

DEPARTMENT OF COMMERCE**National Telecommunications and Information Administration**

[Docket No. 000410097-2225-06]

[RIN 0660-ZA11]

Public Telecommunications Facilities Program: Closing Date

AGENCY: National Telecommunications and Information Administration (NTIA), Commerce.

ACTION: Notice of Closing Date for Solicitation of Television Applications.

SUMMARY: Subject to the availability of fiscal year (FY) 2003 funds, the National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce, announces the solicitation of applications for planning and construction grants for public television facilities under the Public Telecommunications Facilities Program (PTFP).

DATES: Pursuant to 15 CFR 2301.8(b), the NTIA Administrator hereby establishes the following closing date for the filing of television applications for PTFP grants. The closing date selected for the submission of all television applications for FY 2003 is Tuesday, November 19, 2002. Applications must be received prior to 6 p.m. Tuesday, November 19, 2002. Applications submitted by facsimile or electronic means are not acceptable.

ADDRESSES: Application materials may be obtained electronically via the Internet (<http://www.ntia.doc.gov/ptfp>). To obtain a printed application package, submit completed applications, or send any other correspondence, write to: NTIA/PTFP, Room H-4625, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: William Cooperman, Director, Public Broadcasting Division, telephone: (202) 482-5802; fax: (202) 482-2156. Information about the PTFP can also be obtained electronically via the Internet (<http://www.ntia.doc.gov/ptfp>).

SUPPLEMENTARY INFORMATION:**I. Closing Date**

In order to assist as many public television stations as possible in meeting the Federal Communications Commission (FCC) May 2003 deadline to begin digital broadcasting, NTIA announces that all television applicants for matching grants under the PTFP must file their applications on or before 6 p.m., Tuesday, November 19, 2002. Issuance of grants is subject to the

availability of FY 2003 funds. At this time, the Congress is considering the President's request to appropriate \$43.5 million for the PTFP. NTIA intends to divide any funds appropriated by the Congress into two parts. One portion of the appropriation will be set aside to fund television applications submitted in response to this Notice and radio and nonbroadcast applications submitted in response to a future Notice to be published by NTIA. A second portion of the appropriation will be set aside to fund additional phases of multi-phase projects initially funded in FY 2000, FY 2001 and FY 2002. At the appropriate time, notice will be published in the **Federal Register** about the final status of funding for the PTFP. In awarding grants, NTIA will strive to maintain an appropriate balance between traditional grants and those to stations converting to digital broadcasting. Information regarding digital television Broadcast Other projects is included in Section VII of this document. Section VII also describes revisions of the PTFP Rules which will be applicable for the FY 2003 Grant Round for television applications in the Broadcast Other category. The amount of any grants awarded by NTIA will vary, depending on the approved project. For FY 2002, NTIA awarded \$37.4 million in funds to 59 television projects. The television awards ranged from \$21,447 to \$1,800,000.

Any applications submitted in response to this Notice which are for radio or nonbroadcast projects will be returned to the applicant without review. Applications so returned may be resubmitted at the appropriate time pursuant to a future Notice establishing a closing date for radio and nonbroadcast applications. NTIA intends to publish a Notice announcing the closing date for receipt of radio and nonbroadcast applications at a later time and anticipates that the closing date for these applications will be after February 1, 2003.

All television applications will be reviewed as a group according to the Evaluation Process discussed in Section XI. Because of the FCC digital conversion deadline, NTIA anticipates that awards for television digital conversion applications submitted in response to this Notice will be issued during the second quarter of FY 2003 (January-March 2003). Applications submitted for television replacement or signal extension projects will be awarded in the fourth quarter of FY 2003 (July-September 2003) and will compete with applications submitted in response to the future Notice

announcing a closing date for radio and nonbroadcast applications.

II. Application Forms

All applicants must use the official application form for the FY 2003 grant cycle. This form expires on October 31, 2003, and no previous versions of the form may be used. Each page of the application form has the expiration date of 10/31/2003 printed on the bottom line. To apply for a PTFP grant, an applicant must file an original and five copies of a timely and complete application on the application form. Applicants for television projects are requested to supply one additional copy of their application (an original and six copies), if this does not create a hardship on the applicant. The current application form is available on the Internet and will be provided to applicants as part of the application package upon request.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection displays a currently valid Office of Management and Budget (OMB) control number. The PTFP application form has been cleared under OMB control no. 0660-0003.

III. Authority

The Public Telecommunications Facilities Program is authorized by the Communications Act of 1934, as amended, 47 U.S.C. 390-393, 397-399(b).

IV. Catalog of Federal Domestic Assistance (CFDA)

CFDA No. 11.550, Public Telecommunications Facilities Program.

V. Regulations

The applicable Rules for the PTFP were published on November 8, 1996 (61 FR 57966). In accordance with provisions provided in 15 CFR part 2301, section 2301.26, certain requirements of the PTFP are modified in this Notice for FY 2003. Copies of the 1996 Rules are posted on the NTIA Internet site and NTIA will make printed copies available to applicants upon request. Parties interested in applying for financial assistance should refer to these rules and to the authorizing legislation (47 U.S.C. 390-393, 397-399b) for additional information on the program's goals and objectives, eligibility criteria, evaluation criteria, and other requirements.

Applicants sending applications must ensure that the carrier will be able to guarantee delivery of the application by the Closing Date and Time. Applicants should be aware that all material sent via the United States Postal Service (including "overnight" or "Express Mail") are subject to delivery delays due to increased mail security procedures at the Department of Commerce. NTIA *will not* accept applications posted on the Closing Date or later and received after the above deadline. However, if an application is received after the Closing Date due to (1) carrier error, when the carrier accepted the package with a guarantee for delivery by the Closing Date, or (2) significant weather delays or natural disasters, NTIA will, upon receipt of proper documentation, consider the application as having been received by the deadline.

Applicants submitting applications by hand delivery are notified that, due to security procedures in the Department of Commerce, all packages must be cleared by the Department's security office. Entrance to the Department of Commerce Building for security clearance is on the 15th Street side of the building. Applicants whose applications are not received by the deadline are hereby notified that their applications will not be considered in the current Grant Round and will be returned to the applicant. See 15 CFR 2301.8(c); but see also 15 CFR 2301.26. NTIA will also return any application which is substantially incomplete, or when the Agency finds that either the applicant or project is ineligible for funding under 15 CFR 2301.3 or 2301.4. The Agency will inform the applicant of the reason for the return of any application.

All persons and organizations on the PTFP's mailing list will be sent a notification of the FY 2003 Grant Round. Copies of the application forms, Final Rules, Closing Date notification and application guidelines will be available on the NTIA Internet site: www.ntia.doc.gov/ptfp. Those not on the mailing list or who desire a printed copy of these materials may obtain copies by contacting the PTFP at the telephone and fax numbers, at the Internet site, or at mailing address listed above. Prospective applicants should read the Final Rules carefully before submitting applications. Television applicants whose applications were deferred in FY 2002 will be mailed information regarding the reactivation of their applications. Applicants whose television projects were deferred from FY 2002 should carefully review Section VII. Television Broadcasting and Digital Conversion, regarding

policies which apply to the reactivation of their applications.

Indirect costs for *construction* applications are not supported by this program. The total dollar amount of the indirect costs proposed in a *planning* application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award.

VI. Radio Broadcasting

NTIA is not accepting applications for radio projects at this time and will publish a Notice in the **Federal Register** announcing a Closing Date for radio applications in the future. NTIA will take great care to ensure that its funding of radio applications reflects its responsibilities under 47 U.S.C. 393(c) that "a substantial amount" of each year's PTFP funds should be awarded to public radio.

VII. Television Broadcasting and Digital Conversion

The FCC's adoption of the Fifth Report and Order in April 1997 requires that all public television stations begin the broadcast of a digital signal by May 1, 2003.

This deadline is only seven months from the publication date of this Notice. In FY 2000, NTIA instituted several new policies regarding applications for projects to convert public television stations to digital transmission capability. NTIA believes that the policies worked well and have permitted PTFP to assist in the digital conversion of over 200 public television stations. These policies are being continued for the FY 2003 Grant Round and are included in full in this document.

NTIA recognizes that meeting the FCC's deadline is one of the greatest challenges facing America's public television stations. Over 350 stations must overcome both technical and financial challenges in order to complete conversion to digital broadcasting within the FCC's timetable.

In February, the Administration proposed an appropriation of \$43.5 million to the PTFP for FY 2003. This proposal is currently before the Congress. These funds would primarily be used to assist public television stations in meeting the FCC's deadline. While these sums are significant, NTIA anticipates that the majority of funds required to convert all the nation's public television stations will actually come from non-federal sources.

For FY 2002, NTIA awarded \$36.2 million in funds to 52 projects which assisted public television stations in the

conversion to digital technologies. The awards ranged from \$21,447 to \$1,800,000 to assist in the digital conversion of 97 public television stations.

NTIA has considered how best to distribute digital conversion funds to public television stations through the PTFP. One of NTIA's goals during the FY 2003 Grant Round is to ensure that PTFP's administrative procedures as well as its funds can support public television's needs in meeting the FCC's deadline. Another of NTIA's goals is to maintain an acceptable balance between equipment replacement projects and digital television conversion projects.

NTIA is continuing the following policies/procedures instituted during the FY 2000 grant cycle which will assist public television stations in the application for and use of PTFP funds for digital conversion projects.

These policies/procedures are summarized here and then are discussed fully in parts A through G later in this section.

(A) Digital Television Conversion Projects and Digital Equipment Replacement

NTIA has established a "Digital TV List" which includes the equipment eligible for PTFP funding under the Broadcast Other category. NTIA will also use the "Digital TV List" for most television equipment replacement projects and will modify the way it views television replacement applications.

(B) Multi-Year Funding

NTIA will accept applications under the Broadcast Other category for phased projects requesting funding for up to three years and which are intended to enable all of the applicant's public television stations to meet the FCC's digital broadcasting deadline.

(C) Effective Date for Expenditure of Local Matching Funds

Applicants for digital conversion projects in the Broadcast Other category may include eligible equipment from the Digital TV List in their projects when that equipment is purchased with non-federal funds after July 1, 1999.

(D) Subpriorities for Digital Conversion Projects

NTIA is creating three Subpriorities to aid in the processing of digital conversion applications.

(E) Funding Levels for Television Projects

NTIA has revised the presumption of funding from 50% Federal share for

most television projects to 40%. For digital television conversion applications, NTIA has established simplified procedures so stations can qualify for hardship grants up to a 67% Federal share, and will provide incentives for applicants who request only 25% Federal funding.

(F) Use of CPB Funds

Applicants may use CPB funds as part of their local non-federal match in cases of clear and compelling need.

(G) Partnerships; Urgency

NTIA encourages partnerships with commercial as well as noncommercial organizations and clarifies its consideration of urgency for digital conversion applications. NTIA believes that digital conversion applications should be afforded high urgency when they document time-sensitive partnerships, time-sensitive funding opportunities, or which include the replacement of equipment required to maintain existing service.

NTIA intends to remain responsive to the equipment replacement needs of public television stations. NTIA's balancing of equipment replacement and digital conversion applications is discussed in the following sections.

In order to assist public television stations in meeting the FCC's deadline and to facilitate a station's raising non-federal matching funds required for digital conversion projects, NTIA is modifying its application procedures in the following areas.

(A) Digital Television Conversion Projects and Digital Equipment Replacement

For FY 2003, NTIA will support the equipment necessary for a public television station to comply with the FCC's deadline. This includes equipment required for digital broadcast of programs produced locally in analog format as well as the broadcast of digital programming received from national sources. NTIA is posting on its Internet site a listing of transmission and distribution equipment (as contained in the "Digital TV List") which is eligible for PTFP digital television conversion funding. Printed copies of this list are also available from PTFP at the address shown in the **ADDRESSES** section of this document. This list was developed in conjunction with the Public Broadcasting Service and is similar to equipment lists PTFP used during last year's Grant Round. The Digital TV List includes transmission equipment (transmitters, antennas, STLs, towers, etc.) as well as distribution equipment located in a station's master control

(routing switchers, video servers, PSIP generators, digital encoders, etc.). Applications seeking funding for the equipment necessary to meet the FCC's deadline will be placed in the Broadcast Other category.

NTIA believes that many stations must replace obsolete equipment in order to complete their digital conversion projects. NTIA is continuing its revised policies to permit the replacement of obsolete equipment as part of digital conversion projects. If the conversion to digital transmission includes the urgent replacement of an existing item of equipment, the application will be considered as a Broadcast Other, rather than as replacement under Priorities 2 or 4. Replacement of existing equipment then is a normal part of a digital conversion application.

If the purpose of an application is just for replacement of urgently needed equipment, even though the equipment is drawn from the Digital TV List, the application will be classified as a Priority 2 or 4, as appropriate.

Any application which includes equipment replacement as a justification for the urgency criterion should submit documentation of downtime or other evidence in support of the urgency evaluation criterion as contained in § 2301.17 of the PTFP Final Rules. The need to replace current equipment in order to maintain existing services will, in many cases, strengthen the urgency criterion of a digital conversion application.

Because of the requirement that all public television stations begin digital broadcasts, all public television applications, whether submitted for Priority 2, Priority 4 or the Broadcast Other category, should include the station's comprehensive plan for digital conversion to meet the FCC's deadline and explain how the requested equipment is consistent with that plan. If the applicant is still developing its plan for digital conversion, the application should address how the requested equipment will be consistent with the overall objective of converting the facility for digital broadcasting. Failure to provide detailed information on the applicant's proposed or existing digital conversion plan will place a television application at a competitive disadvantage during the evaluation of the technical qualification criterion as described in 15 CFR 2301.17 of the PTFP Rules.

NTIA calls applicants' attention to the fact that television production equipment is not included on the Digital TV List but will be found on other equipment lists posted on the NTIA

Internet site or available from NTIA by mail. NTIA notes that while a television station must use digital transmission and distribution equipment to begin digital broadcasting, digital production equipment is not required to meet the FCC's deadline. As the FCC deadline approaches, NTIA has reluctantly concluded that, with the funds available to it in FY 2003, it cannot fund television production equipment at the same level as it has prior to the institution of these new digital conversion policies in FY 2000. Television production equipment will continue to be eligible for PTFP funding under Priority 2 and Priority 4, as appropriate. However, for the FY 2003 Grant Round NTIA will fund television production equipment replacement applications only for those projects that present a "clear and compelling" case for the urgency of such replacement. NTIA anticipates funding television production replacement projects in FY 2003, though fewer than before this change in policy.

When making the final selection of awards under the procedures of § 2301.17, NTIA will take care to ensure that there is an acceptable balance between projects awarded for equipment replacement projects and those awarded for digital conversion projects. Further, NTIA will consider as part of this balance those stations in the Broadcast Other category (1) which request digital conversion projects and (2) which also include elements of equipment replacement. NTIA will not fund applications in the Broadcast Other category requesting digital conversion to the exclusion of those Broadcast Other applications which include documentation supporting equipment replacement as part of their urgency justification. Further, in making funding decisions for FY 2003, NTIA will limit its support of television replacement applications for production equipment to those applications which present a "clear and compelling" justification for funding during the current Grant Round.

A complete listing of equipment eligible for funding during the FY 2003 Grant Round is posted on the NTIA Internet site and printed copies are available from PTFP.

(B) Multi-Year Funding

NTIA anticipates that it will take many public television licensees several years to complete their digital conversion projects. The time required to complete a digital conversion project will be determined by several factors. In some instances, it will take a station several years to raise the local funds

required to complete the project. Even if a station has accumulated all the funds required for its digital conversion project, the technical complexity of some projects (such as the construction of a 1,000-foot tower) will probably require several years to complete. Finally, many public television licensees operate several stations and are, therefore, responsible for the conversion of multiple broadcast facilities.

NTIA recognizes that the construction period for many of these digital conversion projects must, of necessity, be longer than the typical one to two years of the usual PTFP grant. Further, NTIA acknowledges that, with the funds available for award, the PTFP would be unable to fully fund more than a few of the digital conversion applications it could receive in FY 2003.

Therefore, for FY 2003, the PTFP will accept construction applications within the Broadcast Other category for digital television conversion projects which propose multi-year funding. Because of the FCC's approaching deadline, NTIA encourages applicants for digital conversion projects to file multi-year applications. NTIA anticipates that, in the early years of a multi-year project, applicants will request dissemination equipment necessary to meet the FCC's digital transmission requirement. Applicants including non-dissemination equipment in FY 2003 as part of their multi-year application should justify their need.

Applicants may submit project plans and budgets for up to three years. A multi-year application must contain the applicant's entire digital conversion plan. The plan must be divided into severable phases, with a budget request for each phase of the project. The application must identify the Federal funds requested for each phase. Only one phase of the project will be funded in any grant cycle. Once a project is approved, applicants will not be required to compete each year for funding of subsequent phases. Funding of subsequent phases will be at the sole discretion of the Department of Commerce and will depend on satisfactory performance by the recipient and the availability of funds to support the continuation of the project(s).

Projections based on previous experience indicate availability of between \$10 million and \$20 million to support multi-year digital television projects in FY 2003. The exact level of funding available for multi-year awards will be determined by NTIA after a review of applications submitted for multi-year awards and those radio,

television and distance learning applications requesting a regular award.

NTIA believes that multi-year funding for digital television awards has significant benefits for both public television licensees and NTIA.

- Submission of a multi-year application particularly should help applicants which must convert multiple broadcast transmitters. NTIA understands that many stations have already begun to raise significant non-federal funds with which they can begin to implement their digital conversion plans. Upon submission of a multi-year application, an applicant could begin spending its local match—at its own risk. An applicant, therefore, might be able to complete a portion of its digital conversion project using its local non-federal funds for which Federal matching funds may not be available for several years. (For example, a future phase of a statewide project might be the conversion of two repeater stations; one might be constructed with available non-federal funds, the second constructed if Federal funds are received). Applicants are cautioned, however, that while expenditure of the local match is permitted, PTFP Rules (2301.6(d)) prohibit a grantee from obligating funds from the eventual Federal share of an award before a grant is actually awarded.

- NTIA believes that a multi-year award will reduce the administrative burden on both grantees and the PTFP. Grant recipients will submit only one application to cover the multiple years of their award, saving both the grantee and the PTFP the administrative tasks required to process applications during the annual Grant Round.

- Multi-year applications and awards will also assist both NTIA and public broadcasting licensees in the advance planning required to complete the conversion of almost 350 television facilities.

- By issuing multi-year grants, NTIA would be able to fund the initial phases of more digital conversion projects with the monies available in FY 2003 than if PTFP funded fewer entire digital conversion plans.

NTIA believes that multi-year funding through the Broadcast Other category also is appropriate for projects which include urgent replacement of equipment, since, as noted earlier, most television equipment replacement requests can be viewed as one phase of a station's conversion to digital broadcasting.

Applications which are reactivated for the FY 2003 Grant Round must comply with the guidelines included in this notice, including the funding levels for

television projects discussed later in this document.

Applicants submitting projects for consideration under the Broadcast Other category have a choice and may request either multi-year funding or a single-year grant. However, applications submitted for consideration under Priority 2 or Priority 4 may only request a single-year grant for a project, as in the past.

(C) Effective Date for Expenditure of Local Matching Funds for Digital Conversion Projects

NTIA recognizes that many public television stations have begun to raise significant non-federal funds for their digital conversion projects. State or local governments may have appropriated funds to initiate digital conversion projects that, by local law, must be expended during the fiscal year in which they are awarded. Public television licensees that have raised significant non-federal funds may desire to take advantage of unique opportunities (such as partnering with other stations to share broadcast antennas or towers). Some stations may be anxious to begin digital conversion projects with long lead times for completion, or may desire to begin digital broadcasting on the same timetable as commercial stations in their market. Within the limitations of Federal regulations, NTIA supports efforts undertaken by public television stations which bring the benefits of digital television broadcasting to their communities as quickly as possible.

In order to facilitate the raising of non-federal funds for digital television projects and to also permit stations to begin construction of their digital facilities as soon as possible, NTIA is revising section § 2301.6(b)(2) of the PTFP Final Rules. This section states that "Inclusion of equipment purchased prior to the closing date will be considered on a case-by-case basis only when clear and compelling justification is provided to PTFP."

NTIA will publish a final rule shortly to modify § 2301.6(b)(2) to state the following: If eligible equipment for a Broadcast Other project was purchased with non-federal funds after July 1, 1999, NTIA will permit the applicant to include this equipment in a PTFP application. This date was selected to coincide with the beginning of the 2000 fiscal year used by many state and local governments and was announced at the beginning of this digital television conversion initiative in the Notice of Availability of Funds for the FY 2000 PTFP grant cycle (64 FR 72225-72234). NTIA also anticipates that July 1, 1999

will be the effective date in the FY 2004 and FY 2005 Grant Rounds for the expenditure of non-federal funds for projects in the Broadcast Other category. Applicants who desire to use equipment purchased prior to July 1, 1999 as part of their local match must submit a "clear and compelling justification" supporting their request.

(D) Subpriorities for Digital Conversion Projects

As almost 350 public television stations are required to convert to digital broadcasting, NTIA anticipates a significant increase in the number of applications in the Broadcast Other category for digital conversion projects. In order to process these applications in an orderly manner and to provide guidance to potential applicants for the FY 2003 Grant Round, NTIA will divide the Broadcast Other category into three subpriorities; Broadcast Other—A; Broadcast Other—B, and Broadcast Other—C.

These three divisions are intended to reflect the priorities NTIA has used in the evaluation of traditional broadcast applications and to place a premium on projects either to assist stations providing sole service, to encourage cooperative efforts among different stations, or to support licensees facing the requirement to convert multiple transmission facilities in several television markets. NTIA notes that in the past it has been able to fund applications each year in most if not all of the five traditional broadcast Priorities and anticipates that it will be able to fund applications in FY 2003 in most if not all of the subpriorities under the Broadcast Other category.

NTIA will assign the following applications for conversion of public broadcasting facilities to advanced digital technologies at the first subpriority level within the Broadcast Other category. These applications will receive equal consideration as subpriority A.

- A single applicant providing the sole service in an area unserved by a digital public television signal. This reflects PTFP's funding priority for equipment replacement projects for sole service stations (PTFP Priority 2).
- Cooperative applications by two or more licensees for the first digital public television service to an area. This is intended to encourage cooperation and efficiencies among stations in overlap markets (as listed by CPB) in constructing digital facilities. It would provide stations in overlap markets the opportunity, if they work collaboratively, to be

eligible for the highest priority in funding within this category.

- A statewide staged plan for the conversion of multiple stations, whether a state network, or other appropriate statewide organization, or a staged plan from a licensee with stations in several markets. This is intended to encourage licensees that must convert multiple stations and also to encourage groups of stations to work collaboratively in developing a digital conversion project.

NTIA will assign the following applications for conversion of public broadcasting facilities to advanced digital technologies at the second subpriority level within the Broadcast Other category. These applications will receive equal consideration as subpriority B.

- An applicant in a multi-PTV station market providing first public television service in an area. An applicant in a multi-PTV station market who chooses to file separately, rather than in conjunction with another licensee in the same area, receives a second priority for funding.
- A cooperative application by two or more licensees in an area already served by a digital public television station. The application is given a priority over Broadcast Other—C to encourage efficiency and cooperation. Since this is not the first service in the area, it is given a second priority.

NTIA will assign the following applications for conversion of public broadcasting facilities to advanced digital technologies at the third subpriority level within the Broadcast Other category. These applications will receive equal consideration as subpriority C.

- Individual applicants proposing a second digital public television service in an area already receiving a digital public television signal. This reflects PTFP's funding priority for equipment replacement applications in served areas (Priority 4).
- All other public television digital conversion applications.

(E) Funding Levels for Television Projects

The policy for PTFP support of equipment replacement applications has long been the presumption of a 50% Federal share, although applicants are permitted to submit justification for a Federal grant of up to 75% of project costs. Those policies are contained in § 2301.6(b) of the PTFP Final Rules.

In reviewing the projected costs to convert all the public television stations

in the country, NTIA has concluded that it cannot continue its 50% presumption of Federal funding for television equipment replacement or digital conversion projects. At the same time, NTIA believes that many public television facilities will be unable to raise 50% of the project costs. A significant number of stations may need Federal funding of up to a 67% of a project's cost, or even up to the legal maximum of 75% of a project's cost, in order for them to meet the FCC's deadline.

In order to ensure that sufficient Federal funds are available to support the conversion of the nation's public television stations, NTIA is establishing a new policy regarding the presumed Federal funding level for television equipment. As noted earlier in this section, NTIA recognizes that equipment on the PTFP Digital TV List may be included in either Broadcast Other digital conversion applications or in Priority 2 or Priority 4 equipment replacement applications. In order to treat all applicants equitably, NTIA's new policy will be the presumption of a 40% Federal share of the eligible project costs for television equipment for digital conversion or equipment replacement, improvement or augmentation projects. This 40% presumption will apply whether the application requests consideration under the two equipment replacement priorities (Priority 2 or 4) or under the digital conversion category (Broadcast Other). As noted earlier, NTIA will fund the replacement of production equipment upon a showing of clear and compelling need. However, since the deadline for digital conversion is rapidly approaching and Federal funds are limited, NTIA will fund replacement of production equipment at the same level of Federal support as digital conversion or equipment replacement projects. The presumption of a 40% Federal share will extend to all television projects to replace or upgrade equipment. However, because of the emphasis NTIA places on the extension of broadcast services to unserved areas, NTIA has retained the 75% level of Federal funding applications proposing new television facilities in Priority 1 (§ 2301.4(b)(1)).

As already noted, NTIA recognizes that many small stations, primarily in rural areas, will be unable to raise even a 50% local share of the funds required for their PTFP projects. NTIA has long permitted stations to request more than the standard level of Federal support upon a showing of "extraordinary need" per § 2301.6(b)(ii) of the PTFP Rules. NTIA will permit applicants to qualify

for hardship funding and receive up to a 67% Federal share of their project costs. An applicant can qualify for up to a 67% Federal funding by certifying that it is unable to match at least 60% of the eligible project costs, and either (a) by providing documentation that its average annual cash revenue for the previous four years is \$2 million or less, or (b) by providing documentation that the eligible project costs are greater than the applicant's average annual cash revenue for the previous four years.

In addition, NTIA will continue to permit any applicant to provide justification that it has an "extraordinary need" for Federal funding up to the legal limit of 75% of eligible project costs.

In order to gather additional funds to award to stations which qualify under the hardship criteria, NTIA encourages financially able applicants to request a smaller share of Federal funds for digital equipment projects than the standard 40%. NTIA will add three additional points to the application evaluations from the independent review panel for applicants who request no more than 25% Federal funding. This provision will give extra credit to applications already highly reviewed, and, based on NTIA's previous experience, this extra credit is often sufficient to move highly rated applications into the range for funding.

However, when making the final selection of awards, NTIA will take care to ensure that there is an acceptable balance between projects awarded to stations requesting a 25% Federal share and those requesting a higher Federal share. NTIA will not fund applications requesting a 25% Federal share to the exclusion of applications meeting the hardship criteria or to the exclusion of those requesting the standard 40% Federal share.

(F) Use of CPB Funds

Under the PTFP Rules, NTIA has limited the use of CPB funds for the non-federal share of PTFP projects to circumstances of "clear and compelling need" (15 CFR 2301.6(c)(2)). NTIA recognizes that it will be difficult for many public television stations to raise the funds required to meet the FCC's digital broadcasting deadline. Therefore, NTIA continues its past policy that applicants may submit justification under this section for the use of CPB funds as part of their local match. Any request for the use of CPB funds must be accompanied by a statement regarding any limitations that CPB has placed on the expenditure of those funds.

(G) Partnerships, Urgency

As discussed earlier in this section, part (D) on New Subpriorities, NTIA encourages efforts which promote efficiency within the public television system in order to save both current conversion costs and future operating costs. NTIA, therefore, also encourages public television stations to partner with commercial entities when this is in the best interests of the public station and the Federal government. In cases of public television partnerships with commercial entities, the PTFP project will be limited to the public television station's ownership share or use rights in the equipment. NTIA believes that such partnerships with commercial organizations comply with current PTFP regulations and PTFP has funded several projects for joint use of towers and broadcast antennas.

The urgency of an application is one of the criteria under which all PTFP applications are evaluated. (The evaluation criteria are listed in § 2301.17 of the PTFP Rules). NTIA suggests that there are at least three situations in which Broadcast Other applications may present high degrees of urgency. As we have just noted, applications containing proposals for joint use/ownership partnerships with other organizations may demonstrate a high urgency due to a time-sensitive opportunity. NTIA encourages these applicants to document the time-sensitive nature of the partnership opportunity in their response to the urgency criterion.

NTIA also recognizes that some applicants may be presented with time-sensitive funding opportunities and, therefore, encourages these applicants to document the time-sensitive nature of these funding opportunities in their response to the urgency criterion. Finally, as already noted, NTIA expects that some applications will request urgent replacement of existing equipment as part of a Broadcast Other application. NTIA encourages such applicants to provide documentation of their need to replace their equipment during the current Grant Round. This documentation might include maintenance logs, letters from manufacturers, reports from independent engineers, photos, etc.

NTIA will instruct the panels evaluating the FY 2003 Broadcast Other applications that they should award the highest score under the urgency criterion to those applications which fully justify and document either (1) the time sensitive nature of partnerships, (2) the time sensitive nature of funding opportunities, or (3) the need for

equipment replacements that must be accomplished during this Grant Round in order to maintain existing services.

VIII. Distance Learning and Nonbroadcast Projects

NTIA is not accepting applications for nonbroadcast projects at this time and will publish a Notice in the **Federal Register** announcing a Closing Date for nonbroadcast applications in the future.

As discussed in Section VII of this document, NTIA anticipates that, in FY 2003, it will receive numerous digital conversion applications in the Broadcast/Other category. NTIA recognizes that, due to the multi-channel capability of digital television, distance learning components may well be a part of a digital conversion application. NTIA will, therefore, consider such broadcast distance learning proposals under the subpriorities established in Section VII. If NTIA determines that a broadcast distance learning project is not part of a digital conversion application, NTIA will evaluate the application pursuant to §§ 2301.4(b)(6) and 2301.17 when all television applications are evaluated for possible funding during the fourth quarter of FY 2003.

IX. Eligible and Ineligible Costs

Eligible equipment for the FY 2003 Grant Round includes the apparatus necessary for the production, interconnection, captioning, broadcast, or other distribution of programming, including but not limited to studio equipment; audio and video storage, processing, and switching equipment; terminal equipment; towers; antennas; transmitters; remote control equipment; transmission line; translators; microwave equipment; mobile equipment; satellite communications equipment; instructional television fixed service equipment; subsidiary communications authorization transmitting and receiving equipment; cable television equipment; and optical fiber communications equipment.

A complete listing of equipment eligible for funding during the FY 2003 Grant Round is posted on the NTIA Internet site and printed copies are available from PTFP.

Other Costs

(1) Construction Applications: NTIA generally will not fund salary expenses, including staff installation costs, and pre-application legal and engineering fees. Certain "pre-operational expenses" are eligible for funding. (See 15 CFR 2301.2.) Despite this provision, NTIA regards its primary mandate to be funding the acquisition of equipment

and only secondarily funding of salaries. A discussion of this issue appears in the PTFP Final Rules under the heading *Support for Salary Expenses* in the introductory section of the document.

(2) Planning Applications. (a) Eligible: Salaries are eligible expenses for all planning grant applications, but should be fully described and justified within the application. Planning grant applicants may lease office equipment, furniture and space, and may purchase expendable supplies under the terms of 47 U.S.C. 392 (c). (b) Ineligible: Planning grant applications cannot include the cost of constructing or operating a telecommunications facility.

(3) Audit Costs. Audits shall be performed in accordance with audit requirements contained in Office of Management and Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, revised June 30, 1997. OMB Circular A-133 requires that non-profit organizations, government agencies, Indian tribes and educational institutions expending \$300,000 or more in federal funds during a one-year period conduct a single audit in accordance with guidelines outlined in the circular. Applicants are reminded that other audits may be conducted by the Office of Inspector General.

NTIA recognizes that most of its grant recipients are divisions of state and local governments or are public broadcasting facilities, all of which routinely conduct annual audits. In order to make the maximum amount of monies available for equipment purchases and planning activities, NTIA will, therefore, fund audit costs only in exceptional circumstances.

X. Notice of Applications Received

In accordance with 15 CFR 2301.13, NTIA will publish a listing of all applications received by the Agency. The listing will be placed on the NTIA Internet site and NTIA also will make this information available by mail upon request. The address of the NTIA Internet site is: www.ntia.doc.gov/ptfp. Listing an application merely acknowledges receipt of an application to compete for funding with other applications. This listing does not preclude subsequent return of the application for the reasons discussed under the Dates section above, or disapproval of the application, nor does it assure that the application will be funded. The listing will also include a request for comments on the applications from any interested party.

XI. Evaluation Process

See 15 CFR 2301.16 for a description of the Technical Evaluation and 15 CFR 2301.17 for the Evaluation Criteria.

XII. Selection Process

Based upon the above cited evaluation criteria, the PTFP program staff prepares summary recommendations for the PTFP Director. These recommendations incorporate outside reviewers rankings and recommendations, engineering assessments, and input from the National Advisory Panel, State Single Point of Contacts and state telecommunications agencies. Staff recommendations also consider project impact, the cost/benefit of a project and whether review panels have consistently applied the evaluation criteria. The PTFP Director will consider the summary recommendations prepared by program staff, will recommend the funding order of the applications, and will present recommendations to the OTIA (Office of Telecommunications and Information Applications) Associate Administrator for review and approval of the recommended slate. The PTFP Director recommends the funding order for applications in three categories: "Recommended for Funding," "Recommended for Funding if Funds Available," and "Not Recommended for Funding." See 15 CFR 2301.18 for a description of the selection factors retained by the Director, OTIA Associate Administrator, and the Assistant Secretary for Communications and Information, the NTIA Administrator.

Upon review and approval by the OTIA Associate Administrator, the Director's recommendations will then be presented to the Selection Official, the NTIA Administrator. The NTIA Administrator selects the applications for possible grant award taking into consideration the Director's recommendations and the degree to which the slate of applications, taken as a whole, satisfies the program's stated purposes set forth at 15 CFR 2301.1(a) and (c). Prior to award, applications may be negotiated between PTFP staff and the applicant to resolve whatever differences might exist between the original request and what PTFP proposes to fund. Some applications may be dropped from the proposed slate due to lack of FCC licensing authority, an applicant's inability to make adequate assurances or certifications, or other reasons. Negotiation of an application does not ensure that a final award will be made. The PTFP Director recommends final selections to the

NTIA Administrator applying the same factors as listed in 15 CFR 2301.18. The Administrator then makes the final award selections taking into consideration the Director's recommendations and the degree to which the slate of applications, taken as a whole, satisfies the program's stated purposes in 15 CFR 2301.1(a) and (c).

XIII. Disposition of Unsuccessful Applications

PTFP will retain unsuccessful applications through the Closing Date of the FY 2004 grant cycle. Applicants may reactivate their unsuccessful applications pursuant to § 2301.9 of the PTFP Rules. Unsuccessful applications not reactivated by the Closing Date of the next grant cycle will be destroyed.

XIV. Project Period

Planning grant award periods customarily do not exceed one year, whereas construction grant award periods for grants in the five broadcast Priorities and nonbroadcast Special Applications category commonly range from one to two years. Phases of multi-year construction projects funded in the Broadcast Other category would commonly be awarded for a one to two year period with the expectation that subsequent phases would be funded dependent on the availability of Federal funds. Although these time frames are generally applied to the award of all PTFP grants, variances in project periods may be based on specific circumstances of an individual proposal.

XV. NTIA Policies on Procedural Matters

Based upon NTIA's experience during the PTFP 2002 Grant Round, NTIA has determined that it is in the best interest of NTIA and applicants to continue recent policies regarding three procedural matters. The following policies are applicable only to the FY 2003 PTFP Grant Round and resulting awards.

Applications Resulting From Catastrophic Damage or Emergency Situations

Section 2301.10 provides for submission of applications resulting from catastrophic damage or emergency situations. NTIA would like to clarify its implementation of this provision. While the intent of this Notice is to address FY 2003 television applications, applicants for radio or television projects may submit applications resulting from catastrophic damage or emergency situations.

For FY 2003 PTFP applicants, when an eligible broadcast applicant suffers catastrophic damage to the basic equipment essential to its continued operation as a result of a natural or manmade disaster, or as the result of significant equipment failure, and is in dire need of assistance in funding replacement of the damaged equipment, it may file an emergency application for PTFP funding at any time. NTIA limits this request to equipment essential to a station's continued operation such as transmitters, towers, antennas, STLs or similar equipment which, if the equipment failed, would result in a complete loss of service to the community.

When submitting an emergency application, the applicant should describe the circumstances that prompt the request and should provide appropriate supporting documentation. NTIA requires that applicants claiming significant failure of equipment will document the circumstances of the equipment failure and demonstrate that the equipment has been maintained in accordance with standard broadcast engineering practices.

NTIA will grant an award only if it determines that (1) the emergency satisfies this policy, and (2) the applicant either carried adequate insurance or had acceptable self-insurance coverage.

Applications filed and accepted for emergency applications must contain all of the information required by the Agency application materials and must be submitted in the number of copies specified by the Agency.

NTIA will evaluate the application according to the evaluation criteria set forth in § 2301.17(b). The PTFP Director takes into account program staff evaluations (including the outside reviewers) the availability of funds, the type of project and broadcast priorities set forth at § 2301.4(b), and whether the applicant has any current NTIA grants. The Director presents recommendations to the Office of Telecommunications and Information Applications (OTIA) Associate Administrator for review and approval. Upon approval by the OTIA Associate Administrator, the Director's recommendation will be presented to the Selecting Official, the NTIA Administrator. The NTIA Administrator makes final award selections taking into consideration the Director's recommendation and the degree to which the application fulfills the requirements for an emergency award and satisfies the program's stated purposes set forth at § 2301.1(a) and (c).

Service of Applications

FY 2003 PTFP applicants are not required to submit copies of their PTFP applications to the FCC, nor are they required to submit copies of the FCC transmittal cover letters as part of their PTFP applications. NTIA routinely notifies the FCC of projects submitted for funding which require FCC authorizations.

FY 2003 PTFP applicants for distance learning projects are not required to notify every state telecommunications agency in a potential service area. Many distance learning applications propose projects which are nationwide in nature. NTIA, therefore, believes that the requirement to provide a summary copy of the application in every state telecommunications agency in a potential service area is unduly burdensome to applicants. NTIA, however, does expect that distance learning applicants will notify the state telecommunications agencies in the states in which they are located.

FCC Authorizations

For the FY 2003 PTFP Grant Round, applicants may submit applications to the FCC after the closing date, but do so at their own risk. Applicants are urged to submit their FCC applications with as much time before the PTFP closing date as possible. No grant will be awarded for a project requiring FCC authorization until confirmation has been received by NTIA from the FCC that the necessary authorization will be issued.

For FY 2003 PTFP applications, since there is no potential for terrestrial interference with Ku-band satellite uplinks, grant applicants for Ku-band satellite uplinks may submit FCC applications after a PTFP award is made. Grant recipients for Ku-band satellite uplinks will be required to document receipt of FCC authorizations to operate the uplink prior to the release of Federal funds.

For FY 2003 PTFP applications, NTIA may accept FCC authorizations that are in the name of an organization other than the PTFP applicant in certain circumstances. Applicants requiring the use of FCC authorizations issued to another organization should discuss in the application Program Narrative why the FCC authorization must be in the other organization's name. NTIA believes that such circumstances will be rare and, in its experience, are usually limited to authorizations such as those for microwave interconnections or satellite uplinks.

As noted above, for FY 2003 PTFP applications, NTIA does not require that the FCC applications be filed by the

closing date. While NTIA is permitting submission of FCC applications after the closing date, applicants are reminded that they must continue to provide copies of FCC applications, as they were filed or will be filed, or equivalent engineering data, in the PTFP application so NTIA can properly evaluate the equipment request. These include applications for permits, construction permits and licenses already received for (1) construction of broadcast station, (including a digital broadcasting facility) or translator, (2) microwave facilities, (3) ITFS authorizations, (4) SCA authorizations, and (5) requests for extensions of time.

For those applicants whose projects require authorization by the FCC, information about FCC filing procedures can be found on the Internet at: www.fcc.gov.

XVI. Intergovernmental Review

Applicants should note that they must continue to comply with the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order requires applicants for financial assistance under this program to file a copy of their application with the Single Points of Contact (SPOC) of all states relevant to the project. Applicants are required to provide a copy of their completed application to the appropriate SPOC on or before the Closing Date. Applicants are encouraged to contact the appropriate SPOC well before their PTFP closing date. A listing of the state SPOC offices may be found with the PTFP application materials at the NTIA Internet site. A list of the SPOC offices is available from NTIA (see the **ADDRESSES** section above).

XVII. Other Requirements

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917), are applicable to this solicitation, unless stated otherwise in this notice. However, please note that the Department of Commerce will not implement the requirements of Executive Order 13202 (66 FR 49921), pursuant to guidance issued by the Office of Management and Budget in light of a court opinion which found that the Executive Order was not legally authorized. See *Building and Construction Trades Department v. Allbaugh*, 172 F. Supp. 2d 138 (D.D.C. 2001). This decision is currently on appeal. When the case is resolved, the Department will provide further

information on implementation of Executive Order 13202.

XVIII. Executive Order 12866

It has been determined that this notice is a “not significant” rule under Executive Order 12866.

XIX. Executive Order 13132

It has been determined that this notice does not contain policies with

Federalism implications as that term is defined in EO 13132.

XX. Regulatory Flexibility Analysis

Because notice and comment are not required under 5 U.S.C. 553, or any other law, for this notice related to public property, loans, grants, benefits or contracts, 5 U.S.C. 553(a), Regulatory Flexibility Analysis is not required and

has not been prepared for this notice. 5 U.S.C. 601 *et seq.*

Bernadette McGuire-Rivera,

Associate Administrator, Office of Telecommunications and Information Applications.

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