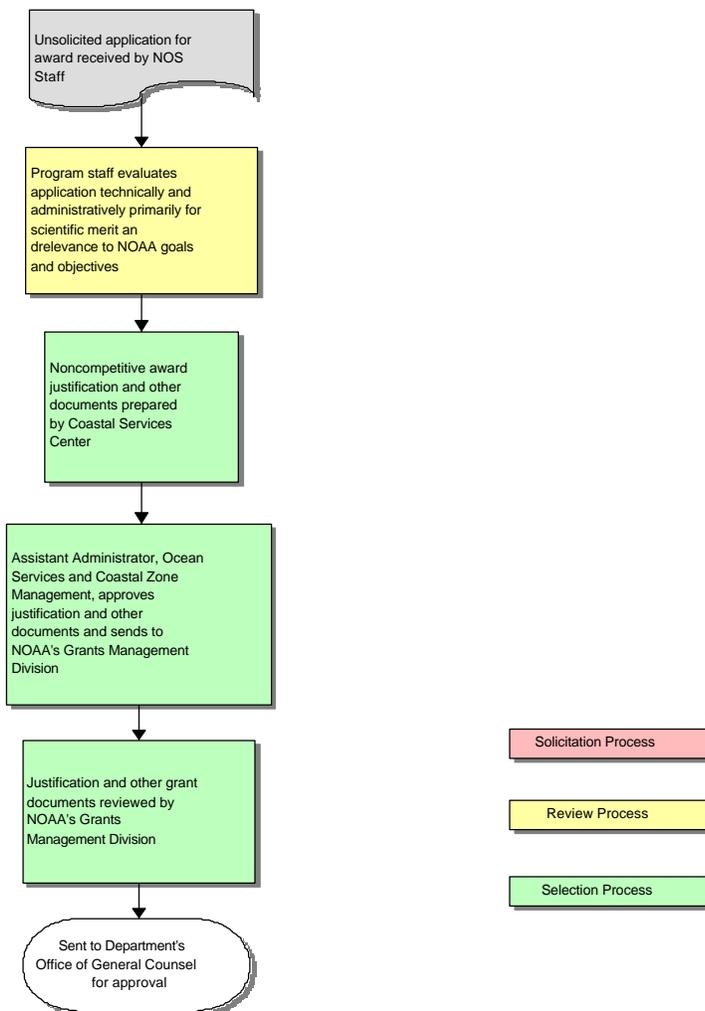
VI. Recommendations

1. We recommend that the Assistant Administrator for Ocean Services and Coastal Zone Management ensure that CSC financial assistance awards are made based on a competitive, merit-based process, unless otherwise mandated by law or adequately justified, and that the award process complies with Department policies and procedures and includes the following four elements:
 - A. Widespread solicitation of eligible applications and disclosure of essential application and program information in written solicitations, as required by DAO 203-26, Sections 4.02a. and b., and Financial Assistance Notice No. 17, Sections .01 and .03;
 - B. Independent application reviews that consistently apply published program evaluation criteria, as required by DAO 203-26, Section 4.02h.1.;

- C. Written justifications for award decisions that deviate from recommendations made by application reviewers, as required by DAO 203-26, Section 4.05b.; and,
 - D. Adequate written justifications for noncompetitive awards, as required by DAO 203-26, Section 4.02i., which should, in the case of sole source awards, document appropriate market search efforts to validate the determination that there is only one source available to perform the anticipated award. Also, justifications for noncompetitive awards that are made on a basis other than sole source, e.g., to meet congressional intent or extend an existing award, should reflect the appropriate basis for the lack of competition.
2. We recommend that the Assistant Administrator for Ocean Services and Coastal Zone Management ensure that all program area descriptions contained in the CFDA include specific criteria and other technical information relative to all CSC program areas, as required by OMB Circular A-89.
 3. We recommend that the Assistant Administrator for Ocean Services and Coastal Zone Management ensure that panel members' review forms and other information prepared for the Coastal Management Fellowship program area competitive award selection process are adequately documented, as required by DAO 203-26, Section 4.05b.
 4. We recommend that the Chief Financial Officer/Chief Administrative Officer, as Director of the Office of Finance and Administration, which includes the Grants Management Division, require that grants officer reviews of proposed noncompetitive awards include procedures designed to objectively determine compliance with Department and NOAA competitive requirements.

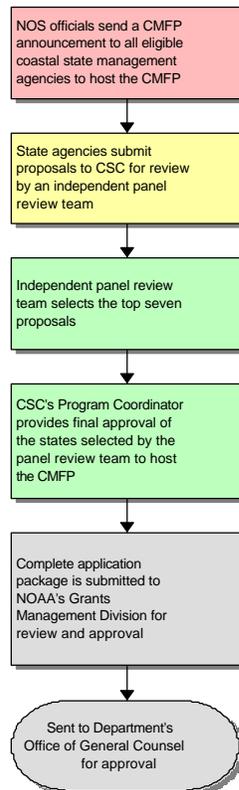
APPENDIX I

NOAA/NOS Procedures for Review and Selection of Noncompetitive Awards



APPENDIX II

**NOAA/NOS Procedures for Review and Selection of Coastal
Management Fellowship Program Awards**





UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
CHIEF FINANCIAL OFFICER/CHIEF ADMINISTRATIVE OFFICER

MAR 23 2000

MEMORANDUM FOR: Mary L. Casey
Acting Assistant Inspector General
for Auditing

FROM: Paul F. Roberts *Barbara Martin (for)*

SUBJECT: NOAA Response to Draft OIG Audit Report
"NOS's Coastal Services Center Awards Were
Not All Competitively Selected, Catalog of
Federal Domestic Assistance No. 11.473,"
Report No. ATL-11000-0-XXXX/January 2000

Thank you for the opportunity to review and comment on the subject draft report concerning the fiscal year 1997 criteria, procedures, and practices for soliciting, reviewing, and selecting applications for financial assistance of the National Oceanic and Atmospheric Administration (NOAA) National Ocean Service's Coastal Services Center located in Charleston, South Carolina. Attached are NOAA's comments to the subject draft report. NOAA generally concurs with most of the Office of Inspector General's findings and recommendations.

If you have any questions concerning our response, or should you require further assistance, please contact either Barbara Martin at 301-713-1150 or Joseph Matotek at 301-713-1152.

Attachment



NOAA Response to
Draft OIG Audit Report ATL-11000-0-XXXX

GENERAL COMMENTS

FINDING I. Information Resources and Coastal and Environmental Technology Commercialization Awards Were Not Made on a Competitive Basis.

A. NOS did not develop and publish merit-based evaluation criteria.

NOAA Response. Partially Concur.

The Center did not publish the merit-based evaluation criteria in the *Federal Register* for these two programs because they were received as unsolicited proposals. Once the proposals were received, however, evaluation criteria were developed and the determination for award was made by a review panel using these criteria.

NOAA Actions to Correct.

As required, the CFDA 11.473 is updated to accurately reflect the Coastal Services Center program descriptions. These updates include pertinent technical information for all programs where the Center expects to make awards. Since the specific programs for financial assistance are based each year on strategic and annual planning by the Center and NOAA, publication of specific evaluation criteria only occurs in the *Federal Register* at the time of the announcement of availability of funds. Annually since 1998, the Center has published a Broad Area Announcement in the *Federal Register* that covers all the program areas where the Center anticipates making awards. The specific evaluation criteria, panel makeup, and other factors to be used in evaluating and determining financial awards are now published in this announcement annually.

B. Solicitation and review process did not comply with competitive requirements.

NOAA Response to
Draft OIG Audit Report ATL-11000-0-XXXX

NOAA Response. Concur.

NOAA Actions to Correct.

For all future unsolicited proposals, the Center will place a preaward notice in the *Federal Register*.

C. Noncompetitive awards lacked appropriate justification.

NOAA Response. Partially Concur.

b(5)
For Grant No. NA76C0512 to the University of Rhode Island, the sole source award was developed in consultation with the Grants Management Division and reviewed by the Office of General Counsel, both of which advised that [REDACTED]

This response was in reply to the Center's justification memorandum which quoted a Senate Report requiring the Center to "establish a national coastal data center in conjunction with the Northeast sea grant depository. . . ." The University of Rhode Island is a designated Sea Grant college in the Northeast. Additionally, it is the only Sea Grant college that has fiscal and administrative responsibility for the sea grant depository.

NOAA Actions to Correct.

For all future unsolicited proposals, the Center will place a preaward notice in the *Federal Register*.

FINDING II. NOS Developed Merit-Based Criteria and Procedures for Coastal Management Fellowship Host State Awards; However, Documentation of Review Practices was Inadequate and Competitive Selection Procedures Were Not Followed for One of the Six Awards.

A. NOS developed and published appropriate merit-based evaluation criteria.

NOAA Response. Concur.

NOAA Response to
Draft OIG Audit Report ATL-11000-0-XXXX

B. Solicitation process obtained an adequate response.

NOAA Response. Concur.

C. Documentation of review practices was inadequate.

NOAA Response. Concur.

NOAA Actions to Correct.

For the three cycles of selection for the Coastal Management Fellowship Program that have occurred since the 1997 process, all documentation for each review has been retained and cataloged.

NOAA Response to
Draft OIG Audit Report ATL-11000-0-XXXX

D. Coastal Management Fellowship selection process did not fully comply with competitive procedures.

NOAA Response. Do Not Concur.

The single 1997 fellowship referenced was funded with carry-over fiscal resources from the 1996 selection process which was a rigorous and competitive process with published criteria and procedures. In addition, the lack of placement of a fellow was a process issue and not a withdrawal by the agency or the federal government. In verbal communications with all potential applicants for the 1997 fellowship year, each was notified that Michigan was a competitive location for 1997 and told the specific reason.

NOAA Action to Correct.

The problem that this audit has identified was that the Center failed to put that verbal communication in writing and include it as part of the published announcement for 1997. For the three cycles of selection for the Coastal Management Fellowship Program that have occurred since the 1997 process, all documentation for each review has been retained and cataloged. In the event that we have the same lack of placement occur in the future, we have already established the procedure to notify all applicants, place documentation in the files, and publish the intent of placement in the competitive solicitation.

FINDING III. NOAA Reviews of Proposed NOS Noncompetitive Awards Were Not Effective

NOAA Response. Partially Concur.

While we do not agree with this finding, we share the OIG's opinion as reflected in their recommendation that reviews should determine compliance with Department of Commerce and NOAA competitive requirements. NOAA will require internal reviews for proposed competitive and noncompetitive awards for conformity to policy.

NOAA Response to
Draft OIG Audit Report ATL-11000-0-XXXX

RESPONSE TO RECOMMENDATIONS

OIG Recommendation 1: We recommend that the Assistant Administrator for Ocean Services and Coastal Zone Management ensure that all CSC financial assistance awards are based on a competitive, merit-based process, unless otherwise mandated by law, or adequately justified, and that the award process complies with Department policies and procedures and includes the following four elements:

- A. Widespread solicitation of eligible applications and disclosure of essential application and program information, as required by DAO 203-26, Sections 4.02a. And b., and Financial Assistance Notice No. 17, Sections .01 and 03;
- B. Independent application reviews that consistently apply published program evaluation criteria, as required by DAO 203-26, Section 4.02h.1;
- C. Written justifications for award decisions that deviate from recommendations made by application reviewers, as required by DAO 203-26, Section 4.05b.; and,
- D. Adequate written justifications for noncompetitive awards, as required by DAO 203-26, Section 4.02i. In the case of sole source justifications, we believe the justifications should document appropriate market search efforts to validate the determination that there is only one source for an anticipated award. The market search should include, at a minimum, a pre-award notice in the *Federal Register* stating that the agency expects to make a sole source award and inviting other interested and qualified parties to inquire. Also, justification for noncompetitive awards that are made on a basis other than sole source, e.g., to meet congressional intent or extend an existing award, should reflect the appropriate basis for the lack of competition.

NOAA Response to
Draft OIG Audit Report ATL-11000-0-XXXX

NOAA Response: NOAA will review all Financial Assistance Programs to determine which non-competitive awards can be competed. We have already begun our review of non-competitive awards, and it is anticipated that we will conclude the review in FY 2000. Regarding the specifics of this recommendation, we submit the following:

- A) NOAA will achieve widespread solicitation for financial assistance awards under the CSC Program through publication in the Federal Register unless Congressionally directed, or adequately justified, and in accordance with Departmental direction.
- B) All financial assistance discretionary awards will require an independent merit review.
- C) Competitive programs which result in applications being ranked in merit order will require a written justification if NOAA deviates from that order.
- D) The Department does not prescribe market searches or surveys. The Department's policy does not require the existence of only one source for anticipated noncompetitive awards. This is not required by either statute, regulation, or policy, and it is too narrow of a recommendation to implement because unique capability is not the only criteria used to justify a sole source award - other criteria such as an applicant's specialized facilities or equipment, or substantial investment in a project are just as valid.

OIG Recommendation 2: We recommend that the Assistant Administrator for Ocean Services and Coastal Zone Management ensure that all program descriptions outlined in the CFDA include specific criteria and other technical information relative to all CSC programs, as required by OMB Circular A-89.

NOAA Response to
Draft OIG Audit Report ATL-11000-0-XXXX

NOAA Response: We concur. Since 1997, we have reviewed the program descriptions as outlined in the CFDA each year to include specific program information about the areas where we expect to make awards for the upcoming fiscal year. The specific selection criteria are then published in the Federal Register (in October of every year) which specifies precisely how the proposals for each program will be evaluated, scored, ranked, and selected.

OIG Recommendation 3: We recommend that the Assistant Administrator for Ocean Services and Coastal Zone Management ensure that panel members' review forms and other information prepared for the Coastal Management Fellowship program area competitive award selection process are adequately documented, as required by DAO 203-26, Section 4.05b.

NOAA Response: We concur. Since the date of the audit visit when this issue was identified we have kept every record of every element of the fellowship award process. We have had three placement cycles since the year under review, and have all the documentation from each cycle.

OIG Recommendation 4: We recommend that the Chief Financial Officer/Chief Administrative Officer, as the Director of the Office of Finance and Administration, which includes the Grants Management Division, require that grants officer reviews of proposed noncompetitive awards include procedures designed to objectively determine compliance with Department and NOAA competitive requirements.

NOAA Response: NOAA agrees that reviews should determine compliance with Department and NOAA competitive requirements. NOAA will require internal reviews for proposed competitive and noncompetitive awards for conformity to policy.