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B-309836

August 3, 2007

The Honorable Daniel K. Inouye  
Chairman  
The Honorable Ted Stevens  
Ranking Minority Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable John D. Dingell  
Chairman  
The Honorable Joe Barton  
Ranking Minority Member  
Committee on Energy and Commerce  
House of Representatives

Subject: *Department of Commerce, National Telecommunications and Information Administration: Public Safety Interoperable Communications (PSIC) Grant Program*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Commerce, National Telecommunications and Information Administration (NTIA), entitled “Public Safety Interoperable Communications (PSIC) Grant Program” (RIN: 0660-ZA17). We received the rule on July 18, 2007. It was published in the *Federal Register* as a “Notice of Availability of Funds” on July 23, 2007, and is effective as of that date. 72 Fed. Reg. 40,120.

The final rule implements a \$1 billion grant program to assist public safety agencies in the acquisition of, deployment of, or training for the use of interoperable communications systems that utilize—or enable interoperability with communications systems that can utilize—reallocated public spectrum for radio communications. This grant program was authorized by section 3006 of the Deficit Reduction Act of 2005, and section 4 of the Call Home Act of 2006. This is a one-time transfer program where funds will be awarded no later than September 30, 2007.

Enclosed is our assessment of NTIA’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that NTIA complied with the applicable requirements.

If you have any questions about this report, please contact Michael R. Volpe, Assistant General Counsel, at (202) 512-8236. The official responsible for GAO evaluation work relating to the subject matter of the rule is Patricia Dalton, Managing Director, Physical Infrastructure. Ms. Dalton can be reached at (202) 512-2834.

signed

Robert J. Cramer  
Associate General Counsel

Enclosure

cc: John M. R. Kneuer  
Assistant Secretary for Communications  
and Information  
Department of Commerce

ENCLOSURE

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF COMMERCE,  
NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION  
ENTITLED  
"PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS (PSIC)  
GRANT PROGRAM"  
(RIN: 0660-ZA17)

(i) Cost-benefit analysis

The final rule implements a grant program that will make \$968,385,000 available in grant awards. This is a one-time transfer program where funds will be awarded no later than September 30, 2007.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

Since the final rule was not preceded by a notice of proposed rulemaking, the requirements of the Regulatory Flexibility Act are not applicable.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule does not contain either an intergovernmental or private sector mandate, as defined in Title II, of more than \$120 million in any one year.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

NTIA stated that a 60-day delay in implementing the final rule would hamper NTIA's mission to improve public safety interoperable communications and be contrary to congressional intent provided in section 3006 of the Deficit Reduction Act and section 4 of the Call Home Act. Funds must be awarded before September 30, 2007. For this reason, NTIA has found "good cause" under 5 U.S.C. § 553 to make this regulation effective immediately.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The application and investment justification for the grant outlined in the final rule are information collections subject to the Paperwork Reduction Act and have been approved by the Office of Management and Budget.

Statutory authorization for the rule

The final rule is authorized by section 3006 of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, and section 4 of the Call Home Act of 2006, Pub. L. No. 109-459.

Executive Order No. 12,866

The final rule was reviewed by the Office of Management and Budget and found to be an “economically significant” regulatory action under the order.

Executive Order No. 13,132 (Federalism)

According to NTIA, the final rule does not have sufficient federalism implications under the order to require the preparation of a federalism assessment.