

*U.S. DEPARTMENT OF COMMERCE*  
*Office of Inspector General*

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**PUBLIC  
RELEASE**

*INTERNATIONAL TRADE  
ADMINISTRATION*

*Market Development Cooperator  
Program Award Process Promotes  
Merit-Based Decisions, But  
Practices Need More Discipline*

*CFDA No. 11.112*

*Audit Report No. ATL-10999-0-0001 / December 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 criteria, procedures, and practices for soliciting, reviewing, and selecting applications for financial assistance under the International Trade Administration's Market Development Cooperator Program (MDCP), classified as Number 11.112 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 Committee on Commerce, Science and Transportation.

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 the MDCP, ITA provides financial assistance to: (1) nonprofit industry organizations; (2) trade associations; (3) state departments of trade and their regional associations, including centers for international trade development; and (4) private industry firms or groups of firms in cases where no entity described above represents that industry. The program funds projects that develop, maintain, and expand foreign markets for nonagricultural goods and services produced in the United States. Applicants are encouraged to propose market development projects that would most appropriately meet the needs of the industry or the industries they represent. To receive funding, the applicant must contribute at least two dollars for each federal dollar provided. In fiscal year 1997, ITA officials received 41 applications for over \$10 million, of which 38 were accepted for review, and 6 grants, totaling \$1,851,714, were awarded.

We examined ITA's criteria, procedures, and practices for soliciting, reviewing, and selecting MDCP awards and found that the solicitation and selection processes complied with statutory, departmental, and ITA requirements. However, we found that ITA's application review practices did not fully meet departmental and ITA requirements. More specifically, our audit disclosed that ITA:

- Developed and published merit-based technical and public policy criteria that were consistent with the objectives of the program, as required by DAO 203-26, Sections 4.02a. and b., and Financial Assistance Notice No. 17, Sections .01 and .03 (see page 6).
- Exceeded the Department's and ITA's requirements 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 annual notice is required by DAO 203-26, Section 4.02b. ITA's solicitation efforts were sufficient to obtain a widespread response from eligible applicants (see page 7).

- Followed a review process where the Independent Review Panel did not fully meet the independence requirement, as required by DAO 203-26, Section 4.02h1., and could not provide documentation, as required by DAO 203-26, Section 4.05b, to verify that all applications were reviewed by the Independent Review Panel, as announced in the *Federal Register* and which program officials contend was done (see page 8).
- Contrary to the published review procedures, allowed program staff to review and rank fiscal year 1998 applications (see page 10).
- Followed established Department and ITA requirements for selecting applications for funding under the MDCP (see page 11).

We recommend that the Assistant Secretary for Trade Development ensure that:

1. The MDCP discontinue the review and ranking process by the program staff and ensure that all eligible applications are reviewed by at least three members of an independent review panel who are from program areas entirely outside the Trade Development program area;
2. The MDCP review process is adequately documented and that documentation for determination of ineligible applications and evaluations by the Independent Review Panel is retained for seven years in accordance with the Department's Request for Records Disposition Authority filed with the National Archives and Records Service on October 4, 1986; and
3. The MDCP review and selection process is consistent with the public announcement.

Our recommendations are on page 13.

In its response to the draft report, ITA concurred with our recommendation to ensure that the MDCP review process is adequately documented and documentation is retained for seven years. ITA stated that it has modified its procedures to ensure that the recommendation is implemented. ITA also agreed with our recommendation to ensure that the review and selection process is consistent with its public announcement. ITA stated that it published a *Federal Register* notice in May 1999 that fully explained the process.

In response to our draft report recommendation that review and selection policies and procedures be formalized in a written policy statement or operating manual, ITA stated that written policy statements describing the awarded process are in effect and cited the availability of policy statements as published in the *Federal Register* and on the Internet. We accept ITA's response and have eliminated this recommendation from the final report.

ITA disagreed with our recommendation that it discontinue its practice of allowing applications to be initially reviewed and ranked by the program staff and ensure that all eligible applications are reviewed by the Independent Review Panel. ITA considers staff comments to be invaluable to the process and also believes that strict adherence to the Department's draft grants and cooperative agreements administrative manual's definition of independence would preclude ITA's senior managers from serving on the Independent Review Panel. ITA's complete response, excluding attachments, is included as Appendix II.

Our recommendation was not intended to prohibit consideration of comments from the program staff. It was intended to prevent the program staff review from effectively eliminating eligible applications from further review by the Independent Review Panel. In addition, we believe the inclusion of senior managers from ITA's Trade Development program area on review panels does not provide a reasonable measure of independence. We believe that requiring all rating officials serving on the Independent Review Panel to be from program areas outside the Trade Development program area would provide a reasonable measure of independence that is consistent with the intent of the definition of independence that the Department is pursuing in the draft grants and cooperative agreements administrative manual. We also believe the inclusion of a senior manager from the Trade Development program area, in a strictly advisory role, would be acceptable and not impair the independence of the Independent Review Panel.

## INTRODUCTION

The International Trade Administration administers the Market Development Cooperator Program (MDCP), described in the *Catalog of Federal Domestic Assistance* (CFDA) as No. 11.112. The program was established under the Omnibus Trade and Competitiveness Act of 1988, Public Law 100-418, Title II, Section 2303, 102 Stat. 1342, 15 U.S.C. 4723. The program provides financial assistance to (1) nonprofit industry organizations; (2) trade associations; (3) state departments of trade and their regional associations, including centers for international trade development; and (4) private industry firms or groups of firms in cases where no entity described above represents that industry.

The program funds projects that develop, maintain, and expand foreign markets for nonagricultural goods and services produced in the United States. Applicants are encouraged to propose market development activities that would most appropriately meet the needs of the industry or industries they represent. To receive funding, the program requires an applicant to contribute at least two dollars for each federal dollar provided.

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 justification for award decisions that deviate from recommendations made by applicant 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 Circulars 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 mandates of 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 on the next page 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 are color coded for this chart and the ITA process chart located in Appendix I.

### Department of Commerce Financial Assistance Awards Process

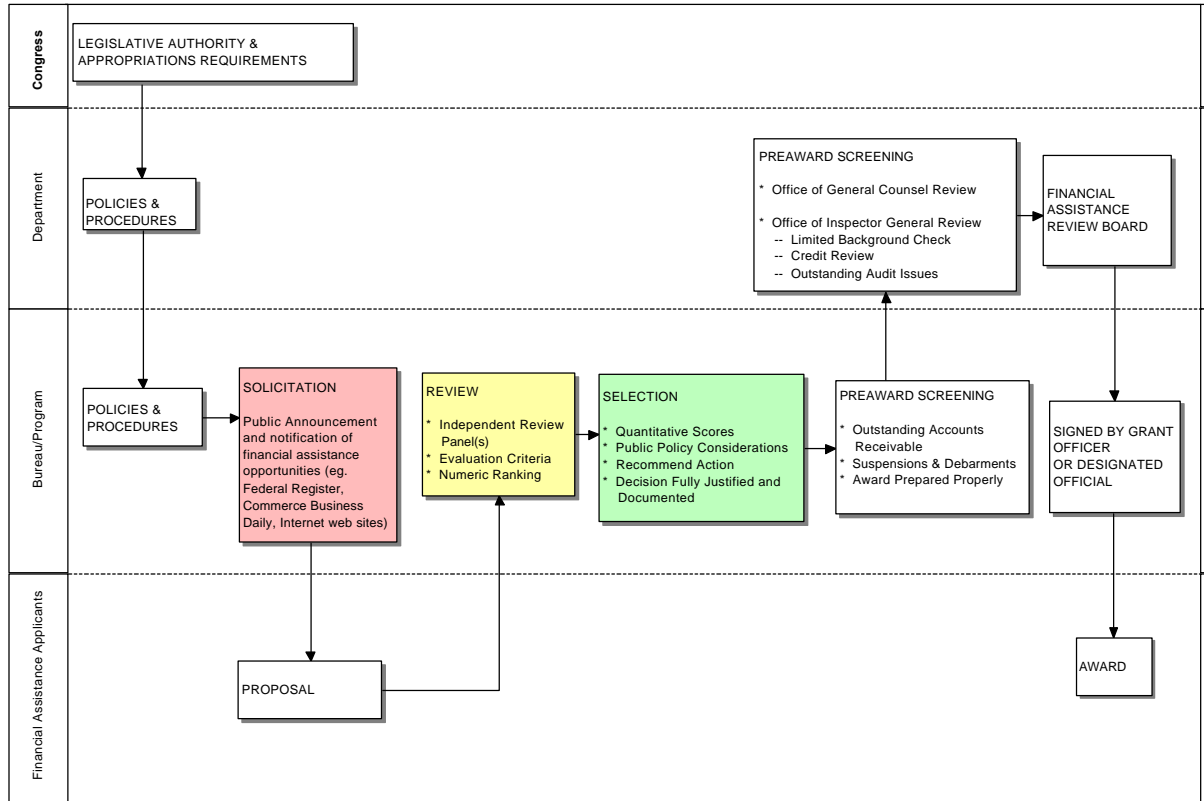


Figure 1



## PURPOSE AND SCOPE

This audit was conducted as a 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 and an individual program audit phase. 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 any legislatively mandated awards. No legislatively mandated awards were found.

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 ITA MDCP. We are evaluating the adequacy of each program's established award procedures and the 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 bureau.

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 MDCP. 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 recipients for funding (see Appendix I for flowchart of process). We also reviewed ITA's procedures, contained in the *Market Development Cooperator Program Competitive Application Kit*, as they applied to the solicitation, review, and selection process and assessed whether they were 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 ITA's procedures with its practices 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 ITA policies and procedures were followed.
- Interviewed ITA program office officials and personnel from the Department's Office of Executive Assistance Management (OEAM) concerning ITA's solicitation, review, and selection procedures.
- Examined fiscal year 1997 appropriations legislation to identify legislatively mandated projects and accompanying committee and conference reports to identify projects recommended for funding under this program.

As a result of information obtained during our examination of the fiscal year 1997 awards process, we expanded our audit to include application review procedures and practices for fiscal year 1998 awards.

We did not rely upon computer-based data supplied by ITA and 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 ITA headquarters and OEAM in Washington, D.C., during May and June 1998. Because the audit scope was expanded to include 1998 review procedures and practices, additional fieldwork was conducted in December 1998. We conducted the audit in accordance with generally accepted government auditing standards, 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 ITA's criteria, procedures, and practices for soliciting and selecting MDCP award recipients generally complied with statutory, departmental and ITA requirements. ITA's efforts to solicit applications for MDCP awards for fiscal year 1997 exceeded the Department's minimum requirements and generated a widespread response from multiple eligible applicants. ITA also followed selection procedures appropriate to ensure that decisions for funding did not deviate from the Independent Review Panel's recommendations. However, ITA's Independent Review Panel was not fully independent, and ITA did not maintain adequate documentation on each individual reviewer's evaluation for both fiscal year 1997 and 1998 awards. Therefore, we were unable to adequately verify that each application was reviewed by the panel. In addition, the process described in the public announcement of the fiscal year 1998 competition was different from the actual process.

### V. MDCP Developed and Published Merit-Based Evaluation Criteria

MDCP developed and published merit-based technical and public policy criteria that were consistent with the objectives of the program for use in evaluating applications for fiscal year 1997 MDCP awards. The criteria were published in the program's application kit and in the *Federal Register*, Volume 62, Number 105, dated June 2, 1997, as required by DAO 203-26, Section 4.02b., and Financial Assistance Notice No. 17, Sections .01 and .03. The *Federal Register* listed the following evaluation criteria with items (1) through (4) counting for 20 points each and items (5) and (6) counting for 10 points each:

- (1) Potential of the project to generate export sales or major foreign project/contract success stories in both the short and medium term.
- (2) The degree to which the proposal furthers or is compatible with ITA's priorities and the markets identified and the degree to which a proposal initiates or enhances partnership with the Department of Commerce.
- (3) Creativity and innovation displayed by the work plan, which is also realistic.
- (4) Reasonableness of the itemized budget for project activities, the amount of cash match that is readily available at the beginning of the project, and the probability that the project can be continued on a self-sustained basis after the award completion.
- (5) The institutional capacity of the applicant to carry out the work plan and the willingness and ability of the applicant to back up promotional activities with aggressive marketing and after-sales service.

- (6) Projected increase in the number of U.S. companies operating in the market(s) selected and intent and capability of the applicant to enlist the participation of small-and medium-size U.S. companies in project consortia and activities.

Based upon our review, we concluded that the MDCP criteria for evaluating applicants were designed to result in merit-based funding decisions. However, as discussed under section III., the Independent Review Panel was not fully independent for either fiscal year 1997 or 1998.

## II. MDCP Solicitation Procedures Obtained a Widespread Response

ITA's procedures and practices for soliciting applications for the fiscal year 1997 MDCP awards were sufficient to obtain a widespread response from eligible applicants. ITA's solicitation efforts exceeded the Department's minimum requirements and resulted in MDCP receiving 41 applications for the 1997 competition.

DAO 203-26, Section 4.02 lists required grant review procedures for competitive grant programs. These procedures are designed in part to ensure widespread notification of the availability of federal financial assistance funds to the interested public. Relating to the solicitation of applicants for federal financial assistance, section 4.02 provides the following 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* which includes basic information for each discretionary grant program.
- Other Solicitations of Applications. Further notice(s) in the *Federal Register* or other publications soliciting applications or preapplications must also include the 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.

ITA solicits applications with an announcement in the *Federal Register*, and OEAM ensures that all required information is included in the notice before ITA officials submit the announcement for publication in the *Federal Register*. Although ITA is only required to publish the program announcement in the *Federal Register*, program officials expanded their solicitation to other media. ITA placed the solicitation notice on the ITA Internet web site, and sent solicitation notices to about 1,000 potential applicants on its mailing list.

Employing these solicitation methods for the 1997 awards, ITA received 41 applications. It was determined that 3 of the 41 applications were ineligible. The remaining 38 applications were submitted to the MDCP Independent Review Panel for review and evaluation.

### **III. MDCP Review Process Did Not Fully Meet the Independence Requirement, Was Inadequately Documented and, for Fiscal Year 1998, Different from One Set Forth in Public Notice**

MDCP's fiscal year 1997 and 1998 procedures for reviewing applications for awards, as published in the *Federal Register*, were sufficient, if followed, to provide a competitive, independent and qualified review of each application. The Independent Review Panel used merit-based, technical and public policy criteria, which were consistent with the objectives of the program, in evaluating the applications. However, the Independent Review Panel did not fully meet the independence requirement for either fiscal year 1997 or 1998, and ITA did not maintain adequate documentation for each individual reviewer's evaluation for fiscal year 1997 or 1998 awards. In addition, we found that the fiscal year 1998 review process set forth in the *Federal Register* announcement differed from the process actually used.

DAO 203-26, Section 4.02h.1, sets forth the following minimum requirements for the competitive review process, which Department policy requires to be used as the basis for making awards:

- Applications should be reviewed only when submitted in response to a notice in the *Federal Register* or other publications.
- Applications should be treated fairly under the review process.
- Applications should receive an independent, objective review by one or more review panels qualified to evaluate the applications.
- Review panels should 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 unit should prepare a rank ordering of applications based solely on evaluations by the review panel.
- Organization unit 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.

MDCP's review procedures, as published in the *Federal Register*, also contain review panel requirements. The Independent Review Panel is to consist of a minimum of three independent reviewers. The reviewers are to be qualified to evaluate the applications submitted under the program based on the criteria set forth in the *Federal Register*. The panel must identify and rank the top ten proposals and make recommendations to the Assistant Secretary for Trade Development concerning which of the proposals should receive awards (see page 7).

## **A. Fiscal Year 1997 Review Process**

### Review Panel Did Not Fully Meet the Independence Requirement

For fiscal year 1997, we determined that the Independent Review Panel did not fully meet the independence requirement. The panel was composed of a chairman selected by the Assistant Secretary for Trade Development from the Trade Development program area and three other representatives selected by the Assistant Secretaries from ITA's three program areas with an interest in export promotion (Trade Development, U.S. and Foreign Commercial Service, and Market Access and Compliance).

The Trade Development program area of ITA is the component organization that operates MDCP and the selecting official is the Assistant Secretary for Trade Development. The review practice of having the Independent Review Panel's chairman and one other member selected from the Trade Development program area is not consistent with the review process outlined in the *Federal Register* notice soliciting applications for the 1997 MDCP competition. The notice states that each application will receive an independent, objective review by a panel qualified to evaluate the applications submitted under the program.

The Department's October 1998 version of the draft grants and cooperative agreements administrative manual provides information regarding reviewer independence. The draft manual states:

“An independent reviewer is an objective, unbiased individual with the requisite expertise, knowledge, and experience in a technical field who is appointed to serve on a review panel to evaluate or assess the technical merits of an application for financial assistance. An independent reviewer, as used in this definition, is one who has not played any role in soliciting, providing technical assistance or advice to applicants, and will not be involved in the administration of awards made as a result of applications under review by the review panel on which the individual serves. An independent reviewer should not be in the chain-of-command of the program's selecting official. In addition, an independent reviewer must not have a conflict of interest with any application under review by the panel on which he or she serves.”

We believe the MDCP practice of having two representatives from the Trade Development program area serve as reviewers on the Independent Review Panel does not provide a reasonable measure of independence, and could raise questions about the fairness and objectivity of the review process.

#### Adequate Reviewer Documentation Not Maintained

We could not verify that all of the review panel members evaluated all 38 eligible applications as they were supposed to do. Panel summary evaluations or scores were used to rank all of the applications reviewed. The top 10 were submitted to the selection official. However, only the top 6 applications were recommended for funding based on the amount of funds available. The panel's scores for the top 6 applications ranged from 72.50 to 80.25. The scores for the 4 applications that were in the top 10, but not recommended for funding, ranged from 66.25 to 72. The scores of the 28 applicants that did not make the top 10 ranged from 26.75 to 66.

While a summary score sheet was available showing the four individual panel member scores and the overall score for each applicant, MDCP's files did not contain documentation on each panel member's justification for the scores. To determine the extent of the lack of documentation, we randomly selected 12 of the 38 applications, and asked the Acting Program Director and panel members to provide us with any documentation that they might have on the evaluations of the 12 applications. The Acting Program Director told us that the reviewers are not required to submit their individual evaluations of the applications. In the end, we were able to verify full documentation on the 12 applications for only one of the four reviewers; only partial documentation for another member; and no documentation for the remaining two members. Also, according to MDCP's Acting Program Director, MDCP did not maintain backup documentation relating to the three applications determined to be ineligible. The MDCP review process needs to be adequately supported and the documentation for determination of ineligible applications and panel member evaluations needs to be retained for seven years in accordance with the Department's Request for Records Disposition Authority filed with the National Archives and Records Service on October 4, 1986.

#### **B. Fiscal Year 1998 Review Process**

As a result of information obtained during our examination of the fiscal year 1997 awards process, we expanded our audit to cover review procedures and practices for fiscal year 1998 awards. For fiscal year 1998, we found that the Independent Review Panel did not fully meet the independence requirement. The same lack of independence occurred in fiscal year 1997 and is more fully discussed on page 9. A summary sheet of the fiscal year 1998 Independent Review Panel's scores showed that 36 of the 45 eligible applications were actually reviewed by at least three members of the panel, while the other 9 applications were reviewed by only one or two panel members. The Acting Program Director was unable to provide an explanation as to why the 9 only received a limited review. Since ITA does not require MDCP reviewers to retain documentation of their reviews, we were not able to adequately verify that the reviews actually took place. The Acting Director also stated:

“All applications are forwarded to the Senior Panel (Independent Review Panel) for review. Because an application lacks a score on the overall listing of Senior Panel scores does not necessarily mean that it was not read and reviewed. In many instances, a Senior Panel member read an application and found it so lacking in merit that it was not worthy of being scored.”

We also found that the review process as outlined in the *Federal Register* notice soliciting applications for the 1998 MDCP competition was different from the review process actually used in selecting applications for funding. The notice states that each application will receive an independent, objective review by a panel qualified to evaluate the applications submitted under the program. However, two sets of evaluations were performed, the first by the program staff and the second by the Independent Review Panel. While both reviews used the same criteria, the independence and objectivity of the review by the program staff could have been questioned because of the reviewers' association with the MDCP. Independence is described in the Department's draft grants and cooperative agreements administrative manual (see discussion under section A of this report on page 10).

The practice of having program staff initially review and rank the eligible applications, followed by the Independent Review Panel's review of only selected applications, conflicts with the announced review procedures and calls into question the independence and objectivity of the review process. We believe the initial program staff review is an appropriate advisory process but should not be used to effectively eliminate eligible applications, i.e., at least three members of the Independent Review Panel should review and score all eligible applications.

#### **IV. MDCP Procedures and Practices for Selecting Awardees Were Adequate**

MDCP's selection procedures published in the *Federal Register* and its application kit and its fiscal year 1997 practices were sufficient to satisfy departmental requirements. In accordance with the published procedures, the fiscal year 1997 applications were ranked based on the Independent Review Panel's summary evaluation scores. The top 10 applications were submitted to the Assistant Secretary for Trade Development by the panel chairman for review and approval. Due to funding constraints, only 6 awards could be made.

The Assistant Secretary's approvals should take into account the following seven selection factors listed in the *Federal Register* notice:

- (1) The evaluations of the individual reviewers of the Independent Review Panel;
- (2) The degree to which applications satisfy the MDCP's goals and objectives as set forth in the *Federal Register*.



- (3) The geographic distribution of the proposed awards;
- (4) The diversity of industry sectors covered by the proposed grant awards;
- (5) The diversity of project activities represented by the proposed awards;
- (6) Avoidance of redundancy and conflicts with the initiatives of other federal agencies; and
- (7) The availability of funds.

The *Federal Register* also provides that the objective of the program is to “develop, maintain, and expand foreign markets for nonagricultural goods and services produced in the United States.” The objective is considered by the Assistant Secretary, along with the Independent Review Panel’s recommendations, in making final selections.

ITA’s selection procedures require the Assistant Secretary authority to select applications for awards from the top 10 applicants as determined by the Independent Review Panel. The Assistant Secretary made no adjustments to the listing provided by the panel. The six fiscal year 1997 awards totaled \$1,851,714, and represented the top 6 of the 10 applications recommended for funding.

ITA also notifies unsuccessful applicants and this policy assists an applicant in developing proposals for future funding consideration. According to MDCP staff, all 32 applicants not funded were notified, for which we verified a selected number.

## **V. Conclusions**

We found that ITA’s criteria, procedures, and practices for soliciting and selecting MDCP award recipients generally complied with statutory, departmental and ITA requirements. We also found that ITA’s solicitation of applications for fiscal year 1997 awards exceeded the Department’s minimum requirements and generated a widespread response from many eligible applicants. ITA published MDCP award procedures in the *Federal Register* and in its application kit for both the 1997 and 1998 fiscal year awards. In addition, ITA followed selection procedures appropriate to ensure that decisions for funding did not deviate from the Independent Review Panel’s recommendations. However, the Independent Review Panel did not fully meet the independence requirement for either fiscal year 1997 or 1998, and ITA did not maintain adequate documentation on each individual reviewer’s evaluations for fiscal year 1997 and 1998 awards. In addition, the process used to evaluate fiscal year 1998 applications was different from the process announced in the *Federal Register*. Finally, we could not adequately verify that all eligible applications for fiscal year 1998 were reviewed by at least three members of the Independent Review Panel.

## VI. Recommendations

We recommend that the Assistant Secretary for Trade Development ensure that:

1. The MDCP discontinue the review and ranking process by the program staff and ensure that all eligible applications are reviewed by at least three members of an independent review panel. This recommendation includes ensuring that the Independent Review Panel is composed of rating officials who are from program areas entirely outside the Trade Development program area;
2. The MDCP review process is adequately documented and that documentation for determination of ineligible applications and evaluations by the Independent Review Panel is retained for seven years in accordance with the Department's Request for Records Disposition Authority filed with the National Archives and Records Service on October 4, 1986; and
3. The MDCP review and selection process is consistent with the public announcement.

## VII. ITA Response

In its response to the draft report, ITA concurred with our recommendation to ensure that the MDCP review process is adequately documented and the documentation is retained for seven years. ITA stated that it has modified its procedures to ensure that the recommendation is implemented. ITA also agreed with our recommendation to ensure that the review and selection process is consistent with the public announcement. ITA stated that it published a *Federal Register* notice in May 1999 that fully explained the process.

In response to our recommendation that policies and procedures be formalized in a written policy statement or operating manual, ITA stated that written policy statements describing the awarded process are in effect and cited the availability of policy statements as published in the *Federal Register* and on the Internet. We accept ITA's response and have eliminated this recommendation from the final report.

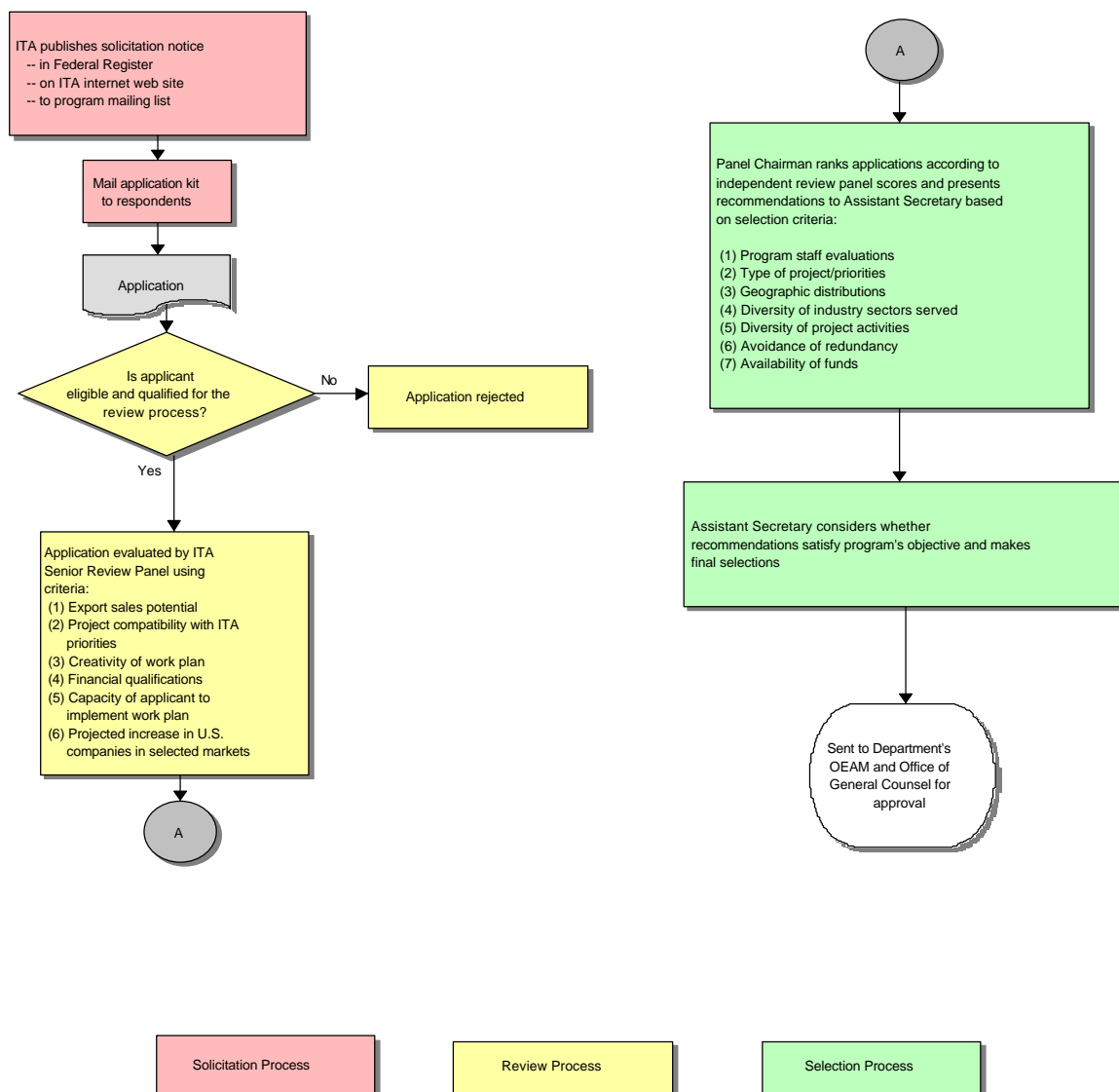
ITA disagreed with our recommendation to discontinue its practice of allowing applications to be initially reviewed and ranked by the program staff and ensure that all eligible applications are reviewed by the Independent Review Panel. ITA's disagreement essentially involves two points. The first is that ITA considers insights gained from staff comments to be invaluable to the process. The second point is that, in its view, a strict adherence to the Department's draft grants and cooperative agreements administrative manual's definition of independence would deny the Independent Review Panel, referred to as the MDCP Selection Panel in ITA's response, the

services of senior managers representing the three program units of ITA (Trade Development, U.S. and Foreign Commercial Service, and Market Access and Compliance). ITA's complete response, excluding attachments, is included as Appendix II.

### **VIII. OIG Comments**

Our recommendation for ITA to discontinue its practice of allowing applications to be initially reviewed and ranked by the program staff and ensure that all eligible applications are reviewed by the Independent Review Panel is not intended to prohibit comments and insight from the program staff. Rather, it is intended to prevent the staff review from effectively serving as an elimination process for eligible applications since not all eligible applications were reviewed and scored by at least three members of the Independent Review Panel. In addition, we believe the inclusion of senior managers from ITA's Trade Development program area does not provide a reasonable measure of independence. We believe that requiring all rating officials serving on the Independent Review Panel to be from program areas outside the Trade Development program area would provide a more acceptable measure of independence that is consistent with the intent of the definition of independence in the draft grants and cooperative agreements administrative manual. In addition, we believe that a member of the Trade Development program area could serve on the Independent Review Panel, in an advisory role, without impairing the independence of the review process.

## MARKET DEVELOPMENT COOPERATOR PROGRAM AWARD PROCESS





SEP 28 1999

MEMORANDUM FOR George E. Ross  
Assistant Inspector General for Auditing

FROM: Michael J. Copps *MJC*

SUBJECT: Market Development Cooperator Program (MDCP) (CFDA No. 11.112.) *Draft Audit Report* No. ATL-10999-9-XXX

I am writing in response to your July 8, 1999 request for comments on the subject *Draft Audit Report*. Comments on each of the four *Draft Audit Report* recommendations are set forth below. We have incorporated some of the recommendations in order to strengthen MDCP evaluation and selection procedures.

The *Draft Audit Report* affirms the basic fairness of the MDCP evaluation and selection process. The *Draft Audit Report* notes that ITA developed and published merit-based technical and public policy criteria, that ITA's solicitation of applications exceeded the Department's minimum requirements and that selection procedures were appropriate to ensure that decisions for funding did not deviate from the Selection Panel's recommendation.

The program's success is due in large part to the fact that MDCP awards are *cooperative agreements*, not grants. In addition to receiving financial assistance, award recipients work together with ITA professionals as a team to accomplish the award recipient's goals. The MDCP evaluation and selection process is designed to enhance the MDCP's effectiveness as a *cooperator* program by identifying the best candidates for ITA to assist both financially and with applied expertise. We are pleased that your audit found that our administration of the MDCP is fundamentally sound. We must note, however, that some portions of the *Draft Audit Report* contain inaccuracies. The affected portions were not included in the recommendations and are addressed separately in Tab A.

#### COMMENTS ON DRAFT AUDIT REPORT RECOMMENDATIONS

*Recommendation 1: [That] the MDCP (Market Development Cooperator Program) policies and procedures for the discretionary award process are formalized in a written policy statement or operating manual.*

Written policy statements describing the award process are in effect. They have been published in the *Federal Register*.<sup>1</sup> They are also available through the Internet at the MDCP webpage,

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<sup>1</sup>See 64 F.R., No. 84 at 23599. A complete copy of the notice is provided at Tab B.



<http://www.ita.doc.gov/industry/opcrm/mdcp/html/>, and by contacting the MDCP Manager, Brad Hess at 202-482-2969. Policy statements are available as published in the *Federal Register* or as separate documents. Copies of "Evaluation and Selection Procedures" and "Retention of Applications" are enclosed herewith at Tab C and Tab D, respectively.

*Recommendation 2: [That] the MDCP review process is adequately supported and documentation for determination of ineligible applications and evaluations by the independent review panel is retained for seven years in accordance with the Department's Request for Records Disposition Authority filed with the National Archives and Records Service on October 4, 1986.*

We have modified our procedures to ensure that for each eligible application received, we maintain for seven years, documentation of the scoring of each Selection Panel<sup>2</sup> member.

We plan to keep on record the scores assigned to each criteria by each Selection Panel member for each application. A copy of these records, signed by each panel member, will remain in the MDCP program file. The original is sent to the Department's Office of Executive Assistance Management (OEAM) for its records. This practice is in accordance with the MDCP policy that "[e]ach Selection Panel member reviews each eligible application and assigns a score for each of the five criteria."<sup>3</sup>

With regard to ineligible applications, we agree with the OIG's recommendation to retain applications for seven years and have incorporated the recommendation in our policies and procedures.<sup>4</sup>

*Recommendation 3: [That] the MDCP review and selection process is consistent with the public announcement.*

We have supplemented our public announcement to describe each component of the review and selection process. We published an expanded description of the process on May 3, 1999, in an MDCP notice in the *Federal Register*.<sup>5</sup>

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<sup>2</sup>To avoid confusion, we refer to the panel that reviews applications and recommends award winners as the "Selection Panel". Based on the definition of "independent review panel" in the Department's *Draft Grants Manual*, MDCP's Selection Panel is *not* an independent review panel, even though the OIG refers to it by this term in its Recommendation 2. See the response to Recommendation 4 for further discussion.

<sup>3</sup>See 64 F.R., No. 84 at 23603 and *Policies and Procedures: "Evaluation and Selection Procedures"* provided at Tab C.

<sup>4</sup>See 64 F.R., No. 84 at 23602 and *Policies and Procedures: "Retention of Applications"* provided at Tab D.

<sup>5</sup>A copy of this policy is provided at Tab C.

*Recommendation 4: [That] the MDCP discontinue the review and ranking process by the program staff and ensure that all eligible applications are reviewed by an independent review panel.*

We disagree with the OIG's recommendation. Both our longstanding practice of staff review of applications and the inclusion of ITA senior managers on the Selection Panel are integral parts of the review and selection process which, as the OIG acknowledges, results "in merit-based funding decisions."<sup>6</sup> OGC program counsel, the Office of the Chief Counsel for International Commerce, supports our intention to continue these two practices.

Staff review and the inclusion of senior ITA managers on the selection panel are vital to ensure that award decisions are merit-based and result in relationships with award recipients that are truly cooperative, as the MDCP relationships are designed to be. As discussed in greater detail below, these two practices are in harmony with the only other federal cooperator program which promotes the development of foreign markets for U.S. products, the Foreign Market Development Cooperator Program (FMD) operated by the Department of Agriculture's Foreign Agricultural Service (FAS).

#### Staff Review

The review and ranking of applications by staff is important for a "cooperator" program. Unlike other federal financial awards programs, cooperator awards entail a high level of involvement by staff in the implementation of project activity. Cooperator award recipients receive more than funds. They receive expertise and guidance from ITA staff. In order to ensure that team members from both the recipient and ITA can work well together, it is essential that ITA staff input be made available to the Selection Panel.

This happens in two parts. First, staff of the Office of Planning, Coordination and Resource Management (OPCRM) of ITA's Trade Development unit, who are familiar with the MDCP and its administration, review each proposal, assign a score, and provide written comments. Second, all units of ITA (except Import Administration) provide comments. By soliciting detailed comments from the ITA staff, the Selection Panel has access to both administrative and program insights that are invaluable in its analysis.

By comparison, FAS's FMD review process, though slightly different, also relies heavily on staff input. FMD applications undergo review in three parts: first, by an FAS sufficiency committee, second, by FAS Commodity Divisions, and third, by the FAS Office of the Deputy Administrator.<sup>7</sup>

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<sup>6</sup>*Ibid.*

<sup>7</sup>See 64 F.R., No. 20 at 4837, provided at Tab E.

The sufficiency review determines eligibility of the applicant to participate in the program and whether the application is complete enough to be considered for the award. The sufficiency committee is composed of FAS employees at the GS-12 to GS-13 level.<sup>8</sup>

The review of applications by FAS Commodity Division – the second part of the review – is conducted by FAS employees at the GS-12 and GS-13 level, with concurrence for their recommendations by their GS-14 and GS-15 managers. This part of the review, as its description implies, is performed by FAS employees expert in the industry in which the applicant requests an award. For example, the application of a butter marketing board would be reviewed by FAS's Dairy Products Commodity Division.<sup>9</sup> By incorporating FAS industry professionals in the review process, FAS's FMD awards are made based on industry-specific information. FAS is able to make award decisions based on the input of professionals familiar with the industry.

#### Independent Review Panel

The proposed definition of "independent review panel" is not appropriate for MDCP application review. A requirement to mold the MDCP application review process in strict conformity with the Department's *Draft Grants Manual* definition of independent review panel would be counterproductive, if not debilitating. It would deny ITA access to the very resources it maintains to understand and work in harmony with industry as MDCP is designed to do. The importance of this point cannot be overstated. It deserves further consideration in a forum which can reconsider the effect of applying the *Draft Grants Manual* definition to circumstances like ours.

The definition of "independent review panel" simply is not appropriate for a cooperator program like MDCP. In the *Draft Grants Manual*, the Department states that "each application must receive an independent, objective review by a panel composed of at least three (3) independent reviewers."<sup>10</sup>

Independent reviewers are defined, in part, as having "requisite expertise, knowledge, and experience." The MDCP Selection Panel members fit this description. They are senior managers representing the three program units of ITA (Trade Development, U.S. and Foreign Commercial Service, and Market Access and Compliance). However, strict compliance with the *Draft Grants Manual* definition's requirement of almost total disassociation would deny ITA access to the very people who have "requisite expertise, knowledge, and experience."

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<sup>8</sup>Telephone conversations by Brad Hess, Manager, Market Development Cooperator Program, with Denise Huttenlocker, Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture (202) 720-4327, August 23, 1999 and August 30, 1999.

<sup>9</sup>*Ibid.*

<sup>10</sup>See *Draft Grants Manual* at IX-4, provided at Tab F.



Given that the MDCP award, like FAS's FMD, entails a close working relationship between the recipient and federal professionals, first-hand experience is invaluable. The *Draft Grants Manual* definition of independent reviewer would exclude this class of reviewers because it stipulates that "independent reviewers...will not be involved in the administration of awards made as a result of the applications under review by the review panel on which the individual serves." <sup>11</sup>

It is instructive to consider the effect that such a strict definition of a review panel would have on FAS's FMD. Under such a definition, FAS's FMD program would have to either cease to function altogether, or drastically reduce the level of cooperation with award recipients because in reviewing and approving its awards, it relies on Commodity Division specialists – akin to ITA's industry and trade specialists in its Trade Development, U.S. and Foreign Commercial Service, and Market Access and Compliance units.

Under the Department of Commerce Draft Grants Manual definition, FMD would not be able to consult its dairy industry specialists on the merits of a butter marketing board's proposal. It would cease to be a program where government expertise is applied to industry organization projects to increase exports. Instead, it would become more of a one-shot financial transfer. The agency would become, by definition, more focused on blind administration and less on informed cooperation.

The definition in the *Draft Grants Manual* is logical and makes good sense and probably works well for the vast majority of the Department's financial award programs. When considered alongside MDCP, however, the definition simply does not work. It needlessly prevents ITA from doing what amounts to due diligence in administering a small, but important, program that can only help U.S. industry organizations increase exports through informed cooperation, not blind administration.

Enclosures

cc: Susan Sutherland, Acting Director, Office of Executive Budgeting and Assistance  
Management  
Mary Ann McFatc, Audit Liaison, International Trade Administration

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<sup>11</sup>*Draft Grants Manual* at III-3.