

U.S. DEPARTMENT OF COMMERCE
Office of Inspector General



**PUBLIC
RELEASE**

***NATIONAL TELECOMMUNICATIONS
AND INFORMATION ADMINISTRATION***

*Public Telecommunications Facilities
Program Award Process Promotes
Merit-Based Decisions,
But Process Needs More Discipline*
CFDA No. 11.550

Audit Report No. ATL-10945-9-0001 / March 1999

Office of Audits, Atlanta Regional Office



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EXECUTIVE SUMMARY

The Office of Inspector General has conducted an audit of the fiscal year 1997 procedures and practices for soliciting, reviewing, and selecting applications for financial assistance under the National Telecommunications and Information Administration's Public Telecommunications Facilities Program (PTFP), classified as No. 11.550 in the *Catalog of Federal Domestic Assistance*. 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. These programs involve a significant portion of the Commerce Department's budget and operations, approximately \$1 billion annually.

Through PTFP, the National Telecommunications and Information Administration (NTIA) provides financial assistance to public or noncommercial educational broadcast stations; noncommercial telecommunications entities; systems of public telecommunications entities; private nonprofit organizations organized primarily for educational or cultural purposes or that plan for the provision of public telecommunications services; state, local or Indian tribal governments; and other government agencies and subdivisions. Assistance is provided for planning, acquiring, installing, and modernizing public telecommunications facilities. In fiscal year 1997, the program received 221 applications for more than \$50.5 million. Of these, 215 were accepted for review, and 97 grants totaling more than \$14.1 million were awarded. All 97 awards were made competitively in response to a solicitation.

We examined NTIA's criteria, procedures and practices for soliciting, reviewing, and selecting PTFP awards and found that they generally complied with statutory, departmental and NTIA requirements and appeared designed to result in merit-based awards. Nonetheless, we identified opportunities for improving the program's award procedures and practices. Specifically, our audit disclosed that NTIA:

- Developed and published merit-based technical and public policy criteria which were consistent with the objectives of the program to evaluate applications for financial assistance (see page 6).
- Complied with the Department's and NTIA's requirement that a notice be placed in the *Federal Register*, at least annually, announcing the availability of funds and soliciting award applications, and specifying the criteria and the process to be used in reviewing and selecting applications for funding. The requirements were sufficient to obtain a nationwide response from eligible applicants (see page 6).

- Did not follow established Department's and NTIA's requirements intended to provide an independent and qualified competitive review of each application. For the fiscal year 1997, the program staff routinely deviated from these requirements by adjusting either the independent reviewers' scores or the panel's composite evaluation scores without consulting those reviewers. Program officials stated that, for fiscal year 1998, the independent reviewers' scores would stand with no adjustments by the program staff (see page 7).
- Followed established Department and NTIA requirements for selecting applications for funding under PTFP. However, during fiscal year 1997, the Assistant Secretary for Communications and Information, as the selection official, added three applications to the PTFP program director's list of applications recommended for funding. An internal memorandum explained that the Assistant Secretary decided to fund the additional applications to improve geographic distribution of the awards, but the file memorandum did not explain the reasons for the selections as compared with eligible applicants from other states. NTIA officials need to enhance the written documentation for award decisions that deviate from recommendations made by the program director (see page 12).

NTIA concurred with our findings and recommendations. NTIA stated that it has already implemented the recommendations, starting with the fiscal year 1998 grant competition. NTIA also requested editorial changes based on the 1998 process improvements it implemented. We have summarized NTIA's response on page 14. We have included a copy of the response, excluding attachments, as Appendix II.

We commend NTIA for implementation of the draft report's recommendations. We did not modify the final report based on the fiscal year 1998 changes by the agency because this report covers the fiscal year 1997 awards process. We made other editorial changes we considered appropriate.

We recommend that the Assistant Secretary for Communications and Information:

- Direct PTFP staff to ensure that independent reviewers' scores are not adjusted by program staff during the review process.
- Require adequate written documentation for the basis for making awards that deviate from the program director's recommendations.

Our recommendations appear on page 15.

INTRODUCTION

The National Telecommunications and Information Administration administers the Public Telecommunications Facilities Program (PTFP), described in the *Catalog of Federal Domestic Assistance* (CFDA) as No. 11.550, which was established under the Communications Act of 1934, as amended. This discretionary funding program provides financial assistance in the form of matching grants to public or noncommercial educational broadcast stations; noncommercial telecommunications entities; a system of public telecommunications entities; private nonprofit organizations organized primarily for educational or cultural purposes or that plan for the provision of public telecommunications services; state, local or Indian tribal governments; and other government agencies and subdivisions. Assistance is provided for planning, acquiring, installing, and modernizing public telecommunications facilities.

PTFP's goals are (1) to extend the delivery of public telecommunications facilities services to as many citizens of the U.S. as possible by the most efficient and economical means, including the use of broadcast and non-broadcast technologies; (2) to increase public telecommunications services and facilities available to, operated by, and owned by minorities and women; and (3) to strengthen the capability of existing public television and radio stations to provide public telecommunications services to the public.

The Communications Act of 1934, as amended, authorizes the Department of Commerce to establish rules and regulations relating to the criteria that will be used in determining the order in which applications will be selected for funding and the amount of that funding. In accordance with the Act, NTIA established rules governing the award of PTFP matching grants. The rules governing the fiscal year 1997 awards were published in the *Federal Register*, Part IV, Volume 61, Number 218, dated November 8, 1996. In fiscal year 1997, NTIA officials received more than 220 applications, of which 215 were accepted for review, and awarded 97 grants totaling more than \$14.1 million.

Competition is generally recognized as 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.

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.

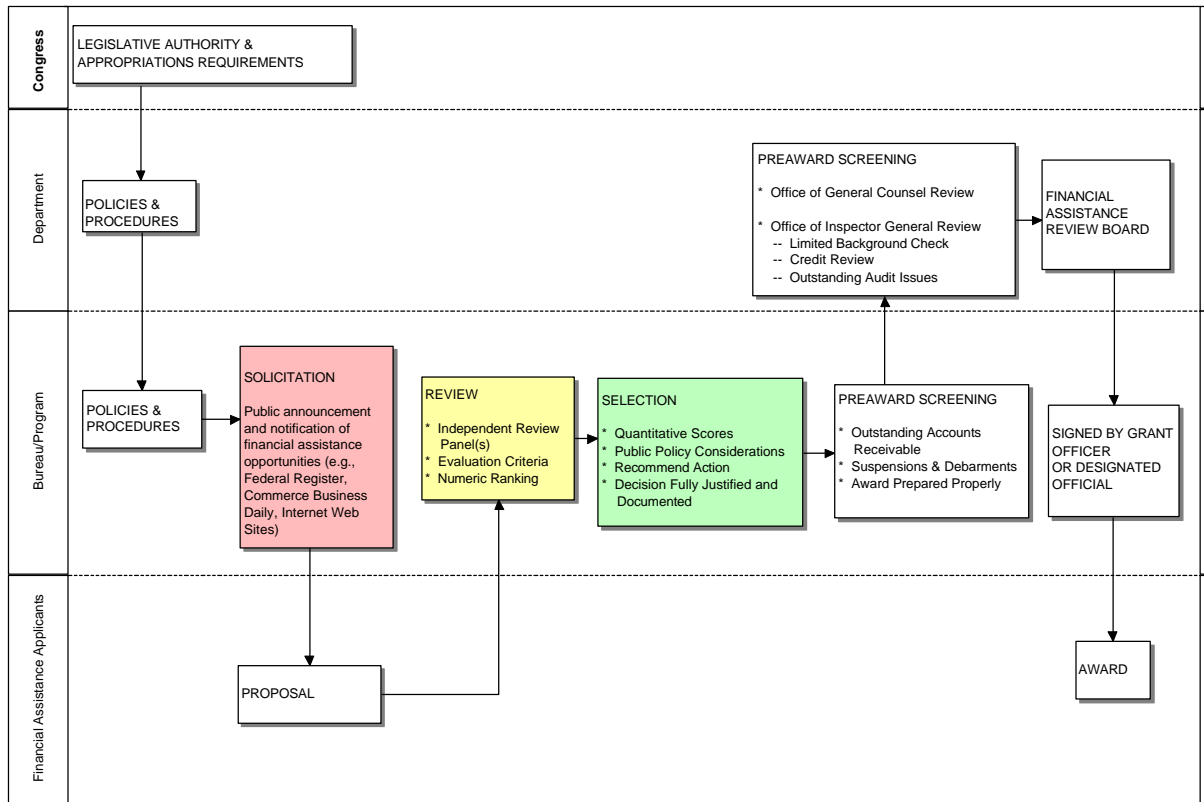
Also, OMB has issued the following circulars which set forth the policies and procedures to be followed in administering federal financial assistance programs:

- OMB Circular A-89, *Federal Domestic Program Information*, implements the mandate of the Federal Program Information Act, requiring agencies to systematically and periodically collect and distribute current information to the public on all federal domestic assistance programs, which is accomplished through the semiannual publication of the *Catalog of Federal Domestic Assistance*.
- 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 Educations, 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 upon 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.

The chart presented below depicts the 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 NTIA process chart located in Appendix I.

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 (ongoing). 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 fiscal year 1997 appropriation legislation to identify all legislatively mandated awards. No legislatively mandated awards were found.

During the second phase of our review, we are conducting individual audits of the award solicitation, review, and selection processes of each program we have classified as a "full discretion" program, including NTIA's PTFP. We are evaluating the adequacy of each program's established award procedures and criteria 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 the 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 funding decisions made during fiscal year 1997 under the PTFP. Specifically, we:

- Reviewed the authorizing legislation, provided by Department officials, and information summarized in the CFDA to identify criteria for funding decisions.
- Reviewed policies and procedures for soliciting and reviewing proposals and selecting applications for funding (see Appendix I for flowchart of process). We also reviewed NTIA's *Internal Operating Procedures*, dated April 2, 1997, as they applied to the solicitation, review, and selection process and assessed whether they were in accordance with 15 CFR 2301 and 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 NTIA's procedures with its grant 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 NTIA policies and procedures were followed.
- Interviewed NTIA program officials and personnel from the Department's Office of Executive Assistance Management (OEAM) concerning NTIA's solicitation, review, and selection procedures.
- Examined fiscal year 1997 appropriation legislation to identify legislatively mandated projects for this program. None were found.

We did not rely upon computer-based data supplied by NTIA and OEAM as a basis for our findings and recommendations. We therefore conducted neither tests of the reliability of the data, nor the controls over the computer-based system that produced the data.

In February 1999, we issued a draft report to NTIA for review and comment. A copy of NTIA's response, excluding attachments, is included as Appendix II and is summarized on page 14 of this report.

We performed the audit fieldwork at NTIA and OEAM in Washington, D.C., during April and May 1998. We conducted the audit in accordance with generally accepted government auditing standards, and under 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 NTIA's criteria, procedures and practices for soliciting and reviewing and selection PTFP award recipients generally complied with statutory, departmental and NTIA requirements and appeared designed to result in merit-based awards. In fact, NTIA's efforts to solicit applications for PTFP awards for fiscal year 1997 exceeded the Department's and its own minimum requirements and generated a strong, nationwide response from multiple eligible applicants. Each application received an independent, qualified review based on the written evaluation criteria stated in the application notice. However, we found that the program staff routinely deviated from established procedures by adjusting either the independent reviewers' scores or the composite evaluation scores without consulting with the reviewers. Program officials stated that, beginning with the fiscal year 1998 award process, adjustments to independent reviewers scores would be prohibited. Finally, we found that 3 of the 97 award selection decisions deviated from the PTFP program director's recommendations and that written justifications for such deviations generally were inadequate.

I. PTFP Used Merit-Based Evaluation Criteria

PTFP officials implemented technical and public policy criteria that were consistent with the objectives of the program and complied with statutory provisions for making awards. The applicable criteria were published in the *Federal Register*. Based on our review, we concluded that the criteria, which are discussed in the following sections, were adequate and resulted in a competitive merit-based process for fiscal year 1997.

II. PTFP Solicitation Process Obtained a Nationwide Response

NTIA's PTFP solicitation procedures and practices for fiscal year 1997 were sufficient to obtain a nationwide response from eligible applicants. NTIA's widespread solicitation of eligible applicants exceeded the Department's and its own minimum requirements, and was successful in generating a large number of applications responsive to PTFP program objectives.

DAO 203-26, Section 4.02, lists the solicitation procedures to be used for competitive grant programs. These procedures are designed to ensure widespread public notification to the interested public. Section 4.02 provides the following solicitation criteria, in part:

- Annual Public Notice. To inform the interested public, each organization unit shall publish at least annually a notice in the *Federal Register* that includes basic information for each discretionary grant program.
- Other Solicitations of Applications. Additional notice(s) in the *Federal Register* or other publications soliciting applications or preapplications must include information published in the annual public notice.

- Minimum Notice. In order to provide the public reasonable notice, there must be a minimum of 30 days between the date of publication and the closing date for receipt of applications.

NTIA's *Internal Operating Procedures* require the agency to solicit PTFP applications through an announcement in the *Federal Register*. The procedures also require NTIA to distribute, to prospective applicants, detailed information regarding the program's application procedures. OEAM ensures that all required information is included in the notice before NTIA officials submit the announcement for publication in the *Federal Register*.

Although NTIA is only required to publish the program announcement in the *Federal Register*, program officials expanded their solicitation efforts to include other media. NTIA placed the solicitation notice on the NTIA Internet web site and sent solicitation notices to over 3,000 potential applicants on its mailing list.

Employing these solicitation methods, NTIA received 221 applications for more than \$50.5 million. PTFP program staff accepted 215, or 97 percent, of the applications as complete and eligible for review. Acceptance was based on the completeness of the application and an assessment of the applicant and its financial qualifications (see page 9).

III. Program Staff Override Independent Reviewers' Evaluations

PTFP's established procedures for reviewing applications for awards were sufficient to provide an independent and qualified competitive review for each application. Review panels used merit-based, technical and public policy criteria which were consistent with the objectives of the program in evaluating the applications. However, NTIA's program staff participated in review panels and routinely adjusted the independent reviewers' scores or composite evaluation scores without consulting with the reviewers. The program staff stated that the adjustments were made to correct applications misjudged and/or unfairly scored by the external reviewers. The program staff's unilateral adjustment of evaluation scores has the potential of undermining the independence and objectivity of the review process.

DAO 203-26, Section 4.02h.1, sets forth the minimum requirements for the competitive review process:

- Applications are reviewed only when submitted in response to a notice in the *Federal Register* or other publication.
- Applications should be treated fairly.
- Applications should receive an independent, objective review by one or more review panels qualified to evaluate the applications.

- Review panels consist of at least three persons and may include one or more individuals who are not employees of the federal government.
- Review panels should use selection criteria covered by the application notice.
- Organization units should prepare a rank ordering of applications based solely on evaluations by the review panel.
- Organization units should determine the order in which the applications will be selected for funding based on:
 - (1) any priorities or other program requirements published in the *Federal Register* that apply to the selection of applicants for new awards, and
 - (2) the rank order of applications established by the review panel on the basis of the selection criteria.

A. Review panels rated applications

PTFP review procedures require that each applicant receive an independent, objective review by one or more review panels qualified to evaluate the applications submitted under the program. There should be at least three persons on each review panel, which may include one or more persons who are not employees of the federal government. The review process includes an outside review, a technical assessment by an NTIA engineer, and an evaluation by a program staff member. This combination of reviewers constitutes a review panel.

OMB encourages the use of knowledgeable reviewers from outside a program office or agency as a means of providing an independent perspective and evaluation of applicants. For the 14 review panels established by NTIA in fiscal year 1997, NTIA used 24 independent outside reviewers from across the nation. The outside reviewers held professional positions in the radio and television broadcast industries. The 24 reviewers were placed in 14 groups, each with 1 to 3 reviewers, with 1 group assigned to each of the 14 review panels. For groups with two or more outside reviewers, the reviewers' individual scores and comments were combined into one score. This score represented the group's contribution to the review panel and was combined with the scores of the NTIA engineer and a PTFP program staff member to arrive at a composite evaluation score for each of the applications. The evaluations of the outside reviewer(s), the engineer, and the program staff member were given equal weight in calculating the composite evaluation score. We found that the review panels applied the merit-based criteria to assess the applicants and properly documented their reviews of each application.

PTFP review panels used merit-based technical and public policy criteria that were consistent with the objectives of the program and published in the *Federal Register* to evaluate the applications. PTFP Final Rules were set out in 15 CFR Part 2301 and published in the *Federal Register*, Part IV, Volume 61, Number 218, dated November 8, 1996.

Part 2301.17 (b) lists the “Evaluation Criteria for Construction and Planning Applications,” lists six criteria to be used in evaluating applications.

- (1) *Applicant Qualifications.* Applicant has or will have the ability to complete the project and provide services of professional quality.
- (2) *Financial Qualifications.* Applicant can provide nonfederal funds required for the project and can ensure long-term financial support for continued operations.
- (3) *Project Objectives.* Proposed project fulfills among other things the objectives and specific requirements of one or more of the categories set forth in §2301.4 “Types of Projects and Broadcast Priorities.”
- (4) *Urgency.* Proposed project is justified for funding during the current grant cycle, or when appropriate, the condition of existing equipment justifies its prompt replacement.
- (5) *(i) Technical Qualifications* (construction applicants only). Eligible equipment requested is necessary to achieve the objectives of the project, meets industry standards, and costs proposed reflect the most efficient use of federal funds.

(ii) Planning Qualifications (planning applicants only). Proposed planning process and timetable for achieving the expected results is feasible and costs proposed reflect the most efficient use of Federal funds.
- (6) *Special Considerations.* Applicant should demonstrate that its broadcast or non-broadcast application will achieve significant diversity in the ownership of, operation of, and participation in public telecommunications facilities.

Applications that meet the first two criteria (applicant and financial qualifications; items 1 and 2, respectively) are accepted for further review. The applications are then evaluated using the remaining criteria. The urgency of the project and the extent to which it fulfills the objectives and specific requirements of the project (items 3 and 4, respectively) are given the most weight in evaluating applications.

Part 2301.18(a), “Selection Factors,” lists six selection factors that the Director of Public Broadcasting Division, as the PTFP program director, is to consider in recommending applications for funding to the Office of Telecommunications and Information Applications (OTIA) Associate Administrator for approval and subsequently to the Assistant Secretary for

Communications and Information for selection. They are:

- (1) The program staff evaluations, including those of outside reviewers.
- (2) The type of projects and broadcast priorities set forth in Part 2301.4.
- (3) Whether the application is for a broadcast or a nonbroadcast project.
- (4) Whether the applicant has any current NTIA grants.
- (5) The geographic distribution of the proposed grant awards.
- (6) The availability of funds.

As set forth in Part 2301.18(c) the final award selection will be made by the Assistant Secretary upon consideration of the director's recommendations and the purposes set forth in Part 2301.1 (a) and (c). The program purposes are:

- “(a) extend delivery of public telecommunications services to as many citizens in the United States as possible by the most efficient and economical means,
- (b) increase public telecommunications services and facilities available to, operated by, and owned by minorities and women; and
- (c) strengthen the capability of existing public television and radio stations to provide public telecommunications services to the public.”

During fiscal year 1997, NTIA program staff prepared composite scores for 215 applications based on reviews by the 14 panels. If an applicant received a score of from 81 to 100, the application was recommended for funding; if the score ranged from 55 to 80, the application was recommended for funding if funds were available; and if the score ranged from 0 to 54, the application was not recommended for funding. On the basis of the composite scores, 74 applications were recommended for funding; 90 additional applications were recommended if funds were available; and 51 applications were not recommended for funding (see Table 1 on page 12).

B. PTFP staff adjusted scores

In addition to the composite evaluation score, the program staff member prepared a summary evaluation of each application the panel reviewed. To prepare the summary evaluation, the program staff member examined and analyzed the scores awarded by each reviewer for each evaluation criterion to determine if any divergence occurred and to assess the arguments made in support of the score given to a particular criterion by the reviewer. As a result of this analysis,

program staff adjusted either the score given by the independent reviewer(s) or the review panel's composite score, without consulting with the panel, for 191 of the 215 applications, or almost 90 percent of the applications reviewed by the panels. The program staff adjusted 153 applications to a higher score and 38 applications to a lower score.

In an internal memorandum dated August 6, 1997, program officials stated that the adjustment of the scores led to the selection of applications for funding that were in the best interest of the federal government. Program staff prepared reconciliation comments to explain the adjusted scores. The comments predominately stated that the applications had been misjudged and/or unfairly scored by the outside reviewers.

After the program staff's adjustments of the review panel scores, 106 applications were recommended for funding; 60 applications were recommended for funding if funds were available, and 49 applications were not recommended for funding (see Table 1 on page 12). Of the 74 applications initially recommended for funding by the review panels, 73 were among the 106 applications recommended for funding by the program staff. One was placed in the "if funds are available" category based on its score having been adjusted from 82 to 78.

15 CFR Part 2301.16(e) requires summary evaluations that will incorporate the outside reviewers' recommendations, engineering assessments and program staff evaluations. However, the program staff's unilateral adjustment of the composite evaluation scores has the potential of undermining the independence and objectivity of the review process as required by DAO 203-26, Section 4.02h.1.c., and may give certain applications an unfair advantage.

NTIA officials stated that they changed the review practices for the fiscal year 1998 awards. The applications were to be reviewed by outside reviewer(s) and an NTIA engineer. This combination of reviewers would constitute a review panel. Neither the review scores nor the evaluations were to be adjusted by the program staff. There would be a panel discussion among the reviewers at which time the individual reviewers could decide to adjust their own scores or change evaluation comments. Review panel scores would not be final until after the panel discussion. A program staff member would be present during the panel discussion to record the comments of the reviewers. Program staff could recommend to the PTFP program director that an application either be funded or not funded regardless of a reviewer's score; however, the program staff must document the rationale for that recommendation based on the explanations contained in the "Notice of Availability of Funds" published in the *Federal Register*. We believe these new procedures, if followed, should ensure the independence and objectivity of the review process in accordance with DAO 203-26.

C. PTFP director ranked applications for selection

In accordance with NTIA's *Internal Operating Procedures*, the fiscal year 1997 summary evaluations and the adjusted composite scores were then used by the PTFP program director to rank the applications for award selections. The program director's ranking also took into account

the “Selection Factors” presented on page 10. The program director recommended that 96 applications be funded, plus 17 if funds were available. The remaining 102 applications were not recommended for funding (see Table 1 on page 12). Of the 74 applications initially recommended for funding by the review panels, 67 were among the 96 applications proposed for funding by the program director; 4 were moved to the “if funds are available” category, including the 1 application that had been moved into that category as a result of the composite score adjustment by program staff; and 3 were not recommended for funding. The program director adequately documented his reasons for moving the applications from one category to another.

The following table summarizes the recommendations that resulted from the three processes described above.

Table 1 - Ranking of Applications

Review Process	Recommended	If Funds Are Available	Not Recommended
Review Panels	74	90	51
Program Staff	106	60	49
Program Director	96	17	102

IV. PTFP Selection Decisions that Deviated from Program Director’s Recommendations Were Not Adequately Documented

NTIA officials need to improve the written justifications for award decisions that deviate from recommendations made by the PTFP program director. 15 CFR Part 2301.18, “Selection Process,” item (c), gives the NTIA Administrator, who is also the Assistant Secretary for Communications and Information, final award selection authority. During fiscal year 1997, the Assistant Secretary added three applications to the program director’s recommendation list.

In fiscal year 1997, the program director’s list of applications recommended for funding was presented to OTIA’s Associate Administrator for review and approval. With the Associate Administrator’s approval, the recommendation list was then presented to the Assistant Secretary as the selecting official. Taking into consideration the program director’s recommendations and the program purposes presented on page 10, the Assistant Secretary selected the applications to be negotiated for possible grant awards.

The program director’s list included 96 grants in the amount of \$14.3 million recommended for funding and another 17 applications for about \$2.5 million recommended for funding if funds were available. The Assistant Secretary added three applications, totaling \$395,000, to the list of 96 to be funded. One was from the list of 17 applications recommended by the program director if funds were available. The other two were not recommended to be funded by the program

director; however, they had been recommended for funding by a review panel if funds were available. As a result of the Assistant Secretary's action, a total of 99 applications were selected to be negotiated for funding.

According to an NTIA internal memorandum in the program files, the Assistant Secretary decided to add three additional applications to the program director's list of recommended selections in order to improve geographic distribution. The Assistant Secretary subsequently stated there were also other selection factors involved, such as technology considerations. However, he could not provide additional written documentation that either explained the other selection factors used or how he applied those factors to each applicant. We found that the three additional applications were the only ones chosen from each respective state and that each had received the highest score for its respective state from the review panel. However, the file memorandum did not explain the reason(s) for the particular geographic selections compared with eligible applicants from other states.

Although it is within the Assistant Secretary's authority to make the final selections, NTIA officials should fully explain in writing any award decisions that deviate from recommendations made by the program director in accordance with DAO 203-26, Section 4.05b. Deviations from key competitive processes, although sometimes appropriate for managerial or legislative requirements, may compromise the competition for program funds. Requiring selecting officials to justify deviations from reviewer recommendations promotes managerial accountability for award decisions.

The program staff then enters into negotiations with the selected applicants to resolve any differences that might exist between the applicant's original request and the amount NTIA proposes to fund. During negotiations, some applications may be dropped from the list of intended recipients due to a lack of Federal Communications Commission (FCC) licensing authority, an applicant's inability to make adequate assurances or certifications, or for other reasons.

Of the 99 applications selected for negotiation, 3 failed to clear the FCC and were removed from consideration. One application, initially recommended by the program director if funds were available, was then added by the program director. This application was the next highest on the "recommended if funds are available" list that also met the requirement of funds still available to be awarded.

During this phase, there were also corrections of arithmetic errors in applications, plus some minor adjustments resulting from discussions with applicants during negotiation of the award amounts. After negotiations, the final selection list contained 97 applications to receive awards totaling \$14,157,734.

When negotiations were completed, the program director, with the approval of the Associate Administrator, recommended applications for final selection by the Assistant Secretary. The Assistant Secretary approved and selected for award the 97 applications as negotiated. The 97 awards included 66 of the 74 applications recommended by the review panels. The remaining 8 applications were deferred to fiscal year 1998.

The PTFP grants were available to the 50 states and all U.S. territories. The 97 grants selected were awarded to organizations in 39 states, the District of Columbia, and American Samoa. There were 11 states and 4 territories that did not receive an award. Of these, six states and three territories had no organizations that submitted applications.

Organizations in the remaining five states and Puerto Rico submitted applications but did not receive an award. In only one of those jurisdictions was an application submitted that was recommended for funding by a review panel; however, that application requested an amount that would have exceeded the remaining available funds. An organization representing only one other state submitted an application that a review panel rated higher than the lowest rated of the three applications added by the Assistant Secretary.

V. Conclusions

PTFP has a set of criteria that are merit-based and appropriate for the selection of applications for funding. Likewise, the solicitation, review, and selection process established by PTFP and NTIA is designed to promote selection decisions that are based on those published criteria and to ensure that all applications are evaluated objectively and fairly. However, review practices sometimes deviated from procedures and selection procedures need improvement.

VI. NTIA Response

NTIA concurred with our findings and recommendations. NTIA stated that it has already implemented the recommendations, starting with the fiscal year 1998 grant competition. NTIA also requested editorial changes based on the 1998 process improvements it implemented. In addition, NTIA requested that certain predecisional information be deleted from the report. We have included a copy of the response, excluding attachments, as Appendix II.

VII. OIG Comments

We commend NTIA for implementation of the draft report's recommendations. We did not modify the final report based on the fiscal year 1998 changes by the agency because this report covers the fiscal year 1997 awards process. However, we have deleted certain predecisional information from the report that we believe did not detract from our analysis of the award process and the related recommendations. In addition, we made other editorial changes we considered appropriate.

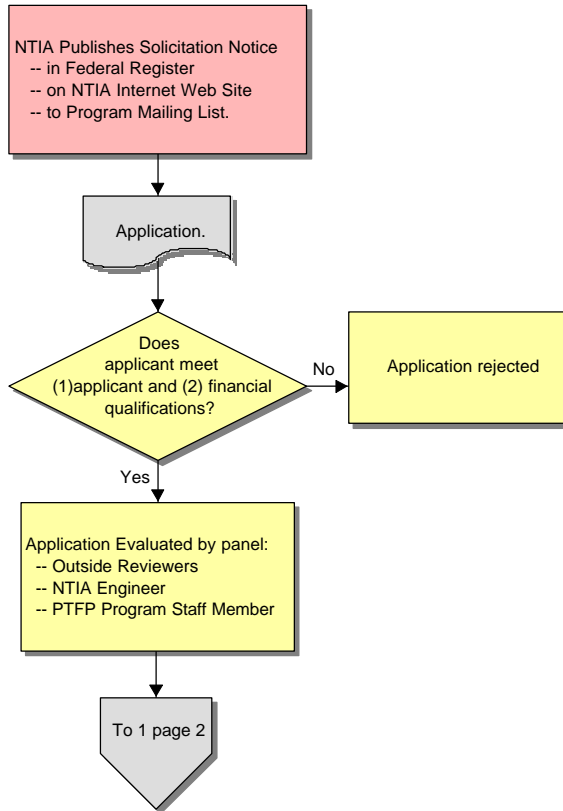
VIII. Recommendations

We recommend that the Assistant Secretary for Communications and Information:

- Direct the PTFP staff to ensure that independent reviewers' scores are not adjusted by program staff during the review process.
- Require adequate written documentation which sets forth the basis for making awards that deviate from the program director's recommendations.

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**NTIA FISCAL YEAR 1997 PROCEDURES FOR
SOLICITATION, REVIEW, AND SELECTION OF AWARDS**

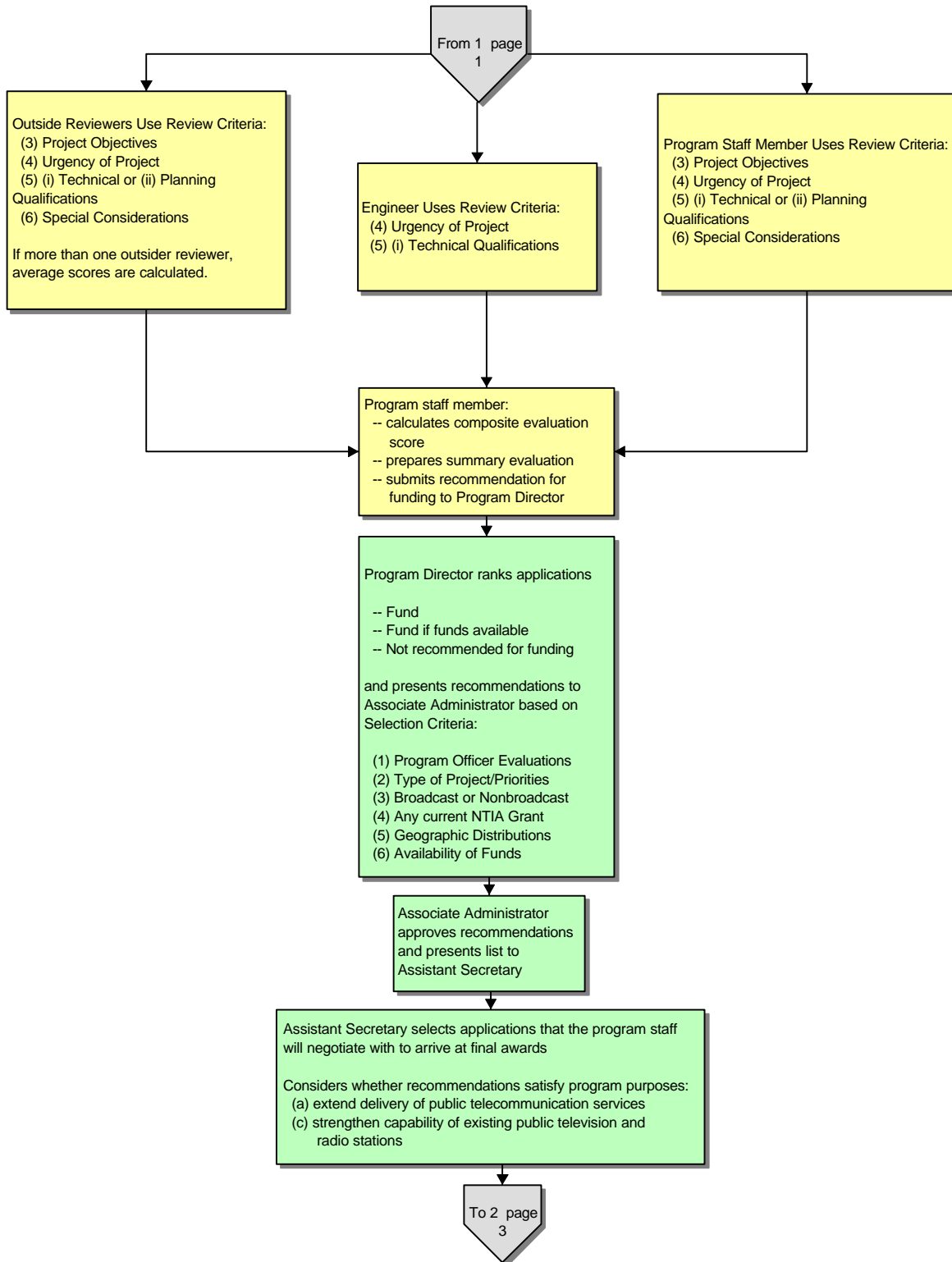


Solicitation Process

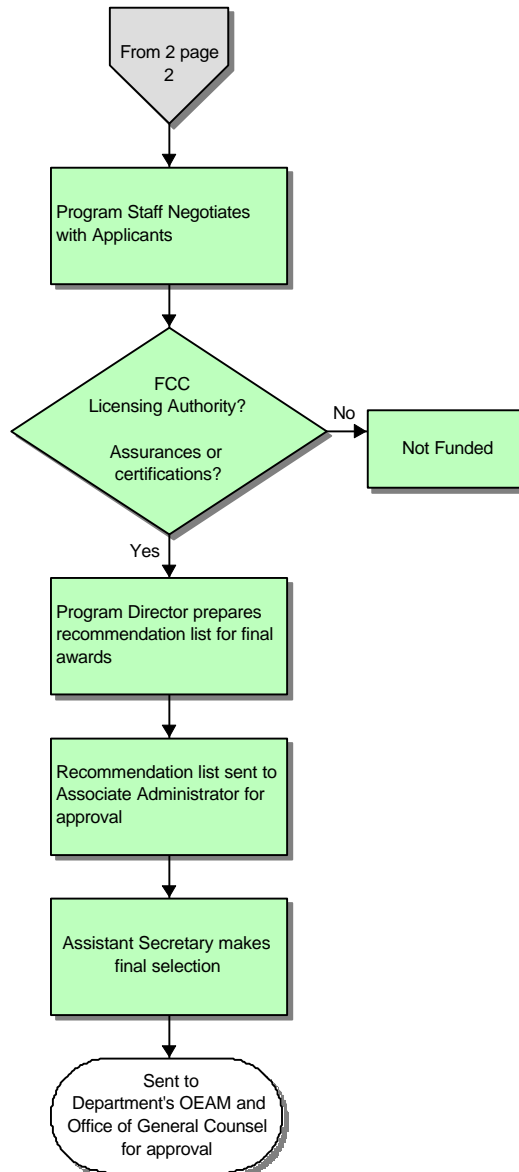
Review Process

Selection Process

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MAR 17 1999

MEMORANDUM FOR: George E. Ross
Assistant Inspector General for Auditing

FROM: Larry Irving 

SUBJECT: *Public Telecommunications Facilities Program Awards Were Merit-Based, But Process Deviations Require New Procedures*
CFDA No. 11.550
Draft Audit Report No. ATL-10945-9-XXXX

Thank you for providing NTIA with the opportunity to review the draft audit report *Public Telecommunications Facilities Program Awards Were Merit-Based, But Process Deviations Require New Procedures*. I commend you and your staff on developing a report that is highly accurate and fair. The report provides a clear overview of the PTFP grant selection process. In fact, PTFP intends to add the flow chart of the process to its staff procedures manual. I further commend your staff on their professionalism in their communications with all NTIA staff during the audit. They were patient, diligent, and personable throughout the process.

I fully concur with your recommendations that the Assistant Secretary (1) direct the PTFP staff to ensure that independent reviewer's scores are not adjusted by program staff during the review processes, and (2) require adequate written documentation for the basis for making awards that deviate from the PTFP program director's recommendations. In fact, I am pleased to inform you that NTIA has already implemented these recommendations, starting with the FY 1998 grant competition. I have attached for your review a copy of two memoranda documenting processing changes for the FY 1998 grant cycle (Attachment 1). Given that NTIA has already addressed these recommendations, I respectfully request that you reconsider the title of the report.

The report contains only a few instances where clarifications are needed.

- The introduction and executive summaries should be edited to expand the list of organizations eligible for support.
- The flow chart in Appendix I should be revised to reflect changes in the role of the Engineer and Program Staff in the 1998 grant cycle.

Where appropriate, we have included in Attachment 2 suggested edits to reflect these changes.

In addition to these minor clarifications, NTIA is concerned that the report, as drafted, would reveal specific information that the agency does not release to the public in order to protect the integrity of the award selection process. Furthermore, we believe that the points raised by the audit would in no way be undermined if certain information were redacted. Specifically, we request that you redact information that would reveal the identities and scores of the applications that were added to the slate or where scores were adjusted by program staff.

We have carefully designed our review process to support a fair, merit-based process that leads to a final slate of awards that meets the program's overarching goals. However, the agency relies on the ability of reviewers, program officers, the program director, and me as the selecting official, to have candid and open discussions at each stage of the deliberative process required to reach the final slate. Currently, NTIA does not release to grant applicants or the general public information about which applications were recommended for funding by reviewing panels or by the program director. We withhold this information under the "deliberative process privilege," subsection (b)(5) of the Freedom of Information Act, 5 U.S.C. § 552(b)(5). NTIA has concluded that release of such predecisional information would have a chilling effect on candid agency deliberations during slate selection and may result in public confusion about agency policy and procedures. In sum, we believe that release of this information could injure the quality of future grant award decisions.

Furthermore, the redaction of these details would in no way detract from your analysis or your recommendation. The report draws no conclusions with respect to the individual applications identified. The information can be presented in summary form without any loss of impact.

Again, we request that you redact information that would reveal the identities of the applications that were added to the slate or where scores were adjusted by program staff. We have included suggested edits in Attachment 2.

If you decline this request concerning the release of such predecisional information, then I would appreciate the opportunity to meet with you in advance of any release of a final report to discuss the implications this decision could have on the Program.

Attachments