

U.S. DEPARTMENT OF COMMERCE
Office of Inspector General



**PUBLIC
RELEASE**

***NATIONAL TELECOMMUNICATIONS
AND INFORMATION ADMINISTRATION***

*Telecommunications and Information Infrastructure
Assistance Program Award Process Promotes
Merit-Based Decisions,
But Process Needs More Discipline
CFDA No. 11.552*

Audit Report No. ATL-10946-9-0001 / 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 Telecommunications and Information Infrastructure Assistance Program (TIIAP), classified as No. 11.552 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 TIIAP, the National Telecommunications and Information Administration (NTIA) provides financial assistance to nonprofit organizations, colleges and universities, and state, local and Indian tribal governments to promote the widespread use of telecommunications and information technologies in the public and nonprofit sectors. By providing targeted, matching grants, the program helps develop nationwide, interactive, multimedia information infrastructures that are accessible to all citizens in both rural areas and urban areas. The grants are used to fund projects that improve the quality of, and the public's access to, education, health care, public safety, and other community-based services. In fiscal year 1997, the program received more than 920 applications for over \$350 million; 876 for \$337.5 million were accepted for review; and 55 grants totaling almost \$20.9 million were awarded. All 55 awards were made competitively in response to a solicitation.

We examined NTIA's criteria, procedures and practices for soliciting, reviewing, and selecting TIIAP awards and found that they generally complied with statutory, departmental and NTIA requirements and appeared designed to result in merit-based awards. 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 solicitations were sufficient to obtain a nationwide response from eligible applicants (see page 6).

- Complied with the Department's and NTIA's requirements that (1) all financial assistance awards be made on the basis of a competitive review process, unless a special waiver is obtained, and (2) the competitive review process meet minimum standards established by the Department (see page 7).
- Followed established Department and NTIA requirements for selecting applications for funding under TIIAP. However during fiscal year 1997, the Assistant Secretary for Communications and Information, as the selection official, added nine and deleted seven applications from TIIAP program director's list of applications recommended for funding. The Assistant Secretary provided written justifications for each of the nine added applications, but there were no written justifications for any of the seven deleted applications. NTIA officials need to enhance the written justifications for award decisions that deviate from recommendations made by the TIIAP program director (see page 12).

NTIA concurred with our finding and recommendation. NTIA stated that it has already implemented the recommendation, 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 13. We have included a copy of the response, excluding attachments, as Appendix II.

We commend NTIA for implementation of the draft report's recommendation. 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 events.

We made other editorial changes we considered appropriate.

We recommend that the Assistant Secretary for Communications and Information ensure that the bases for making awards that deviate from the program director's recommendations are adequately documented.

Our recommendation appears on page 13.

INTRODUCTION

The National Telecommunications and Information Administration (NTIA) administers the Telecommunications and Information Infrastructure Assistance Program (TIIAP), described in the *Catalog of Federal Domestic Assistance* as No. 11.552. The Appropriations Act of 1997 provided funds for the development of a national information infrastructure. This discretionary funding program provides financial assistance to nonprofit organizations, colleges and universities, and state, local and Indian tribal governments to promote the widespread use of telecommunications and information technologies in the public and nonprofit sectors. By providing targeted matching grants, the program helps develop nationwide, interactive, multimedia information infrastructures that are accessible to all citizens in rural and urban areas. The grants are used to fund projects that improve the quality of, and the public's access to, education, health care, public safety, and other community-based services.

TIIAP's grants are used to (1) purchase equipment for connection to networks, including computers, video conferencing systems, network routers, and telephones; (2) to buy software for organizing and processing all kinds of information, including computer graphics and databases; (3) to train staff, users, and others in the use of equipment and software; (4) to purchase communications services, such as Internet access; and (5) to evaluate the projects.

The Appropriations Act of 1997 provided funds to be used for the planning and construction of telecommunications networks for educational, cultural, health care, public information, public safety, or other social services. NTIA established rules governing the TIIAP matching grant program. The rules governing the fiscal year 1997 awards were published in the *Federal Register*, Part II, Volume 62, Number 17, dated January 27, 1997. In fiscal year 1997, NTIA officials received more than 920 applications for over \$350 million, of which 876 were accepted for review, and 55 grants totaling almost \$20.9 million were awarded.

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.

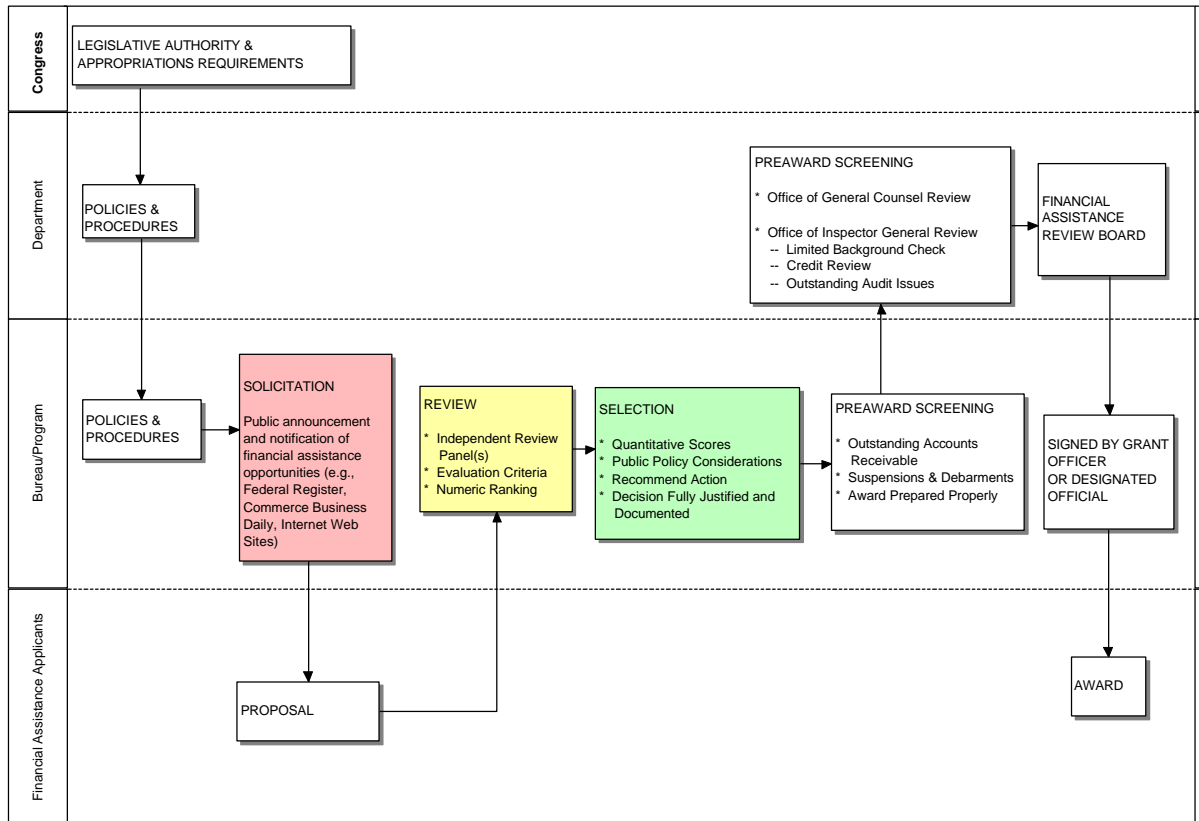
Also, OMB has issued the following circulars which set forth the policies and procedures to be followed in administering federal financial assistance programs:

- 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 Education, Hospitals, and Other non-Profit Organizations*, requires agencies to provide the public with advance notice of their intended funding priorities for discretionary assistance programs unless such priorities are established by federal statute.
- OMB Circular A-123, *Management Accountability and Control*, implements the Federal Managers Financial Integrity Act (P.L. 97-255) requiring agencies to establish written procedures for all programs and administrative activities, including financial assistance programs, that provide reasonable assurance that activities are effectively and efficiently managed to achieve agency goals.

Commerce has relied 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 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 NTIA's TIIAP. 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 TIIAP. 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 NTIA's *Internal Operating Procedures* 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 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 appropriations legislation to identify legislatively mandated projects for this program. None were found for this program.

We did not rely upon computer-based data supplied by NTIA 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.

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 13 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 the authority of the Inspector General Act of 1978, as amended, and Department Organization Order 10-13, dated May 22, 1980, as amended.

FINDING AND RECOMMENDATION

We found that NTIA's criteria, procedures, and practices for soliciting, reviewing, and selecting TIIAP 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 TIIAP 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 there were no written justifications for seven award decisions that deviated from the TIIAP program director's recommendations.

I. TIIAP Used Merit-Based Evaluation Criteria

TIIAP officials implemented technical and public policy evaluation 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*, Part II, Volume 62, Number 17, dated January 27, 1997. 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 selection process for the fiscal year 1997.

II. TIIAP Solicitation Process Obtained a Nationwide Response

NTIA's TIIAP procedures and practices for soliciting applications for fiscal year 1997 awards 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 generated almost 900 responsive applications.

DAO 203-26, Section 4.02, lists required solicitation procedures 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 *Procedures for the Competitive Selection and Award of Grants through the Telecommunications and Information Infrastructure Assistance Program*, dated April 11, 1997, require the agency to solicit TIIAP applications through an announcement in the *Federal Register*. The announcement is to include all relevant information on how to apply for program funds and the process for selecting grant awards. 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 NTIA's Internet web site and sent solicitation notices to over 18,000 potential applicants on its mailing list.

Employing these solicitation methods, NTIA received 924 applications requesting \$354 million. NTIA's program staff accepted 876, or 95 percent, of these applications as complete and eligible for review.

III. TIIAP Provided a Competitive, Merit-Based Review of Applications

For the fiscal year 1997 review process, TIIAP's established procedures and practices for reviewing applications for awards were sufficient to provide a competitive, independent, and qualified review for each application. Review panels used merit-based, technical and public policy criteria that were consistent with the objectives of the program in evaluating the applications. Knowledgeable reviewers from outside the TIIAP program office and NTIA provided an independent perspective and evaluation of each applicant. NTIA used outside reviewers who had demonstrated expertise in both programmatic and technological aspects of the applications to be reviewed. The outside reviewers had qualified professional backgrounds related to the application area they reviewed. The five application areas consisted of:

(1) community-wide networking; (2) education, culture, and lifelong learning; (3) health; (4) public and community services; and (5) public safety.

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.

NTIA's internal operating procedures also contain review panel requirements. Each review panel is to consist of a minimum of three reviewers from outside NTIA selected by the program officers and approved by the program director. The reviewers are to be selected based on their ability to provide fair and objective recommendations. Each panel is to be facilitated by a member of the program staff who does not score the applications but is responsible for ensuring a fair review of applications. The reviewers are to document each application in the following manner:

- The reviewers are to evaluate each application according to criteria listed in the *Federal Register* and each reviewer is to complete a score sheet documenting his/her evaluation;
- The review panel will provide one set of written comments for each application; and
- A lead reviewer from each review panel is to be chosen to prepare a written discussion of the panel's comments on each application as they relate to criteria published in the *Federal Register*. The reviewers' individual scores are to be averaged to create a single panel rating for each application.

TIIAP review panels used merit-based technical and public policy criteria that were consistent with the objectives of the program in evaluating the applications. The criteria, which were equally weighted, were published in the *Federal Register*, Part II, Volume 62, Number 17, dated January 27, 1997. They were:

- (1) *Project Purpose*. Each application will be rated on the purpose of the project and its potential contribution to our national understanding of how the National Information Infrastructure can be used to benefit the public.
- (2) *Project Feasibility*. Each application will be rated on the overall feasibility of the proposed project and its plan of implementation.

- (3) *Community Involvement.* Each application will be rated on the overall level of community involvement in the development of the project and the implementation of the proposed project.
- (4) *Reducing Disparities.* Every TIIAP project should target underserved communities specifically and/or reach out to underserved groups within a broader community.
- (5) *Evaluation and Dissemination.* Each proposal must include a plan for evaluating the project and a dissemination plan for sharing knowledge gained from it.

The *Federal Register* notice also listed the selection factors that the TIIAP Director would take into account 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 were:

- (1) The evaluations of the outside reviewers;
- (2) The geographic distribution of the proposed grant awards;
- (3) The variety of technologies and strategies employed by the proposed grant awards;
- (4) The extent to which the proposed grant awards represent a reasonable distribution of funds across application areas;
- (5) The promotion of access to and use of the information infrastructure by rural communities and other underserved groups;
- (6) Avoidance of redundancy and conflicts with the initiatives of other federal agencies; and
- (7) The availability of funds.

The *Federal Register* notice also provided the objective of the program, and stated that the extent to which each application addressed this objective would be considered, along with the program director's recommendations, by the Assistant Secretary in making final selections. The objective of TIIAP, as described in the Federal Register notice is "to promote the development and widespread availability and use of advanced telecommunications and information technologies to serve the public interest."

Each application must be scored on the full set of five equally weighted evaluation criteria. The scoring for each of the five criteria is to range from zero (lowest) to five (highest). A score of five for a particular criterion indicates an outstanding response; that is, that the applicant has clearly and thoroughly addressed that particular criterion and has done so with exceptional distinction. A score of three indicates an average or adequate attempt to address the particular criterion. A score of zero indicates the application is completely unresponsive to the particular criterion. Each application may receive up to 25 points.

After individual scoring of the applications by a review panel's members, the review panel is to meet as a group to average the individual scores and to discuss and prepare written comments for each application. During discussions, the review panel is to come to a consensus recommendation on each application's suitability for funding. The panel selects either "recommended for funding" or "not recommended for funding" for each application based on the reviewers' scores and whether the application clearly addresses the program's objectives discussed above. The recommendation decision is made by the review panel as a group. The program staff also asks the reviewers to be consistent with their scores. In other words, they cannot recommend a project for funding that has a lower average score than a project they do not recommend.

TIIAP's program director stated that a panel's recommendations on which applications to fund serve two purposes: (1) to help determine a rough estimate of the number of high merit applications the program has received (and therefore the appropriate funding level) and (2) to put the reviewers' scores in perspective. In terms of the latter, the program staff examines the scores and recommendations across all panels to see how the funding recommendations correlate with the scores. Based on this analysis, the program staff determines the point values that represent four rating categories: outstanding, good, fair, and poor.

In fiscal year 1997, NTIA used 113 independent outside reviewers from across the nation. The members of the review panels were selected by TIIAP's program officer and approved by the TIIAP's program director. NTIA placed the outside reviewers into 30 groups, each with 3 to 4 members, that were assigned to review panels. NTIA's internal procedures require a minimum of three outside members on each panel. The review panels also included a program staff member who did not score the applications, but was to assist the reviewers with any questions.

The review panels were assigned to 5 application areas: 8 panels for community-wide networking; 12 for education, culture, and lifelong learning; 3 for health; 4 for public and community services; and 3 for public safety. This breakdown reflected the number of applications received for each particular area.

The panels reviewed 876 applications, totaling \$337.5 million, and recommended 169 applications, totaling \$66 million, for funding. We found that the panels properly applied the merit-based criteria to assess the applicants and documented their reviews of each application.

The program staff's analysis of the panels' scores indicated that 100 percent of the applications scoring 20 or more points were recommended for funding; 79 and 69 percent of applications scoring 19 points and 18 points, respectively, were recommended. They also noted that 40 percent of applications scoring 17 points were recommended for funding, but only 19 percent scoring 16 were recommended. Based on that observation and the overall scoring distribution, the cut-off for "outstanding" applications was set at a score of 21 and the cut-off for "good" applications at 17. Applications receiving a score of 16 or below were ranked "fair." However, it should be noted that because each panel could draw the line differently, there were situations where one panel recommended for funding all applications that scored 15 or higher (resulting in a few "fair" projects being recommended) and another panel recommended for funding all applications that scored 18 or higher (resulting in a few "good" projects not being recommended).

In fiscal year 1997, the TIIAP program director, in conjunction with the program staff, applied the selection factors listed in the *Federal Register* notice to reduce the number of applications recommended for funding from 169 to 53. The 53 applications totaled \$21 million and included 38 outstanding, 14 good, and 1 fair application (see Table 1 below). The program director provided written justification for his recommendations.

Table 1 - Scoring Breakdown for Applications, Recommendations, and Selections

Points	Ratings	All Applications	Recommendations		Selections
			Review Panel	Program Director	Assistant Secretary
21 - 25	Outstanding	63	63	38	31
17 - 20	Good	119	87	14	20
10 - 16	Fair	534	19	1	4
0 - 9	Poor	160	0	0	0
Total		876	169	53	55

The program director's list of applications recommended for funding was presented to OTIA's Associate Administrator for review and approval. Upon receipt of the Associate Administrator's approval, the program director's recommendations were presented to the Assistant Secretary as the selecting official. The Assistant Secretary selected the applications to be negotiated, taking into consideration the program director's recommendations and the program objectives as stated in the *Federal Register* notice. The negotiation process involves the program staff discussing with potential applicants any differences that exist between the applicant's original funding request and what TIIAP proposes to fund, or, if necessary, to clarify items in the application. Table 1 above summarizes the results of the application reviews by review panels, review panel recommendations, program director recommendations and Assistant Secretary selections.

IV. TIIAP Selection Decisions that Deviated from Program Director's Recommendations Were Not Adequately Documented

NTIA's selection procedures and practices for TIIAP awards were sufficient to satisfy departmental requirements. However, NTIA officials need to improve the written justifications for selection decisions that deviate from recommendations made by TIIAP's program director. NTIA's internal procedures give NTIA's Administrator, who is also the Assistant Secretary for Communications and Information, final award selection authority. During fiscal year 1997, the Assistant Secretary added nine and deleted seven applications from the program director's list of applications recommended for funding.

According to an NTIA internal memorandum in the program files, the Assistant Secretary had two concerns for the applications selected: (1) that no states are represented by more than three awards and (2) that awards be made to states with exceptionally high concentrations of poverty, low levels of educational attainment, and low population density. In addition, the Assistant Secretary stated that he considered other factors, such as type of application technology, states with multiple awards, and states that had received an award the previous year, when making his selections.

The Assistant Secretary added nine applications, totaling more than \$3.1 million, to the list to satisfy the concerns mentioned above. Five of the nine applications were from the list of 169 recommended for funding by the review panels, with each receiving a good rating. Of the four applications that the panel had not recommended for funding, one had received a good rating and three had received a fair rating. None of the applications had been recommended for funding by the program director.

The Assistant Secretary provided written justifications for each of the nine applications added to the selection list. The nine applications agreed with the goals set by the Assistant Secretary to make awards to those states with exceptionally high concentrations of poverty, low levels of educational attainment, and low population density.

The Assistant Secretary's decision to add nine applications resulted in four states plus the District of Columbia receiving one award in fiscal year 1997. The other four selections represented the second award to an organization in each of those four states.

In order to select the applicants added, the Assistant Secretary deleted seven applications, totaling almost \$3 million, from the program director's list. All seven had been rated as outstanding and recommended for funding by the review panels. It should be noted that deleting applications from three states still left three awards for each of those states; however, three other states with deleted applications received no fiscal year 1997 awards. One of the three states that did not receive a fiscal year 1997 award also did not receive a fiscal year 1996 award.

There was no written justification for any of the seven deleted applications. The Assistant Secretary could not provide any written documentation that explained how he applied deletion factors to each application.

Although it is within the Assistant Secretary's authority to make the final selection of awardees, he should fully explain in writing award decisions that deviate from recommendations made by TIIAP's 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.

As a result of the Assistant Secretary's action, a total of 55 applications were selected for funding pending the outcome of negotiations. After negotiations, awards totaling \$20.9 million were made to these 55 applicants. Of the 55 applications, 51 had been recommended for funding by the review panels that had rated 31 as outstanding, 20 as good, and 4 as fair (see Table 1 on page 11).

TIIAP awards were available to applicants in the 50 states and all U.S. territories. The 55 grants were awarded to organizations in 38 states and the District of Columbia. No awards were issued to applicants from 11 states and 4 territories; 1 state did not have any organization submit an application.

V. NTIA Response

NTIA concurred with our finding and recommendation. NTIA stated that it has already implemented the recommendation, starting with the fiscal year 1998 grant competition. NTIA requested that we revise our report to add colleges and universities, and state, local, and Indian tribal governments to the list of organizations eligible to receive funding under TIIAP. NTIA also requested that the report be revised to reflect changes to the award process implemented in fiscal year 1998. In addition, NTIA requested that certain predecisional information be deleted from the report. Finally, the agency suggested several minor changes to clarify certain aspects of the fiscal year 1997 award process. We have included a copy of the response, excluding attachments, as Appendix II.

VI. OIG Comments

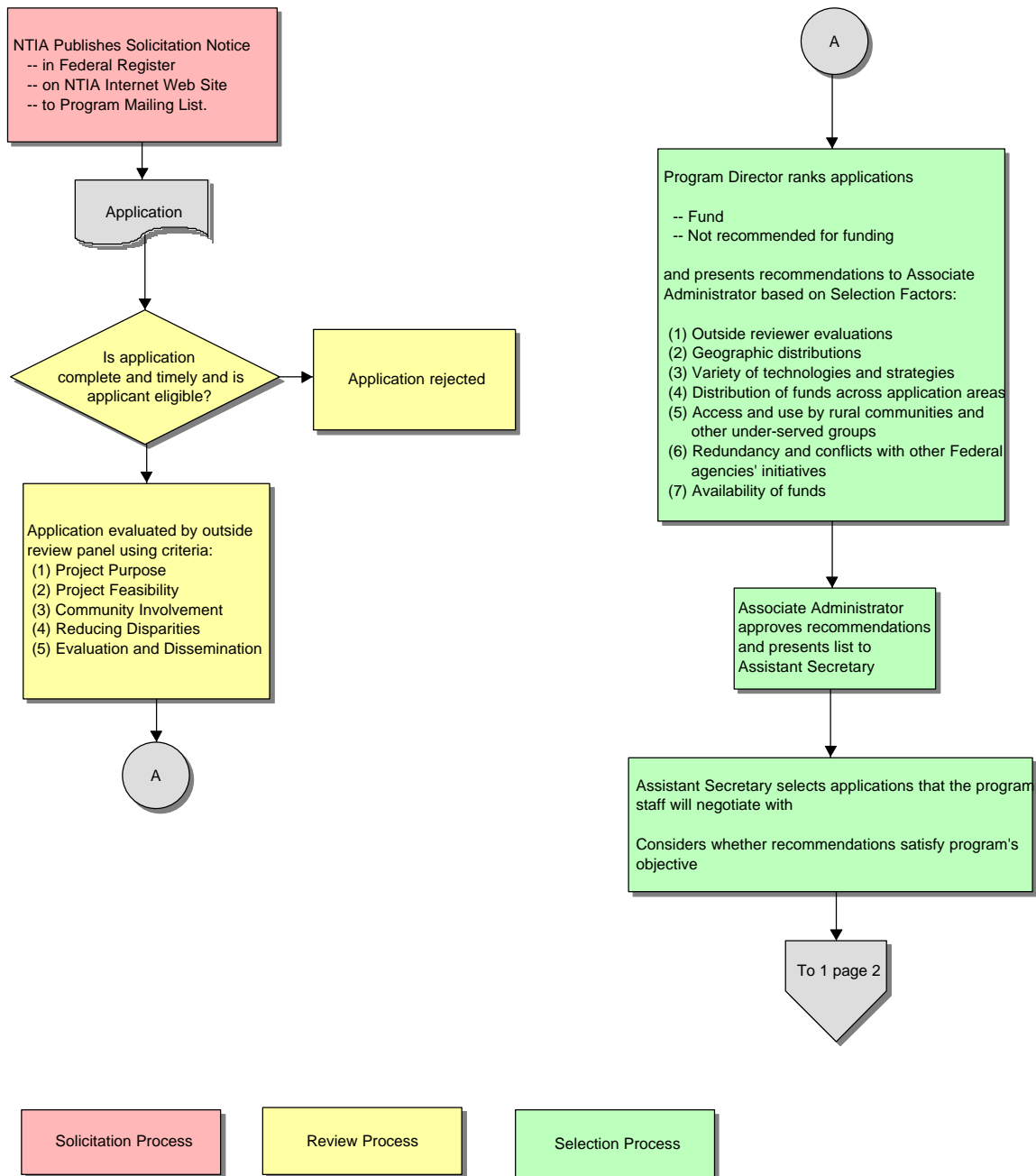
We commend NTIA for implementation of the draft report's recommendation. We did not modify the final report based on the fiscal year 1998 changes by the agency because this report covers the fiscal year 1997 events. However, we modified the report to include additional information on the fiscal year 1997 award process and the organizations eligible for TIIAP funding. We also deleted certain predecisional information that we believe did not detract from our analysis of the award process and the related recommendation. Finally, we made other editorial changes we considered appropriate.

VII. Recommendation

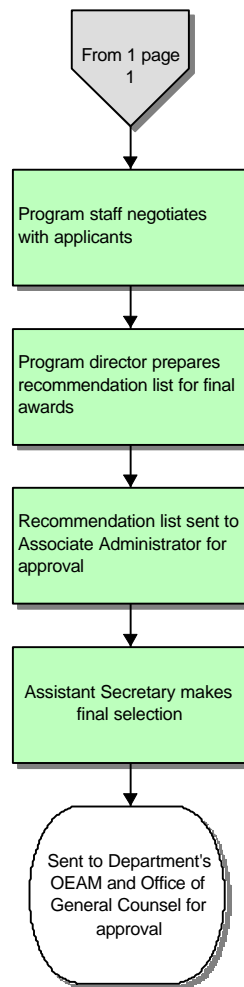
We recommend that the Assistant Secretary for Communications and Information ensure that the bases for making awards that deviate from the program director's recommendations are adequately documented.

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



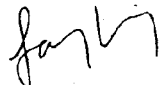
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MAR 17 1999

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

FROM: Larry Irving 

SUBJECT: *Telecommunications and Information Infrastructure Assistance
Program Awards Were Merit-Based, But Award Deviations
Require Additional Documentation*
CFDA No. 11.552
Draft Audit Report No. ATL-10946-9-XXXX

Thank you for providing NTIA with the opportunity to review the draft audit report *Telecommunications and Information Infrastructure Assistance Program Awards Were Merit-Based, But Award Deviations Require Additional Documentation*. I commend you and your staff on developing a report that is highly accurate and fair. The report provides a clear overview of the TIIAP grant selection process. In fact, TIIAP intends to add your 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 recommendation that the Assistant Secretary should document the reasons for deleting any applications from the final slate of awards. In fact, I am pleased to inform you that NTIA has already implemented this recommendation, starting with the FY 1998 grant competition. I have attached a copy of a memorandum documenting changes to the FY 1998 slate for your review. (Attachment 1) Given that NTIA has already addressed the recommendation, 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 and to reflect the fact that the program no longer distinguishes between demonstration and planning grants.
- The discussion of the review panels on page 8 should be edited to clarify that a lead reviewer is assigned to each application, instead of a single lead reviewer being chosen for each panel.

- On page 10, the report notes that one review panel met with only two outside reviewers, when a review of program records indicate that four reviewers participated on the panel. We recognize that the observation was based on a review of NTIA's records. However, staff were able to determine that four separate reviewers submitted evaluations for the applications reviewed by the panel in question. I have attached database reports that show the scores submitted by the four reviewers for the applications on that panel. (Attachment 2) We apologize for the confusion created by the original document you reviewed.
- On page 12, the discussion of the factors I considered in making final decisions cites "goals" that are better described as methods toward reaching broader goals. In the referenced memorandum, I indicated that I was "especially concerned that the awards be distributed to a large number of states, and particularly those states most in need." The decision to limit the awards to a maximum of three per state was not a goal in and of itself.

Where appropriate, we have included in Attachment 3 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 of the applications that were added to or removed from the slate.

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 or removed from the slate. We have included suggested edits in Attachment 3.

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