

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

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**NATIONAL INSTITUTE OF  
STANDARDS AND TECHNOLOGY**

*Manufacturing Extension Partnership  
Program Awards Process Promotes  
Merit-Based Decisions  
CFDA No. 11.611*

*Audit Report No. DEN-10959-9-0001 / March 1999*

**PUBLIC RELEASE**

*Office of Audits, Denver Regional Office*





**UNITED STATES DEPARTMENT OF COMMERCE**  
**The Inspector General**  
Washington, D.C. 20230

March 31, 1999

MEMORANDUM FOR: Raymond G. Kammer  
Director  
National Institute of Standards and Technology

FROM: Johnnie E. Frazier  
Acting Inspector General

SUBJECT: *Manufacturing Extension Partnership Program*  
*Awards Process Promotes Merit-Based Decisions*  
*CFDA No. 11.611*  
Final Audit Report No. DEN-10959-9-0001

The Office of Inspector General has completed a performance audit of the National Institute of Standards and Technology's solicitation, review, and selection process for its discretionary cooperative agreements under the Manufacturing Extension Partnership Program, classified as No. 11.611 in the *Catalog of Federal Domestic Assistance*, for fiscal years 1996 and 1997. The final report is attached. The executive summary of the report is on page i and recommendations for NIST's action are on page 14.

NIST agreed with the findings and recommendations in our draft audit report and will implement our recommendations in future award competitions. NIST's response is summarized in the executive summary, and we have attached the complete response as an appendix to the report.

Please provide your audit action plan addressing the recommendations within 60 calendar days, in accordance with Department Administrative Order 213-5. The plan should be in the format specified in Exhibit 7 of the DAO. Should you have any questions regarding the preparation of audit action plans, please contact William R. Suhre, Regional Inspector General for Audits, at (303) 312-7650. We appreciate the cooperation extended by your staff during our audit.

Attachment

cc (w/att): Kevin Carr, Director, Manufacturing Extension Partnership  
Marilyn Khan, NIST Audit Liaison  
Linda J. Bilmes, Acting Chief Financial Officer and Assistant  
Secretary for Administration  
Susan Sutherland, Acting Director, Office of Executive Budgeting and  
Assistance Management

## TABLE OF CONTENTS

EXECUTIVE SUMMARY .....	i
INTRODUCTION .....	1
PURPOSE AND SCOPE .....	4
FINDINGS AND RECOMMENDATIONS .....	6
I.    NIST Has Adequately Addressed Prior Audit Report Findings .....	6
II.   MEP Used Merit-Based Review Criteria .....	7
III.  Solicitation Deficiencies Were Mitigated by Supplemental Mailing .....	8
IV.   MEP Implemented a Merit-Based Review Process .....	9
V.    MEP Selections Were Proper .....	12
VI.   Award Renewal Procedures Are Adequate .....	12
VII.  Award Renewals Were Improperly Categorized .....	13
VIII. Recommendations .....	14
NIST's Response to the Draft Audit Report .....	14
APPENDIX I - NIST Procedures for Solicitation, Review, and Selection of Awards	
APPENDIX II - NIST's Complete Response to the Draft Audit Report	

## EXECUTIVE SUMMARY

The Office of Inspector General conducted an audit of fiscal year 1996 and 1997 criteria, procedures, and practices for soliciting, reviewing, and selecting applications for financial assistance under the National Institute of Standards and Technology's (NIST) Manufacturing Extension Partnership Program (MEP), classified as No. 11.611 in the *Catalog of Federal Domestic Assistance* (CFDA). The audit was conducted as part of a Department-wide review of Commerce's discretionary financial assistance programs initiated at the request of the Chairman of the Senate 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.

The MEP program provides financial assistance to a nationwide network of 75 not-for-profit centers to provide business assistance to small and medium-sized manufacturers. There are MEP-funded centers in all 50 states and Puerto Rico. The centers are linked together through NIST, making it possible for even the smallest manufacturers to have access to more than 2,000 manufacturing and business specialists. In fiscal year 1997, MEP processed 55 cooperative agreement actions, totaling almost \$79.5 million. All fiscal year 1997 award actions were renewals of prior year awards. Since NIST did not conduct a competition for new awards in fiscal year 1997, we focused our attention on (1) the fiscal year 1996 competitive criteria, procedures and practices, including follow-up on NIST's actions in implementing previous audit report recommendations, and (2) NIST's procedures for granting renewal awards for existing centers in fiscal year 1997.

We examined NIST's criteria, procedures and practices for the solicitation, review, and selection of MEP awards and found that they were generally adequate to support merit-based decisions and, with the exception of minor deficiencies found in the solicitation notice, met the Department's current minimum requirements. At the same time, we identified opportunities for improving the program's award procedures and practices. Specifically, our audit disclosed that NIST:

- Has taken appropriate steps to improve its MEP center selection process, as recommended in a prior audit report (see page 6).
- Used merit-based criteria, which were consistent with the objectives of the MEP program, for funding decisions (see page 7).
- Failed, in its 1996 solicitation notice, to meet minimum departmental requirements for identification of the intended funding instrument and discussion of the proposal review criteria and process. However, NIST mitigated this failure by mailing supplemental information packages to 278 interested parties (see page 8).

- Followed established procedures in reviewing applications, as detailed in its *Source Selection Plan* (see page 9).
- Followed established procedures in selecting applicants to receive MEP funding (see page 12).
- Followed adequate procedures and practices for “renewing” prior awards (see page 12).

We noted an additional minor deficiency in NIST’s award process. NIST recorded several 1997 MEP award renewals under an incorrect CFDA code number. As a result, the Department’s Office of Executive Assistance Management received inaccurate data for tracking awards. The Office of General Counsel had also noted NIST’s incorrect reporting and advised NIST to report all future MEP award actions under the appropriate code number (see page 13).

We recommend that the Director, MEP Program, ensure that:

- Any future MEP center solicitation notices meet the minimum requirements established by departmental guidance.
- MEP invites participants from outside NIST and the Department to serve as proposal reviewers in order to enhance the objectivity of the selection process for any future MEP center competition.
- Award renewals are correctly reported under the appropriate CFDA number.

Our recommendations appear on page 14.

In its response to the draft audit report, NIST agreed with the findings and recommendations. NIST will ensure that any future MEP center solicitations comply with the minimum requirements, will involve outside proposal reviewers, and will report the proper CFDA category number on all future MEP award actions. In its response, NIST also provided additional information to explain the noted deficiencies.

## INTRODUCTION

The National Institute of Standards and Technology's (NIST) primary mission is to promote U.S. economic growth by working with industry to develop and apply technology, measurements, and standards. To accomplish a portion of its mission, NIST administers the Manufacturing Extension Partnership (MEP) program, described in the *Catalog of Federal Domestic Assistance* (CFDA) as No. 11.611. The program's objectives, as stated in the CFDA, are "to establish, maintain, and support manufacturing extension centers and services, the functions of which are to accelerate the usage of appropriate manufacturing technology by smaller U.S.- based manufacturing firms, and partner with the States in developing such technical assistance programs and services for their manufacturing base."

The Omnibus Trade and Competitiveness Act of 1988 directed the Secretary of Commerce to establish a network of regional centers for the transfer of manufacturing technology to enhance productivity and technological performance in the United States. This network of regional centers has evolved into the MEP program. Under the MEP program, NIST provides financial assistance, through cooperative agreements, to a nationwide network of 75 not-for-profit centers established to provide business assistance to small and medium-sized manufacturers. There are MEP-funded centers in all 50 states and Puerto Rico. The centers are linked together through NIST, making it possible for even the smallest manufacturers to have access to more than 2,000 manufacturing and business specialists. In fiscal year 1997, NIST processed 55 MEP cooperative agreement award actions, totaling almost \$79.5 million. All fiscal year 1997 award actions were renewals of prior year awards. NIST considers the nationwide MEP center network to be complete; therefore, no future MEP center competitions are anticipated.

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

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

- Widespread solicitation of eligible applicants and disclosure of essential application and program information in written solicitations;
- Independent application reviews that consistently apply written program review 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:

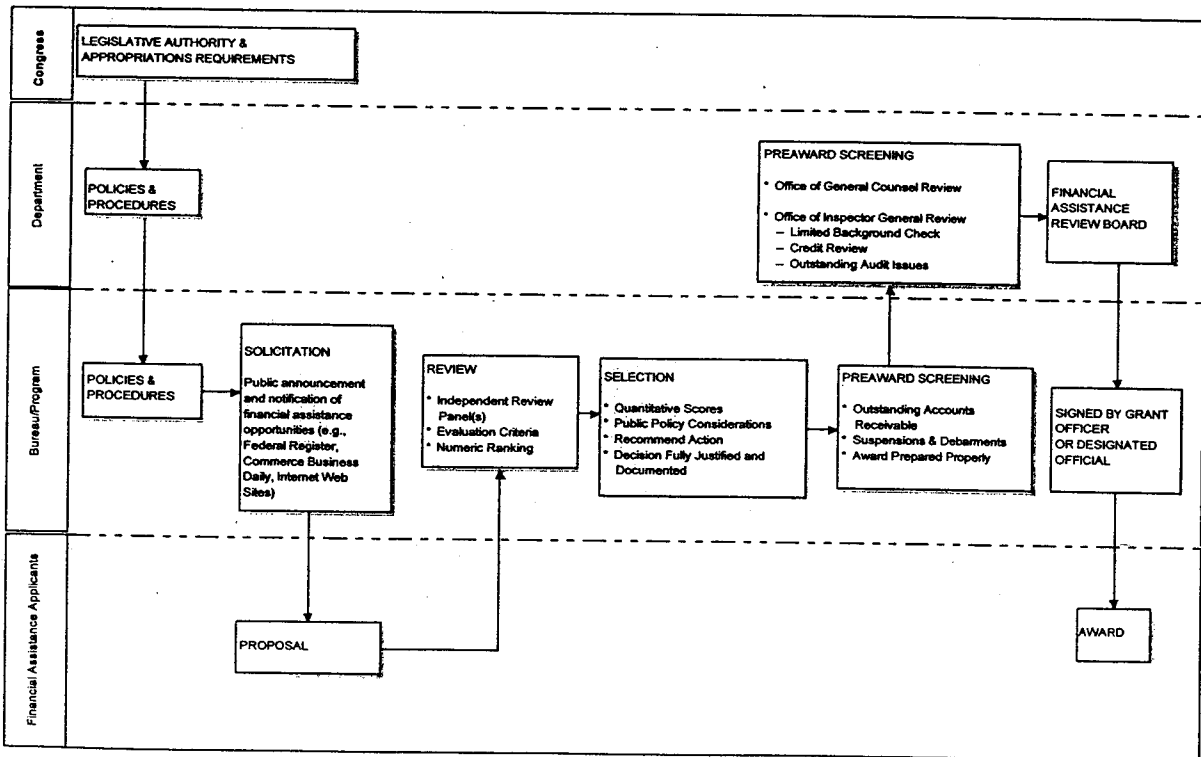
- OMB Circular A-89, *Federal Domestic Program Information*, implements the Federal Program Information Act (P.L. 95-220) requiring agencies to systematically and periodically collect and distribute current information to the public on federal domestic assistance programs, which is accomplished through the semiannual publication of the *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 Cooperative 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 management controls for federal programs and operations, including financial assistance programs, that provide reasonable assurance that activities are effectively and efficiently managed to achieve agency goals.

Commerce has relied on these guidelines 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 discretionary funding 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 process to be used in reviewing and selecting applications for funding.

In addition to the guidelines established by OMB and the Department, specific criteria for MEP awards were set forth in 15 U.S.C., Section 278k(c)(4) - (5).

The following chart depicts the basic process and controls for the solicitation, review, and selection of financial assistance awards as set forth in DAO 203-26. The processes we reviewed during our audit are color coded for this chart and the NIST 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 Committee on Commerce, Science, and Transportation. The Chairman requested that the Inspectors General of the Departments of Commerce and Transportation 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 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 projects.

During the second phase of our review, we are conducting individual audits of the award solicitation, review, and selection processes of each program we have classified as a "full discretion" program, including the NIST MEP program. We are evaluating the adequacy of each program's established award criteria and procedures for evaluating individual applications. For those programs with procedures deemed to be adequate, we are ascertaining whether they were followed in making awards in fiscal year 1997. For those programs with procedures considered to be inadequate or lacking, we are reviewing how 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 will 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 status of the survey phase of the OIG's review, and discussed some of the preliminary observations from the individual program audits.

This performance audit covered all award renewals processed by NIST during fiscal year 1997 and all new awards issued in fiscal year 1996 under the MEP program. There were no new awards issued in 1997. There were no legislatively mandated awards under this program in fiscal years 1996 or 1997.

To respond to the Chairman's request, we:

- Reviewed the authorizing legislation and information summarized in the CFDA to identify criteria for funding decisions.
- Reviewed Department and NIST policies and procedures for soliciting, reviewing, and selecting recipients for awards (see Appendix I for a flowchart of the process). We reviewed NIST's solicitation, review, and selection process for MEP awards, and assessed whether it was 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 NIST's practices for the fiscal year 1996 and 1997 award actions with the prescribed procedures to determine if the processes contained adequate internal controls to provide for competitive, merit-based awards.
- Interviewed MEP program office officials concerning NIST's solicitation, review, and selection procedures.
- Reviewed a prior OIG audit report on MEP award selection practices.

We did not rely on computer-based data supplied by NIST and the Department's Office of Executive Assistance Management (OEAM) and cited in the report, 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 conducted our audit fieldwork in August 1998 at NIST's MEP Program Office and Grants Office, in Gaithersburg, Maryland. We conducted the audit in accordance with generally accepted government auditing standards and under the authority of the Inspector General Act of 1978, as amended, and Department Organization Order 10-13, dated May 22, 1980, as amended.

## FINDINGS AND RECOMMENDATIONS

We found that NIST established merit-based criteria and processes for soliciting and reviewing MEP candidates and selecting MEP awardees. Also, NIST's procedures and practices for the solicitation, review, and selection of MEP award recipients generally complied with applicable statutory, departmental, and NIST requirements. Although we found that NIST's solicitation notice for the 1996 competition, as published in the *Federal Register*, failed to meet minimum departmental requirements, NIST supplemented the information in the notice through a widely-distributed applicant information package. Additionally, we found that NIST has taken appropriate steps to improve its MEP center selection process, as recommended in a prior OIG audit report, and, as a result, now has adequate internal control procedures over the process. We also found that NIST has adequate procedures for renewals of awards and that they were properly followed in renewing awards in fiscal year 1997.

However, we did find room for improvement in the MEP award process. Whenever future competitions occur, the independence and objectivity could be enhanced by inviting reviewers from outside NIST and the Department to participate in the review process. We also found a minor deficiency in the award processing. NIST recorded several 1997 MEP award renewals under an incorrect CFDA code number. As a result, the Department's OEAM received inaccurate data for inclusion in its database system used to report on and track awards, as it is required to do in accordance with OMB Circular A-89. The Office of General Counsel had also noted NIST's incorrect reporting and advised it to report all future MEP award actions under the appropriate code number.

### I. NIST Has Adequately Addressed Prior Audit Report Findings

In a 1994 audit report, we stated that NIST's selection process for MEP awards was vulnerable to abuse.<sup>1</sup> That audit found that the selection process did not require written procedures to be established before the process began. As a result, NIST did not document several important aspects of the selection process, including the specific roles of selection panel members, the steps followed during proposal screenings and applicant site visits, and the bases for determining cut-off points for rejecting unsuccessful proposals or forwarding other proposals to the next level of screening. NIST also had failed to document the results of each step in the review process. We recommended that NIST establish written procedures to supplement those in the program regulation, and document the results of each step in the process. NIST concurred with our recommendations.

During our audit of NIST's fiscal year 1996 MEP center selection process, we reviewed NIST's actions in implementing our earlier recommendations. We found that NIST had implemented corrective procedures for both its fiscal year 1995 and 1996 competitions. To address our concern that written procedures were not established before the selection process began, NIST

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<sup>1</sup>Management and Funding Problems Confront the MEP Program, DEN-5434-4-0001, September 1994.

prepared *Source Selection Plans* to provide guidance for conducting the 1995 and 1996 MEP center competitions. The plans detail the roles of the various participants in the selection process, training requirements for review panel members, and specific steps that reviewers are to follow during each phase of the review and selection processes. The plans adequately addressed our recommendations and were properly implemented.

To address our finding that NIST did not document the results of each step in the review process, NIST prepared notebooks for both the 1995 and 1996 MEP center competitions. The notebooks contain all pertinent documentation for the solicitation, review, and selection processes. Each notebook is divided into sections chronicling the results of a specific phase in the competition. Within each section, NIST provides documentation of the specific steps taken during each phase and the bases for its decisions and recommendations. Through this effort, NIST has adequately addressed our concerns regarding documentation of the results of each step in the MEP center competition review process.

NIST awarded 36 MEP center cooperative agreements - 18 each in 1995 and 1996 - after implementing the recommendations in our prior audit report. Consequently, 39 of the 75 current MEP centers were selected prior to NIST's corrective actions and, as a result, we cannot be assured that all current centers were awarded based on a documented, merit-based process. However, since each center is subjected to annual evaluations by MEP program personnel as a requirement for continued funding (see Section VI), awards to poorly performing centers have been terminated.

## II. MEP Used Merit-Based Review Criteria

The MEP review panels used merit-based criteria, which were consistent with federal statute and the objectives of the program, to evaluate the applications. 15 U.S.C., Section 278k(c)(4) sets broad selection criteria for MEP awards. NIST implemented these criteria, including specific proposal review criteria, in the MEP Program Rule, which is set out in 15 CFR, Part 290.

The proposal review and selection criteria for MEP centers are listed in Part 290.6. Each of the four review categories receives equal weight and are as follows:

- (1) *Identification of Target Firms in Proposed Region.* Does the proposal define an appropriate service region with a large enough population of target firms of small- and medium-sized manufacturers which the applicant understands and can serve, and which is not presently served by an existing center? Factors to consider include:
  - (a) Demonstrated understanding of the region's manufacturing base, including business size, industry types, product mix, and technology requirements.
  - (b) Demonstrated need for a center in the region, based on physical size, concentration of industry, and economic significance of the region's manufacturing base? Geographical diversity of MEP centers will be a factor in evaluating proposals. A proposal for a new center near an existing center may be

considered only if the proposal is unusually strong and the number of manufacturers and their technology needs justify a new center.

- (2) *Technology Resources.* Does the proposal assure strength in technical personnel and programmatic resources, full-time staff, facilities, equipment, and linkages to external sources of technology to develop and transfer technologies related to NIST research results and expertise in relevant technical areas?
- (3) *Technology Delivery Mechanisms.* Does the proposal clearly and sharply define an effective methodology for delivering advanced manufacturing technology to target firms? Factors to consider include:
  - (a) Linkages or partnerships with third parties that will amplify the center's delivery of technology in the service region.
  - (b) Demonstrated effective strategy for amplifying the center's technology delivery approaches to achieve the proposed objectives, as described in Part 290.3(e).
- (4) *Management and Financial Plan.* Does the proposal define a management structure and assure management personnel to carry out development and operation of an effective center? Factors to consider include:
  - (a) Completeness and appropriateness of the organizational structure and its focus on the mission of the center, including assurance of a full-time top management structure.
  - (b) Effectiveness of the planned methodology of program management.
  - (c) Effectiveness of the planned continuous internal evaluation of center activities.
  - (d) Demonstrated stability and duration of the funding commitments; as well as the percentage of operating and capital costs guaranteed by the applicant, identification of matching fund sources; and evidence of the center's ability to become self-sustaining after six years.
  - (e) Suitability and focus of the first-year budget and six-year budget outline.

Based on our review, we concluded that the MEP criteria for evaluating applicants are designed to result in merit-based awards.

### **III. Solicitation Deficiencies Were Mitigated by Supplemental Mailing**

NIST published a "Notice of Availability of Funds" for the fiscal year 1996 MEP center competition in the *Federal Register*, Volume 61, Number 88, dated May 6, 1996. The notice

established a July 8, 1996, deadline for submission of proposals, and stated that recipients would be selected during September 1996. Upon examining the notice to determine whether it complied with the requirements established by DAO 203-26, Section 4.02b, and Financial Assistance Notice No. 17, Section .03, we found that it failed to do so. Specifically, the *Federal Register* notice failed to state the type of funding instrument planned (contract, grant, or cooperative agreement), and did not describe either the proposal review criteria or the selection procedures to be used. However, NIST mitigated the deficiencies in the *Federal Register* notice by distributing a supplemental information package to all 278 interested parties on MEP's mailing list.

The DAO and the Financial Assistance Notice both require solicitation notices for Department of Commerce discretionary funding programs to state the type of funding instrument planned. The Financial Assistance Notice further provides, "If cooperative agreement applications are being solicited, the notice should clearly indicate what type and the extent of substantial involvement the operating unit intends to have in the projects." Although all MEP center awards were established using cooperative agreements, the 1996 *Federal Register* notice did not state that cooperative agreements were planned or discuss the level of NIST involvement anticipated in the centers.

The *Federal Register* notice also failed to specify the proposal review criteria and award selection procedures, as required by the DAO and the Financial Assistance Notice. When asked about NIST's failure to state the review criteria and selection procedures, an MEP program official pointed out that the MEP Program Rule, 15 CFR, Part 290, clearly spells out the criteria and procedures. However, departmental guidance is clear that the solicitation notice must include the review criteria and a statement of the selection process. In fact, Financial Assistance Notice No. 17, Section .03b.7.(1), states, "The review criteria that will be used in evaluating and selecting applications for discretionary funding consideration *must be delineated*." (Emphasis added.) We believe that, at a minimum, NIST's MEP solicitation notice should have referred potential applicants to the specific sections in the program rule where the review criteria and selection process are described.

NIST provided several documents to the 278 interested parties on MEP's mailing list, including the *Proposal Guidelines and Information Package*, which stated that MEP center awards would involve cooperative agreements, contained a narrative description of the selection process, and provided details on each of the review criteria. In addition, interested parties also received copies of the MEP Program Rule, which described the process and criteria. Although we acknowledge that the information was available to individuals who requested it, we are still troubled by the fact that the solicitation notice failed to meet the Department's minimum requirements. Our concern proceeds from the possibility that parties who read the notice, but were not included on MEP's mailing list, did not receive complete information on the MEP selection process.

#### IV. MEP Implemented a Merit-Based Review Process

The MEP center review process is described in Part 290.7 of the MEP Program Rule. The process involves the following four phases.

- (1) *Proposal Qualification.* NIST reviews each proposal to determine whether the proposer is a qualified organization (i.e., non-profit) and the proposal complies with the published format and content requirements. Qualification guidelines are listed in Part 290.5.
- (2) *Proposal Review and Selection of Finalists.* The Director of NIST appoints evaluation panels to score and rank proposals, based on the criteria listed in Part 290.6. Subpanel recommendations are combined to develop a list of finalists.
- (3) *Finalist Site Visits.* NIST representatives will visit each finalist organization, allowing the finalists an opportunity to provide oral presentations and to answer any additional questions from the MEP staff. Scores are assigned using the review criteria listed in Part 290.6 and a list of recommended recipients is sent to the selecting official.
- (4) *Award Determination.* The selecting official, either the NIST Director or his designate, makes the final award selections based upon the rank order of applicants, the need to assure appropriate regional distribution, and the availability of funds.

NIST had \$20 million available for new awards under the fiscal year 1996 MEP center competition. In response to its *Federal Register* notice, NIST received 28 proposals, requesting about \$29.2 million in federal funding. DAO 203-26 requires that each proposal submitted in response to a competitive notice should be treated fairly and receive an independent, objective review, based on the published selection criteria. The DAO also requires that each proposal be reviewed by one or more review panels, each composed of at least three reviewers who need not be employees of the agency.

As mentioned in Section I (page 6), NIST developed *Source Selection Plans* for its 1995 and 1996 MEP competitions to plan and document the process. The Plans detail the roles of the various participants in the process, training requirements for review panel members, and specific steps that reviewers are to follow during each phase of the review and selection processes.

NIST established three review subpanels to perform the first two phases of the review process -- proposal qualification, and proposal review and selection of finalists. Two of the subpanels were each assigned 9 proposals for review, while the third subpanel was assigned 10. Each subpanel consisted of a chairperson and three evaluators. Subpanel members were MEP program staff, appointed by the chairperson of the Source Selection Evaluation Board (SSEB) (see below). The subpanels operated independently of each other, in accordance with procedures established in the *Source Selection Plan*. The plan required subpanels to perform qualification reviews on each proposal and then evaluate only those that met the minimum requirements. None of the 28 proposals were rejected in the proposal qualification phase, and all moved to the second phase--proposal review and selection of finalists. The flowchart in Appendix I, page 1 of 3, illustrates the subpanels' activities in the first two phases of the MEP center review process.

The three subpanels reviewed their assigned proposals using review criteria contained in Part 290.6 of the MEP Program Rule. After evaluating and scoring each proposal, the subpanels independently established threshold scores. The thresholds were set so that proposals scoring

above each threshold had concerns or questions that could be resolved through more detailed review and site visit interviews, while proposals scoring below the threshold contained serious flaws that could not be resolved through more detailed review or contact with the proposing organization.

The three subpanels rejected 7 of the original 28 proposals as having review scores below the necessary thresholds, and forwarded the remaining 21 proposals to the SSEB for further consideration.

NIST established the SSEB to evaluate all proposals forwarded by the subpanels. The SSEB included a chairperson and seven MEP program personnel. The *Source Selection Plan* designated the MEP Associate Director for Regional Programs (Acting) as the SSEB chairperson, who was responsible for appointing the remaining members. Appendix I, page 2 of 3, illustrates the activities of the SSEB.

In accordance with the *Source Selection Plan*, the SSEB reevaluated and scored all proposals forwarded by the subpanels, using the review criteria stated in the MEP Program Rule. After the review and scoring, the SSEB determined a threshold score, below which proposals were rejected, and above which proposals were selected for site visit interviews. At this point, another 3 proposals were rejected, leaving 18 for the third phase in the selection process—finalist site visits.

In the finalist site visit phase, each remaining applicant was invited to travel to NIST to provide a presentation and answer any additional questions posed by the SSEB. NIST telephoned each applicant approximately two weeks before its tentative visit date. NIST staggered the phone calls to permit each applicant approximately the same amount of time to prepare for the site visit. Immediately after the phone calls, NIST mailed site visit instructions and a list of questions to each applicant, and allowed the applicants to submit written responses to the questions before the site visit.

NIST assigned individual SSEB members to act as facilitators for each site visit interview. The facilitators were also responsible for collecting the remaining SSEB members' comments and preparing a site visit summary report. NIST allotted each applicant 2½ hours for its presentation and questioning. After the site visit, each applicant was allowed three business days to revise its written submission, based on input or additional questions from the SSEB.

After receiving all revised written submissions, the SSEB computed a final score and ranking for each applicant. The score was again based on the equally-weighted review criteria published in Section 290.6 of the MEP Program Rule. The SSEB recommended that all 18 of the finalist proposals be selected for funding under the 1996 MEP center competition. The total first-year funding requested by the 18 recommended proposals was just under \$19.7 million.

Based on our audit, we concluded that the MEP process for reviewing applications resulted in merit-based evaluations. However, while NIST followed the required review procedures for the 1996 MEP center competition, all proposal reviewers were members of the MEP program staff.



To enhance the independence and objectivity of any future MEP center competitions, NIST should invite reviewers from outside NIST and the Department to participate in the review process.

We note that MEP includes private experts on the panels that perform reviews of existing centers during their third and sixth years of operation. (See Section VI, page 13.) NIST's use of private experts ensures independence in the review process. While NIST did not violate departmental guidance by using only NIST employees on MEP proposal review panels, we believe that the use of knowledgeable reviewers from outside NIST and the Department would provide an independent perspective that would enhance the objectivity of any future MEP center competitions.

#### V. MEP Selections Were Proper

The fourth and final phase of the MEP center selection process is award determination. The MEP Program Director was the designated selecting official for the 1996 MEP center competition. The *Source Selection Plan* states that the selecting official is responsible for approving the SSEB's recommendations. The selecting official concurred with the SSEB's recommendation to fund all 18 applicants that completed site visits. The selecting official's activities are illustrated in Appendix I, page 3 of 3.

In summary, NIST conducted its 1996 MEP center competition in accordance with applicable statutory, departmental, and NIST requirements. The reviewers correctly applied the review criteria published in Part 290.6 of the rule. Based on NIST's application of adequate solicitation, review, and selection procedures and practices for the 1996 MEP center competition, we found NIST's selections to be merit-based.

#### VI. Award Renewal Procedures Are Adequate

During fiscal year 1997, NIST processed 55 award renewal actions, totaling about \$79.5 million. Federal statute, 15 U.S.C., Section 278k(c)(5), established requirements for NIST to follow in assessing whether existing MEP centers should continue to receive federal funding. NIST implemented these requirements in the MEP Program Rule. The statute and the MEP Program Rule both require NIST to perform periodic reviews of MEP centers and to use the results of these reviews as the basis for continued federal funding. Part 290.8(b), "Annual Reviews of Centers," states, "Centers will be reviewed annually as part of the funding renewal process using the criteria set out in (Part) 290.8(d). The funding level at which a center is renewed is contingent upon a positive program evaluation ..." Part 290.8(c), "Third Year Review of Centers," requires the Secretary of Commerce to form merit review panels to review and report on the performance of MEP centers during their third year under the program. The rule states that centers must demonstrate that they are making progress toward self-sufficiency and receive a third-year evaluation that is positive on all grounds in order to receive continued funding. Part 290.8(c) also specifies that third-year program reviews are to be performed by panels composed of federal officials and "... private experts, none of whom shall be connected with the center."

NIST's periodic reviews of MEP center performance have resulted in three centers being terminated due to unsatisfactory performance—one in 1994 and two in 1995. NIST selected new recipients in the respective geographic areas of the three terminated centers through its regular MEP center competition processes in 1994, 1995, and 1996.

The MEP Program Rule also specifies, in Part 290.4, "Terms and Schedule of Financial Assistance," maximum federal cost-sharing ratios for renewal actions. MEP centers may receive federal reimbursement for up to 50 percent of total allowable project costs during each of the first three program years. The maximum federal share is 40 percent for the fourth year, and 33 percent for years five and six. Under the original authorizing legislation, federal funding of individual MEP centers was limited to six years. Subsequent legislation allowed MEP to continue funding centers beyond the original six-year limit, at a continued federal participation level of 33 percent.

NIST's authority to extend centers beyond the six-year limit has been granted on a year-to-year basis in the Department's annual appropriation legislation. The authority also specified that continued funding beyond the sixth year is subject to a review of the respective center's performance and to a finding by the Secretary of Commerce that providing continued federal funding to the center is in the best interest of the MEP program. To receive continued funding, each center must also have submitted a reapplication, which must successfully pass merit review.

NIST realized that it had to develop supplemental review procedures, beyond those included in the Program Rule, to fulfill the evaluation requirement of the extended MEP funding authority. Although NIST's supplemental procedures have been approved by OMB, they have not been incorporated into the MEP Program Rule because of the year-to-year status of the extended authority. NIST would like permanent authority to continue funding centers for more than six years. If NIST does receive such permanent authority, it will formally incorporate review procedures for years seven and beyond into the Program Rule.

NIST's supplemental review procedures for years seven and beyond include a reapplication for a two-year extension after the sixth year. The reapplication is reviewed by an outside panel, similar to the third-year panel review required under Part 290.8(c) of the Program Rule. If NIST receives authority to continue extending center funding, it plans to require reapplications, including outside panel reviews, every two years.

We believe that NIST's procedures for reviewing existing MEP centers and renewing awards provide a sound basis for making funding decisions. The termination and recompetition of three center awards indicates that the review procedures are effective in identifying poorly-performing centers. Finally, we note that NIST, as required by statute, used outside experts as a means to ensure the independence and objectivity of MEP center evaluations.

## **VII. Award Renewals Were Improperly Categorized**

NIST reported an incorrect CFDA category code number to OEAM for certain MEP award actions in fiscal year 1997. As a result of incorrect reporting, data maintained by OEAM

inaccurately portrays the number and dollar value of MEP award actions. OMB Circular A-89 requires agencies to track data on approved federal domestic assistance programs. Obviously, these data should accurately summarize actual activity.

NIST processed 55 MEP cooperative agreement actions during fiscal year 1997, totaling almost \$79.5 million in federal funding. These figures are based on data provided by the program office. However, according to OEAM, there were only 43 awards, for a total of about \$59.9 million, under the MEP CFDA code -- #11.611. The result is an underreporting by OEAM of 12 awards and \$19.6 million in 1997 MEP funding.

According to the NIST Grants Office, the remaining MEP awards were categorized under another CFDA code -- #11.609 -- which NIST uses as a catch-all category for financial assistance awards that do not fit under any of its four other CFDA categories. The Grants Office stated that the awards in question involve money transferred to NIST by the Department of Defense's Technology Reinvestment Program. Without providing a reason for this decision, the Grants Office stated that renewals of MEP awards, using funds from the Technology Reinvestment Program, were categorized under CFDA #11.609.

The Department's Office of General Counsel also noticed that NIST was reporting MEP award actions under CFDA #11.609. A representative from the Office of General Counsel advised NIST to report all future MEP award actions under CFDA #11.611. We concur with Counsel's advice to NIST.

### VIII. Recommendations

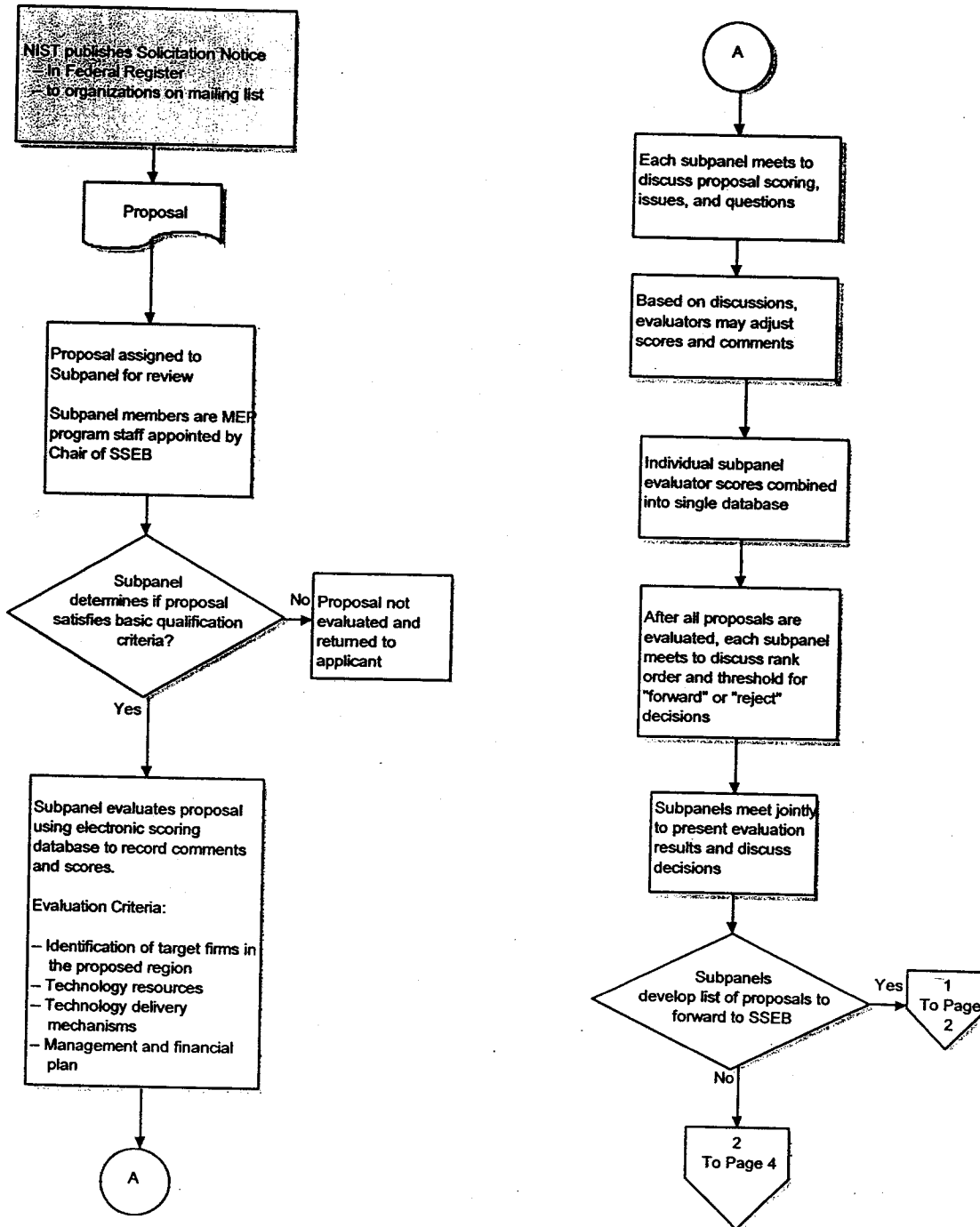
We recommend that the NIST Director ensure that:

- Any future MEP center solicitation notices meet the minimum requirements established by departmental guidance.
- MEP invites participants from outside NIST and the Department to serve as proposal reviewers in order to enhance the objectivity of the selection process for any future MEP center competition.
- Award renewals are correctly reported under the appropriate CFDA number.

### NIST's Response to the Draft Audit Report

NIST agreed with the findings and recommendations in our report. NIST will ensure that any future MEP center solicitations comply with the minimum requirements, will involve outside proposals reviewers, and will report the proper CFDA category number on all future MEP award actions. In its response, NIST also provided additional information in an effort to explain the noted deficiencies. NIST's response is included in its entirety as Appendix II.

### NIST PROCEDURES FOR SOLICITATION, REVIEW AND SELECTION OF AWARDS

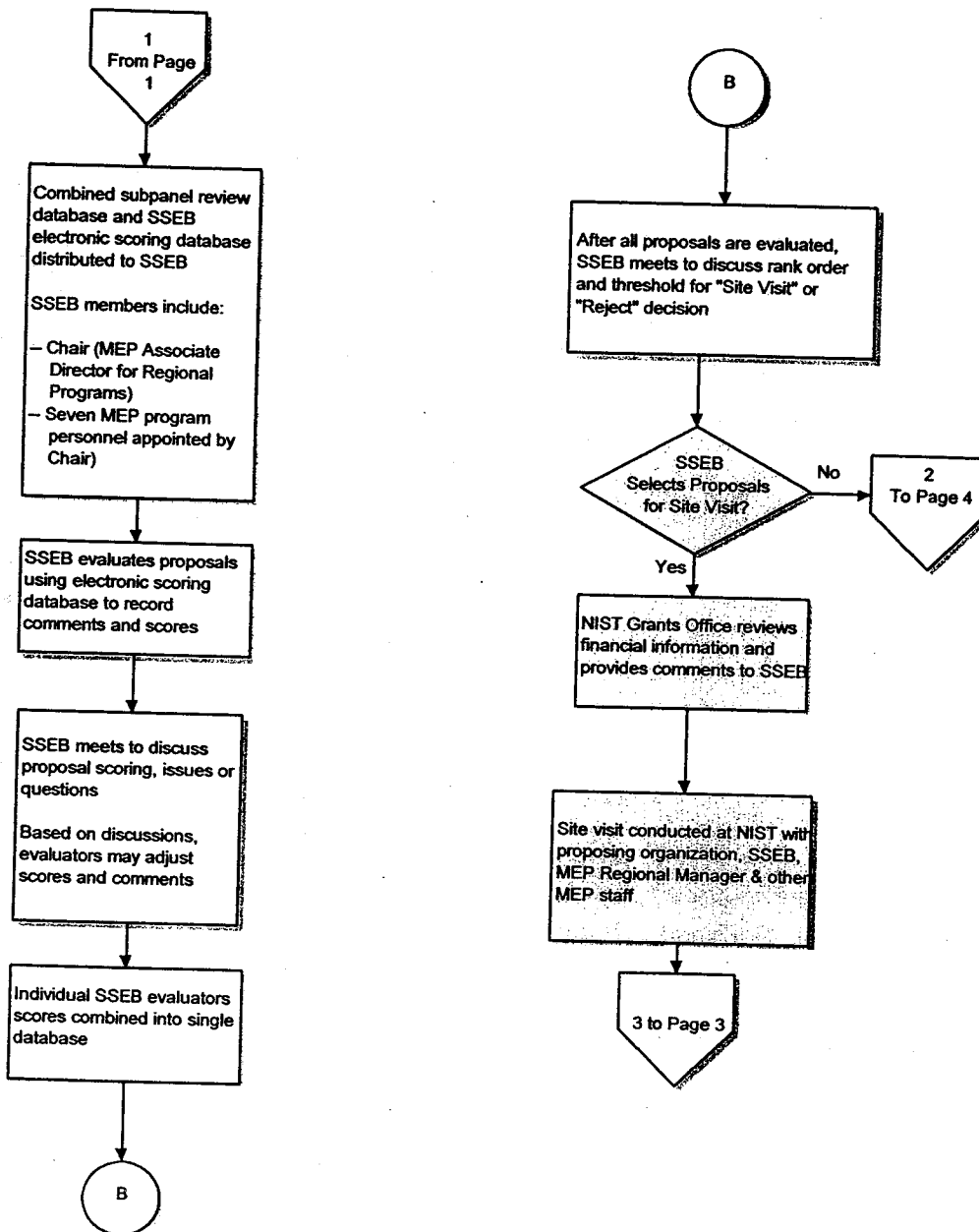


Solicitation Process

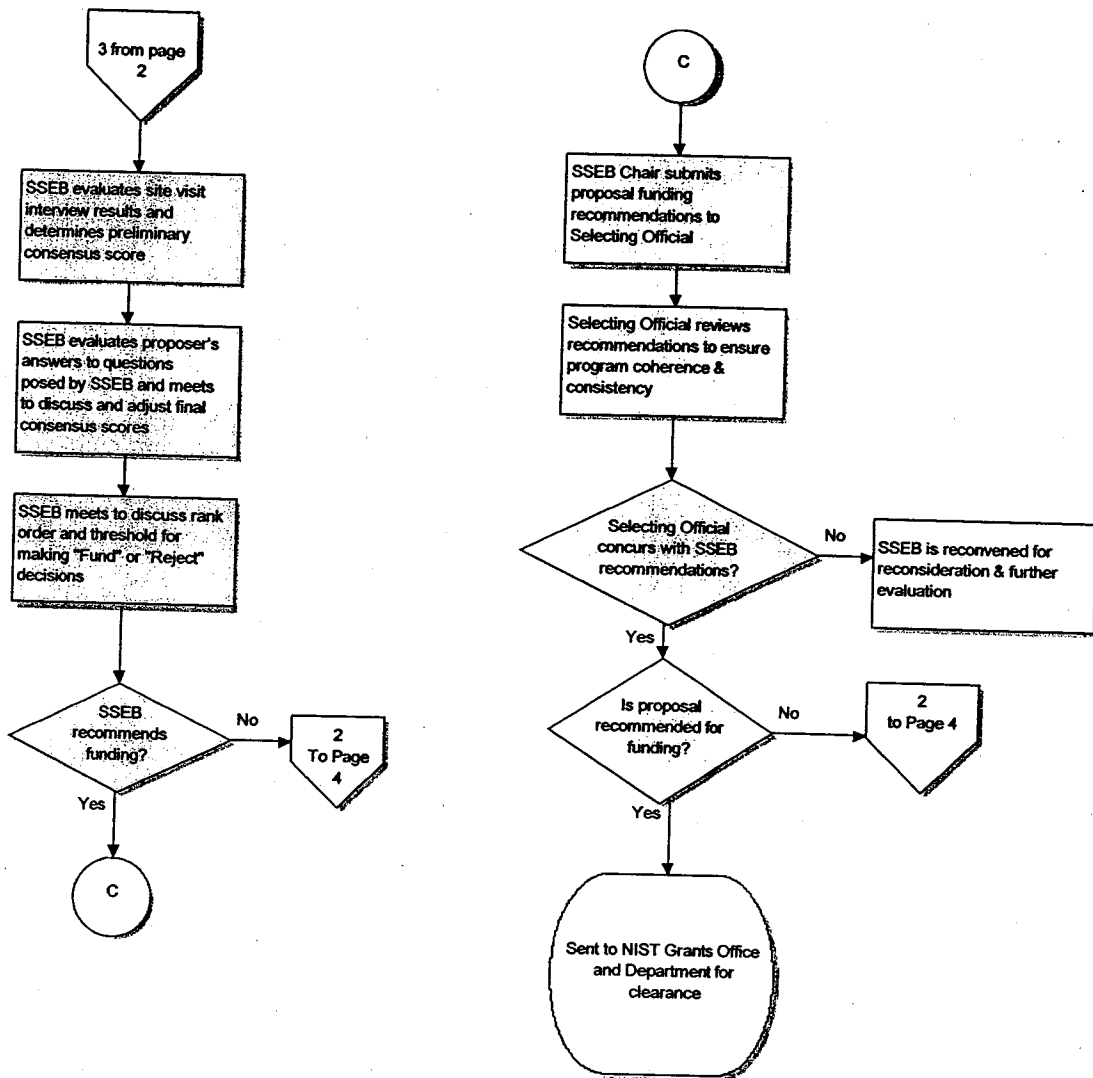
Review Process

Selection Process

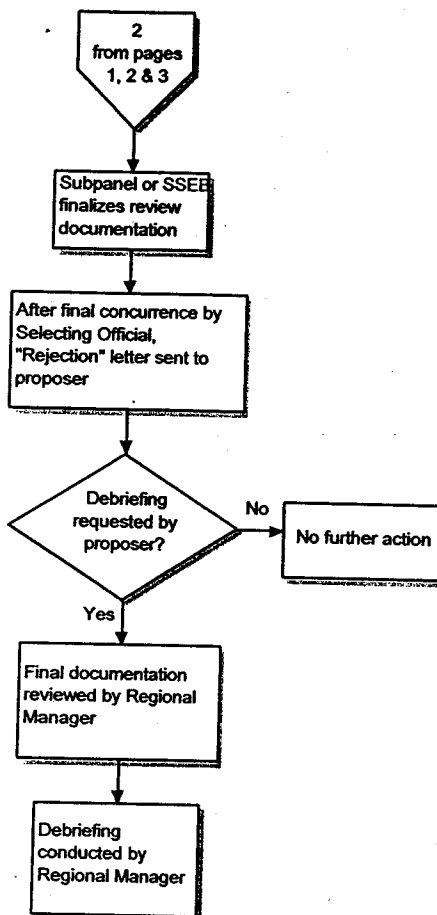
Appendix I  
Page 2 of 4



Appendix I  
Page 3 of 4



Appendix I  
Page 4 of 4





UNITED STATES DEPARTMENT OF COMMERCE  
National Institute of Standards and Technology  
Gaithersburg, Maryland 20899

MAR 17 1999

MEMORANDUM FOR George E. Ross

Assistant Inspector General for Auditing

From:

Kevin Carr  
Director

*Roger Kilmer for*  
Manufacturing Extension Partnership Program

Subject:

Response to Draft Audit Report No. DEN-10959-9-XXXX

The Manufacturing Extension Partnership (MEP) has reviewed the above referenced draft audit report titled, "Manufacturing Extension Partnership Program Awards Were Merit-Based – CFDA No. 11.611." Below are the MEP responses to the three recommendations cited in the report.

1) Brief Statement of Recommendation and Findings:

*"Any future MEP center solicitation notices meet the minimum requirements established by departmental guidance."*

The audit report states that some required information was not included in the fiscal year 1996 MEP center competition "Notice of Availability of Funds" published in the Federal Register, Volume 61, Number 88, dated May 6, 1996. Specifically, as required by DAO 203-26, Section 4.02b, and Financial Assistance Notice No. 17, Section .03, the Federal Register notice did not state the type of funding instrument planned (contract, grant, or cooperative agreement) and did not describe either the proposal review criteria or the selection procedures to be used.

MEP Response:

At the time the Federal Register notice was being prepared for this competition, there was increased scrutiny of such notices in an effort to reduce the number of Federal Government regulations. MEP was advised to minimize the amount of information included in the notice in order to avoid it being misconstrued as new or additional regulations. Thus, information on the funding instrument, criteria, and selection procedures, which had originally been included in the notice [similar to the FY 1995 competition notice - Federal Register, Volume 60, Number 108, pages 29827-29830, dated June 6, 1995], was removed prior to final publication. A description of the funding instrument, criteria, and selection procedures was



included in the "information packets" available from NIST as referenced in the May 6, 1996 Federal Register notice. In addition to specific requests, these packets were sent to organizations on a MEP-maintained mailing list of potential proposers.

MEP concurs with this recommendation. Future Federal Register notices will comply with all requirements established by DAO 203-26, Section 4.02b, and Financial Assistance Notice No. 17, Section .03.

2) Brief Statement of Recommendation and Findings:

*"MEP invites participants from outside NIST and the Department to serve as proposal reviewers in order to enhance the objectivity of the selection process for any future MEP center competition."*

The audit report states that NIST did follow required review procedures resulting in merit-based evaluations of proposals for the 1996 center competition, however, all reviewers were members of the MEP program staff.

MEP Response:

Other than the original 7 centers, at the time of this competition all other MEP centers were less than three years old and the vast majority were still going through the early phases of start-up. As such, there was not an extensive pool of individuals that had the depth and breadth of knowledge and experience necessary to perform these reviews, other than the MEP program staff. An additional issue was that many of the external experts, that had the knowledge and experience, were affiliated with and/or assisting organizations that were submitting proposals to the competition. This created an obvious conflict of interest, prohibiting them from serving on the review panels.

Today, this is no longer the case. MEP and manufacturing extension centers are well known and there is a much larger number of external experts qualified to review and evaluate proposals. In part, this is due to the expanded number of third and sixth year external panel reviews of MEP centers that have been conducted using panel members outside of NIST and the Department. These panelists have received training from MEP and have gained invaluable experience from examining and evaluating centers in these reviews.

MEP concurs with this recommendation. For all future center competitions, non-MEP experts will serve as proposal reviewers. In fact over the past several years, non-MEP proposal reviewers have been used for evaluating proposals submitted to competitions for awards for both environmental and workforce projects.

3) Brief Statement of Recommendation and Findings:

*"Award renewals are correctly reported under the appropriate CFDA number."*

The audit report states that NIST reported incorrect Catalog of Federal Domestic Assistance (CFDA) numbers on some of the center renewal awards.

MEP Response:

The incorrect CFDA number occurred when centers, that had originally been selected and funded through the Department of Defense Technology Reinvestment Project (TRP), were reviewed and then renewed under MEP funding. Under the original TRP awards, the CFDA Number 11.609 was used. When these centers were renewed using MEP funds, the same CFDA number was used rather than the MEP number, 11.611.

MEP concurs with this recommendation. As stated in the audit report, the Office of the Inspector General and Department of Commerce Office of General Counsel have discussed this issue with the NIST Grants Office, which is responsible for assigning the CFDA number. The correct number (11.611) will be used for all future center renewals.

cc: R. Kammer