



State of West Virginia  
 Department of Administration  
 Purchasing Division  
 2019 Washington Street East  
 Post Office Box 50130  
 Charleston, WV 25305-0130

# Request for Quotation

RFQ NUMBER  
**EBA264**

PAGE  
**1**

ADDRESS CORRESPONDENCE TO ATTENTION OF  
**SHELLY MURRAY**  
**304-558-8801**

VENDOR

RFQ COPY  
 TYPE NAME/ADDRESS HERE

SHIP TO

WSWP-TV  
 AIRPORT ROAD  
 BECKLEY, WV  
 25801  
 255-1501

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B	FREIGHT TERMS
07/07/2010				

BID OPENING DATE: **07/20/2010** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
----- ADDENDUM NO. 2 -----						
THIS ADDENDUM IS ISSUED TO ADDRESS THE QUESTIONS SUBMITTED PRIOR TO THE QUESTION SUBMISSION DEADLINE OF 06/28/2010 AS ESTABLISHED IN ADDENDUM NO. 1.						
ATTACHMENTS: QUESTIONS AND RESPONSES						
0001	1	LS		946-20		
AUDITING SERVICES						
EXHIBIT 10						
REQUISITION NO.: EBA264						
ADDENDUM ACKNOWLEDGEMENT						
I HEREBY ACKNOWLEDGE RECEIPT OF THE FOLLOWING CHECKED ADDENDUM(S) AND HAVE MADE THE NECESSARY REVISIONS TO MY PROPOSAL, PLANS AND/OR SPECIFICATION, ETC.						
ADDENDUM NO.'S:						
NO. 1 .....						
NO. 2 .....						
NO. 3 .....						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS		
SIGNATURE	TELEPHONE	DATE
TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE

WHEN RESPONDING TO RFQ, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'

**GENERAL TERMS & CONDITIONS**  
**REQUEST FOR QUOTATION (RFQ) AND REQUEST FOR PROPOSAL (RFP)**

1. Awards will be made in the best interest of the State of West Virginia.
2. The State may accept or reject in part, or in whole, any bid.
3. Prior to any award, the apparent successful vendor must be properly registered with the Purchasing Division and have paid the required \$125 fee.\* ---
4. All services performed or goods delivered under State Purchase Order/Contracts are to be continued for the term of the Purchase Order/Contracts, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods this Purchase Order/Contract becomes void and of no effect after June 30.
5. Payment may only be made after the delivery and acceptance of goods or services.
6. Interest may be paid for late payment in accordance with the *West Virginia Code*.
7. Vendor preference will be granted upon written request in accordance with the *West Virginia Code*.
8. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
9. The Director of Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
10. The laws of the State of West Virginia and the *Legislative Rules* of the Purchasing Division shall govern the purchasing process.
11. Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon mutual written agreement of the parties.
12. **BANKRUPTCY:** In the event the vendor/contractor files for bankruptcy protection, the State may deem this contract null and void, and terminate such contract without further order.
13. **HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, is available online at [www.state.wv.us/admin/purchase/vrc/hipaa.htm](http://www.state.wv.us/admin/purchase/vrc/hipaa.htm) and is hereby made part of the agreement. Provided that the Agency meets the definition of a Cover Entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the vendor.
14. **CONFIDENTIALITY:** The vendor agrees that he or she will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/noticeConfidentiality.pdf>.
15. **LICENSING:** Vendors must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, and the West Virginia Insurance Commission. The vendor must provide all necessary releases to obtain information to enable the director or spending unit to verify that the vendor is licensed and in good standing with the above entities.
16. **ANTITRUST:** In submitting a bid to any agency for the State of West Virginia, the bidder offers and agrees that if the bid is accepted the bidder will convey, sell, assign or transfer to the State of West Virginia all rights, title and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to the bidder.

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, or person or entity submitting a bid for the same material, supplies, equipment or services and is in all respects fair and without collusion or Fraud. I further certify that I am authorized to sign the certification on behalf of the bidder or this bid.

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**INSTRUCTIONS TO BIDDERS**

1. Use the quotation forms provided by the Purchasing Division. Complete all sections of the quotation form.
2. Items offered must be in compliance with the specifications. Any deviation from the specifications must be clearly indicated by the bidder. Alternates offered by the bidder as **EQUAL** to the specifications must be clearly defined. A bidder offering an alternate should attach complete specifications and literature to the bid. The Purchasing Division may waive minor deviations to specifications.
3. Unit prices shall prevail in case of discrepancy. All quotations are considered F.O.B. destination unless alternate shipping terms are clearly identified in the quotation.
4. All quotations must be delivered by the bidder to the office listed below prior to the date and time of the bid opening. Failure of the bidder to deliver the quotations on time will result in bid disqualifications: Department of Administration, Purchasing Division, 2019 Washington Street East, P.O. Box 50130, Charleston, WV 25305-0130
5. Communication during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited (W.Va. C.S.R. §148-1-6.6).



State of West Virginia  
 Department of Administration  
 Purchasing Division  
 2019 Washington Street East  
 Post Office Box 50130  
 Charleston, WV 25305-0130

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DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
07/07/2010				

BID OPENING DATE: 07/20/2010 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
NO. 4						
NO. 5						
<p>I UNDERSTAND THAT FAILURE TO CONFIRM THE RECEIPT OF THE ADDENDUM(S) MAY BE CAUSE FOR REJECTION OF BIDS.</p> <p>VENDOR MUST CLEARLY UNDERSTAND THAT ANY VERBAL REPRESENTATION MADE OR ASSUMED TO BE MADE DURING ANY ORAL DISCUSSION HELD BETWEEN VENDOR'S REPRESENTATIVES AND ANY STATE PERSONNEL IS NOT BINDING. ONLY THE INFORMATION ISSUED IN WRITING AND ADDED TO THE SPECIFICATIONS BY AN OFFICIAL ADDENDUM IS BINDING.</p> <p>.....            SIGNATURE</p> <p>.....            COMPANY</p> <p>.....            DATE</p> <p>NOTE: THIS ADDENDUM ACKNOWLEDGEMENT SHOULD BE SUBMITTED WITH THE BID</p> <p>----- END OF ADDENDUM NO. 2 -----</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE	TELEPHONE	DATE
TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE

WHEN RESPONDING TO RFQ, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'

**EBA264**  
**Addendum No. 2**

**QUESTION:**

The EBA is required to file their Annual Financial Report (AFR) with the Corporation for Public Broadcasting (CPB). This is an electronic form on the CPB website and the successful auditor is required to provide an attestation opinion on the form's presentation per the RFQ. The form cannot be accessed on the CPB website without a login/password. Can the EBA provide a copy of the prior year form for review by prospective bidders?

**RESPONSE:**

See attachment 1. AFR's for Radio and Television.

**QUESTION:**

Have the Friends of WV Public Broadcasting, Inc. or the WV Public Broadcasting Foundation, Inc. filed a 990-T in prior years? If yes, for what years?

**RESPONSE:**

No.

**QUESTION:**

Does the EBA and Affiliates expect its total federal funds expended during the year ended June 30, 2010 to exceed \$500,000?

**RESPONSE:**

No.

**QUESTION:**

Could the EBA provide a copy of the Public Telecommunications Audit Guide referenced in the RFQ?

**RESPONSE:**

See attachment 2.

**QUESTION:**

Were any additional fees for audit, tax return preparation, or other services charged to the affiliated Friends of WV Public Broadcasting or the WV Public Broadcasting Foundation for prior years' services? Please provide the amount of audit, tax return preparation, and other fees charged to EBA, Friends, and the Foundation.

**RESPONSE:**

No additional charges.

**QUESTION:**

Are the financial records located in Charleston or Beckley? In which location was the audit performed last year?

**RESPONSE:**

Beckley offices.

## Attachment 1

Schedule A  
WVFN-FM (1662)  
Charleston, WV

**NFFS Excluded?**

If you have an NFFS Exclusion, please click the "NFFS X" button, and enter your NFFS data

<b>Source of Income</b>	<b>2008 data</b>	<b>2009 data</b>	<b>Revision</b>
<b>1 Amounts provided directly by federal government agencies</b>	\$10,000	\$70,757	\$
A PTFP (NTIA) Facilities Grants	\$0	\$70,757	\$
B. Department of Education	\$0	\$0	\$
C Department of Health and Human Services	\$0	\$0	\$
D. National Endowment for the Arts and Humanities	\$10,000	\$0	\$
Variance greater than 25%.			
E National Science Foundation	\$0	\$0	\$
F Other Federal Funds (specify)	\$0	\$0	\$
<b>2. Amounts provided by Public Broadcasting Entities (e.g. CPB, PBS, NPR, etc., including other stations and regional networks. See Guidelines for complete list )</b>	\$345,587	\$412,897	\$
A CPB - Community Service Grants (for radio enter unrestricted portion only)	\$241,998	\$257,252	\$
B CPB - Digital Project Grants	\$0	\$0	\$
C. CPB - Restricted portion of Radio Community Service Grants	\$0	\$0	\$
D CPB - TV Interconnection grants.	\$0	\$0	\$
E. CPB - all other funds	\$0	\$0	\$
F. PBS - all payments except copyright royalties and other pass-through payments. See Guidelines for details	\$0	\$0	\$
G. NPR - all payments except pass-through payments. See Guidelines for details.	\$0	\$152,881	\$
H Public broadcasting stations - all payments	\$0	\$2,764	\$
I Other PBE funds (specify)	\$103,589	\$0	\$
Variance greater than 25%.			
<b>3. Local boards and departments of education or other local government or agency sources</b>	\$0	\$0	\$
<b>4. State boards and departments of education or other state government or agency sources</b>	\$1,278,503	\$1,824,697	\$
Variance greater than 25%			
<b>5 State colleges and universities</b>	\$69,998	\$87,200	\$
<b>6 Other state-supported colleges and universities</b>	\$0	\$0	\$

7 Private colleges and universities		\$0	\$0	\$
8 Foundations and nonprofit associations		\$193,981	\$85,730	\$

	2008 data	2009 data	
8a. How much of this revenue was received as underwriting?	\$193,981	\$75,730	\$

Variance greater than 25%

9. Business and Industry		\$485,024	\$341,508	\$
9a. How much of this revenue was received as underwriting?		\$485,024	\$341,355	\$

Variance greater than 25%

10. Memberships and subscriptions (net of write-offs)		\$680,156	\$672,217	\$
10a Total number of contributors.		7,942	8,034	

11 Revenue from Friends groups less any revenue included on line 10		\$0	\$0	\$
11a. Total number of Friends contributors		0	0	

12. Revenue from subsidiary enterprises and related organizations (See instructions)		\$0	\$0	\$
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### Form of Revenue

	2008 data	2009 data	Revision
13 Auction revenue	\$0	\$0	\$
A. Gross auction revenue	\$0	\$0	\$
B. Direct auction expenses	\$0	\$0	\$
14 Special fundraising activities	\$0	\$0	\$
A. Gross special fundraising revenues	\$0	\$0	\$
B. Direct special fundraising expenses	\$0	\$0	\$
15 Passive income	\$15,938	\$41	\$
A. Interest and dividends (other than on endowment funds)	\$170	\$41	\$

Variance greater than 25%.

B. Royalties	\$15,768	\$0	\$
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Variance greater than 25%

C. PBS or NPR pass-through copyright royalties	\$0	\$0	\$
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16. Gains and losses on investments, charitable trusts and gift annuities and sale of other assets (other than endowment funds)	\$0	\$0	\$
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A. Gains from sales of property and equipment - do not report losses	\$0	\$0	\$
B. Realized gains/losses on investments (other than endowment funds)	\$0	\$0	\$
C. Unrealized gains/losses on investments and actuarial gains/losses on charitable trusts and gift annuities (other than endowment funds)	\$0	\$0	\$
17 Endowment revenue	\$3,712	\$0	\$
A. Contributions to endowment principal	\$6,328	\$0	\$

Variance greater than 25%

B. Interest and dividends on endowment funds	\$0	\$0	\$
C. Realized and unrealized net investment gains and losses on endowment funds (if this is a negative amount, add a hyphen - e.g. "-1,765")	\$-2,616	\$0	\$

Variance greater than 25%

18 Capital fund contributions	\$0	\$0	\$
A. Facilities and equipment (except funds received from federal or public broadcasting sources)	\$0	\$0	\$
B Other	\$0	\$0	\$

19 Gifts and bequests from major individual donors	\$0	\$0	\$
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	2008 data	2009 data
19a. Total number of major individual donors	0	0

20 Other Direct Revenue	\$204,411	\$195,346	\$
Description	Amount	Revision	
mountain stage show revenue	\$195,346	\$	
Exclusion Description	Amount	Revision	
Ticket sales to concerts and other events (exclusive of contributions portion if disclosed)	\$195,346	\$	

21 Total Revenue (Sum of lines 1 through 12, 13a, 14a, and 15 through 20)	\$3,287,310	\$3,690,393	\$
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**Adjustments to Revenue**

22 Federal revenue from line 1.	2008 data	2009 data	Revision
	\$10,000	\$70,757	\$

Variance greater than 25%.

23 Public broadcasting revenue from line 2	\$345,587	\$412,897	\$
24 Capital funds exclusion (from line 18a) - TV only	\$0	\$0	\$
25. Other revenue on line 21 not meeting the source, form, purpose, or recipient criteria to be included as NFFS <a href="#">Click here to view all revenue reported as NFFS X.</a>	\$0	\$195,346	\$
26 Other automatic subtractions from total revenue	\$-2,616	\$0	\$
A Auction expenses -- limited to the lesser of lines 13a or 13b	\$0	\$0	\$



B. Special fundraising event expenses -- limited to the lesser of lines 14a or 14b	\$0	\$0	\$
C. Gains from sales of property and equipment -- line 16a	\$0	\$0	\$
D. Realized gains/losses on investments (other than endowment funds) -- line 16b	\$0	\$0	\$
E. Unrealized investment and actuarial gains/losses (other than endowment funds) -- line 16c	\$0	\$0	\$
F. Realized and unrealized net investment gains/losses on endowment funds -- line 17c	\$-2,616	\$0	\$

Variance greater than 25%

27. Total Direct Nonfederal Financial Support (Line 21 less Lines 22 through 26) (Forwards to line 1 of the Summary of Nonfederal Financial Support)	\$2,934,339	\$3,011,393	\$
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### Comments

Comment	Name	Date	Status
Schedule B Worksheet WVFN-FM (1662) Charleston, WV			

### Comments

Comment	Name	Date	Status
Occupancy List WVFN-FM (1662) Charleston, WV			

Schedule B Totals WVFN-FM (1662) Charleston, WV	Type of Occupancy Location		Value
	2008 data	2009 data	
1 Total support activity benefiting station	\$	\$0	\$
2 Occupancy value		\$0	\$
3. Deductions: Fees paid to the licensee for overhead recovery, assessment, etc.	\$	\$0	\$
4. Deductions: Support shown on lines 1 and 2 in excess of revenue reported in financial statements	\$	\$0	\$
5. Total Indirect Administrative Support (Forwards to Line 2 of the Summary of Nonfederal Financial Support)	\$	\$0	\$
6 Please enter an institutional type code for your licensee			

### Comments

Comment	Name	Date	Status
Schedule C WVFN-FM (1662) Charleston, WV			

1 PROFESSIONAL SERVICES (must be eligible as NFFS)	2008 data	Donor Code	2009 data	Revision
	A. Legal	\$		\$0
B Accounting and/or auditing	\$		\$0	\$
C Engineering	\$		\$0	\$

	2008 data	<u>Donor Code</u>	2009 data	Revision
D Other professionals (see specific line item instructions in Guidelines before completing)	\$		\$0	\$
2 GENERAL OPERATIONAL SERVICES (must be eligible as NFFS)	\$		\$0	\$
A. Annual rental value of space (studios, offices, or tower facilities)	\$		\$0	\$
B. Annual value of land used for locating a station-owned transmission tower.	\$		\$0	\$
C. Station operating expenses	\$		\$0	\$
D. Other (see specific line item instructions in Guidelines before completing)	\$		\$0	\$
3 OTHER SERVICES (must be eligible as NFFS)	\$		\$0	\$
A. ITV or educational radio	\$		\$0	\$
B. State public broadcasting agencies (APBC, FL-DOE, NYN, eTech Ohio, PPTN)	\$		\$0	\$
C. Local advertising	\$		\$0	\$
D. National advertising	\$		\$0	\$
4. Total in-kind contributions - services and other assets eligible as NFFS (sum of lines 1 through 3), forwards to Line 3a of the Summary of Nonfederal Financial Support	\$		\$0	\$
5 IN-KIND CONTRIBUTIONS INELIGIBLE AS NFFS	\$		\$0	\$
A. Compact discs records tapes and cassettes	\$		\$0	\$
B. Exchange transactions	\$		\$0	\$
C. Federal or public broadcasting sources	\$		\$0	\$
D. Fundraising related activities	\$		\$0	\$
E. ITV or educational radio outside the allowable scope of approved activities	\$		\$0	\$
F. Local productions	\$		\$0	\$
G. Program supplements	\$		\$0	\$
H. Programs that are nationally distributed	\$		\$0	\$
I. Promotional items	\$		\$0	\$
J. Regional organization allocations of program services	\$		\$0	\$
K. State PB agency allocations other than those allowed on line 3(b)	\$		\$0	\$
L. Services that would not need to be purchased if not donated	\$		\$0	\$
M. Other	\$		\$0	\$
6. Total in-kind contributions - services and other assets (line 4 plus line 5), forwards to Schedule F, line 1c. Must agree with in-kind contributions recognized as revenue in the AFS	\$		\$0	\$

## Comments

Comment	Name	Date	Status
Schedule D WVFN-FM (1662) Charleston, WV			

	2008 data	<u>Donor Code</u>	2009 data	Revision
1. Land (must be eligible as NFFS)	\$		\$0	\$
2. Building (must be eligible as NFFS)	\$		\$0	\$
3. Equipment (must be eligible as NFFS)	\$		\$0	\$
4. Vehicle(s) (must be eligible as NFFS)	\$		\$0	\$
5. Other (specify) (must be eligible as NFFS)	\$		\$0	\$
6. Total in-kind contributions - property and equipment eligible as NFFS (sum of lines 1 through 5), forwards to Line 3b of the Summary of Nonfederal Financial Support	\$		\$0	\$
7. IN-KIND CONTRIBUTIONS INELIGIBLE AS NFFS	\$		\$0	\$
a) Exchange transactions	\$		\$0	\$
b) Federal or public broadcasting sources	\$		\$0	\$
c) TV only—property and equipment that includes new facilities (land and structures), expansion of existing facilities and acquisition of new equipment	\$		\$0	\$
d) Other (specify)	\$		\$0	\$
8. Total in-kind contributions - property and equipment (line 6 plus line 7), forwards to Schedule F, line 1d. Must agree with in-kind contributions recognized as revenue in the AFS.	\$		\$0	\$

## Comments

Comment	Name	Date	Status
Schedule E WVPN-FM (1662) Charleston, WV			

## EXPENSES

(Operating and non-operating)

	2008 data	2009 data	Revision
<b>PROGRAM SERVICES</b>			
1. Programming and production	\$1,993,686	\$2,114,530	\$
2. Broadcasting and engineering	\$545,412	\$598,382	\$
3. Program information and promotion	\$167,664	\$151,261	\$
<b>SUPPORT SERVICES</b>			
4. Management and general	\$813,017	\$761,163	\$
5. Fund raising and membership development	\$403,615	\$439,306	\$
6. Underwriting and grant solicitation	\$0	\$0	\$
7. Depreciation and amortization (if not allocated to functional categories in lines 1 through 6)	\$0	\$0	\$
8. Total Expenses (sum of lines 1 to 7) must agree with audited financial statements	\$3,923,394	\$4,064,642	\$

## INVESTMENT IN CAPITAL ASSETS

Cost of capital assets purchased or donated

	2008 data	2009 data	Revision
9. Total capital assets purchased or donated	\$152,800	\$322,117	\$

	2008 data	2009 data	Revision
9a Land and buildings	\$0	\$0	\$
9b Equipment	\$152,800	\$322,117	\$
9c All other	\$0	\$0	\$
<b>10. Total expenses and investment in capital assets (Sum of lines 8 and 9)</b>	<b>\$4,076,194</b>	<b>\$4,386,759</b>	<b>\$</b>

**Additional Information**

(Lines 11 + 12 must equal line 8 and Lines 13 + 14 must equal line 9)

	2008 data	2009 data	Revision
11. Total expenses (direct only)	\$3,923,394	\$4,064,642	\$
12. Total expenses (indirect and in-kind)	\$0	\$0	\$
13 Investment in capital assets (direct only)	\$152,800	\$322,117	\$
14 Investment in capital assets (indirect and in-kind)	\$0	\$0	\$

**Comments**

Comment	Name	Date	Status
Schedule F WVPN-FM (1662) Charleston, WV			

	2009 data	Revision
<b>1. Data from AFR</b>		
a Schedule A, Line 21	\$11,593,051	\$0
b Schedule B Line 5	\$0	\$0
c Schedule C, Line 6	\$0	\$0
d Schedule D Line 8	\$0	\$0
e Total from AFR	\$11,593,051	\$11,593,051

**Choose Reporting Model**

You must choose one of the three reporting models in order to complete Schedule F. After making your selection, click the "Choose" button below, which will display your reporting model. When changing to a different reporting model all data entered in the current reporting model will be lost.

- FASB
  GASB Model A proprietary enterprise-fund financial statements with business-type activities only
  GASB Model B public broadcasting entity-wide statements with mixed governmental and business-type activities

	2009 data	Revision
<b>2. GASB Model A proprietary enterprise-fund financial statements with business-type activities only</b>		
a. Operating revenues	\$3,974,219	\$3,974,219
b Non-operating revenues	\$859,188	\$859,188
c Other revenue	\$6,759,644	\$6,759,644
d. Capital grants, gifts and appropriations (if not included above)	\$0	\$0
e Total From AFS lines 2a-2d	\$11,593,051	\$11,593,051

**Reconciliation**

2009 data	Revision
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3. Difference (line 1 minus line 2)	\$0	\$0
4. If the amount on line 3 is not equal to \$0, click the "Add" button and list the reconciling items	\$0	\$0

**Comments**

<b>Comment</b>	<b>Name</b>	<b>Date</b>	<b>Status</b>
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Schedule A  
 WSWP-TV (T15700-00)(1932)  
 Charleston, WV

**NFFS Excluded?**

If you have an NFFS Exclusion, please click the "NFFS X" button, and enter your NFFS data



**Source of Income**

	2008 data	2009 data	Revision
<b>1</b> Amounts provided directly by federal government agencies	\$558,201	\$498,741	\$
A PTFP (NTIA) Facilities Grants	\$0	\$0	\$
B. Department of Education	\$0	\$0	\$
C Department of Health and Human Services	\$0	\$0	\$
D. National Endowment for the Arts and Humanities	\$0	\$0	\$
E National Science Foundation	\$0	\$0	\$
F. Other Federal Funds (specify)	\$558,201	\$498,741	\$
Description	Amount	Revision	
USDA	\$498,741	\$	
<b>2.</b> Amounts provided by Public Broadcasting Entities (e.g. CPB, PBS, NPR, etc., including other stations and regional networks See Guidelines for complete list )	\$1,627,713	\$1,574,042	\$
A CPB - Community Service Grants (for radio enter unrestricted portion only)	\$893,844	\$904,371	\$
B. CPB - Digital Project Grants	\$622,500	\$506,700	\$
C CPB - Restricted portion of Radio Community Service Grants	\$0	\$0	\$
D CPB - TV Interconnection grants	\$18,885	\$18,573	\$
E CPB - all other funds	\$57,616	\$107,633	\$
Variance greater than 25%			
F. PBS - all payments except copyright royalties and other pass-through payments See Guidelines for details	\$34,868	\$25,318	\$
Variance greater than 25%.			
G. NPR - all payments except pass-through payments. See Guidelines for details	\$0	\$0	\$
H Public broadcasting stations - all payments	\$0	\$11,447	\$
I Other PBE funds (specify)	\$0	\$0	\$
<b>3.</b> Local boards and departments of education or other local government or agency sources	\$30,141	\$34,148	\$
<b>4.</b> State boards and departments of education or other state government or agency sources	\$4,676,530	\$4,778,133	\$
<b>5</b> State colleges and universities	\$1,500	\$0	\$
Variance greater than 25%.			

6. Other state-supported colleges and universities	\$0	\$0	\$
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7. Private colleges and universities	\$0	\$0	\$
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8. Foundations and nonprofit associations	\$0	\$50,540	\$
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	2008 data	2009 data	
8a. How much of this revenue was received as underwriting?	\$0	\$50,540	\$

9. Business and Industry	\$332,726	\$322,864	\$
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	2008 data	2009 data	
9a. How much of this revenue was received as underwriting?	\$184,123	\$124,890	\$

Exclusion Description	Amount	Revision
Rentals of studio space, equipment, tower, parking space	\$172,917	\$
Ticket sales to concerts and other events (exclusive of contributions portion if disclosed)	\$2,300	\$

10. Memberships and subscriptions (net of write-offs)	\$623,725	\$711,071	\$
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	2008 data	2009 data	
10a. Total number of contributors	8,927	8,296	

11. Revenue from Friends groups less any revenue included on line 10	\$0	\$0	\$
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	2008 data	2009 data	
11a. Total number of Friends contributors	0	0	

12. Revenue from subsidiary enterprises and related organizations (See instructions)	\$0	\$0	\$
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### Form of Revenue

	2008 data	2009 data	Revision
13. Auction revenue	\$0	\$0	\$

A. Gross auction revenue	\$0	\$0	\$
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B. Direct auction expenses	\$0	\$0	\$
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14. Special fundraising activities	\$0	\$0	\$
------------------------------------	-----	-----	----

A. Gross special fundraising revenues	\$0	\$0	\$
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B. Direct special fundraising expenses	\$0	\$0	\$
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15. Passive income	\$63,384	\$12,190	\$
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A. Interest and dividends (other than on endowment funds)	\$15	\$0	\$
-----------------------------------------------------------	------	-----	----

Variance greater than 25%.

B. Royalties	\$94	\$0	\$
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Variance greater than 25%.

C. PBS or NPR pass-through copyright royalties		\$63,275	\$12,190	\$
Variance greater than 25%				
16. Gains and losses on investments, charitable trusts and gift annuities and sale of other assets (other than endowment funds)		\$0	\$0	\$
A Gains from sales of property and equipment - do not report losses		\$0	\$0	\$
B Realized gains/losses on investments (other than endowment funds)		\$0	\$0	\$
C. Unrealized gains/losses on investments and actuarial gains/losses on charitable trusts and gift annuities (other than endowment funds)		\$0	\$0	\$
17 Endowment revenue		\$19,111	\$-80,212	\$
A Contributions to endowment principal		\$30,516	\$36,010	\$
B Interest and dividends on endowment funds		\$128	\$71	\$
Variance greater than 25%				
C. Realized and unrealized net investment gains and losses on endowment funds (if this is a negative amount, add a hyphen - e.g. "-1,765")		\$-11,533	\$-116,293	\$
Variance greater than 25%				
18 Capital fund contributions		\$0	\$0	\$
A. Facilities and equipment (except funds received from federal or public broadcasting sources)		\$0	\$0	\$
B. Other		\$0	\$0	\$
19 Gifts and bequests from major individual donors		\$0	\$0	\$
		2008 data	2009 data	
19a. Total number of major individual donors		0	0	
20 Other Direct Revenue		\$0	\$1,141	\$
Description		Amount	Revision	
video sales		\$1,141	\$	
Exclusion Description		Amount	Revision	
Production, taping, or other broadcast related activities		\$1,141	\$	
21 Total Revenue (Sum of lines 1 through 12, 13a 14a, and 15 through 20)		\$7,933,031	\$7,902,658	\$
<b>Adjustments to Revenue</b>				
		2008 data	2009 data	Revision
22 Federal revenue from line 1		\$558,201	\$498,741	\$
23 Public broadcasting revenue from line 2		\$1,627,713	\$1,574,042	\$
24 Capital funds exclusion (from line 18a) - TV only		\$0	\$0	\$
25. Other revenue on line 21 not meeting the source, form, purpose, or recipient criteria to be included as NFFS. <a href="#">Click here to view all revenue reported as NFFS</a>		\$148,876	\$176,358	\$
X.				



26. Other automatic subtractions from total revenue	\$-11,533	\$-116,293	\$
A Auction expenses – limited to the lesser of lines 13a or 13b	\$0	\$0	\$
B. Special fundraising event expenses – limited to the lesser of lines 14a or 14b	\$0	\$0	\$
C Gains from sales of property and equipment – line 16a	\$0	\$0	\$
D. Realized gains/losses on investments (other than endowment funds) – line 16b	\$0	\$0	\$
E Unrealized investment and actuarial gains/losses (other than endowment funds) – line 16c	\$0	\$0	\$
F Realized and unrealized net investment gains/losses on endowment funds – line 17c	\$-11,533	\$-116,293	\$

Variance greater than 25%

27. Total Direct Nonfederal Financial Support (Line 21 less Lines 22 through 26) (Forwards to line 1 of the Summary of Nonfederal Financial Support)	\$5,609,774	\$5,769,810	\$
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**Comments**

Comment	Name	Date	Status
Schedule B WorkSheet WSWP-TV (T15700-00)(1932) Charleston, WV			

**Comments**

Comment	Name	Date	Status
Occupancy List WSWP-TV (T15700-00)(1932) Charleston, WV			

	Type of Occupancy Location	Value
<b>Schedule B Totals</b>		
WSWP-TV (T15700-00)(1932)		
Charleston, WV		
	2008 data	2009 data
1 Total support activity benefiting station	\$	\$0
2 Occupancy value		\$0
3. Deductions: Fees paid to the licensee for overhead recovery, assessment, etc	\$	\$0
4. Deductions: Support shown on lines 1 and 2 in excess of revenue reported in financial statements.	\$	\$0
5. Total Indirect Administrative Support (Forwards to Line 2 of the Summary of Nonfederal Financial Support)	\$	\$0
6 Please enter an institutional type code for your licensee		

**Comments**

Comment	Name	Date	Status
Schedule C WSWP-TV (T15700-00)(1932) Charleston, WV			

	2008 data	Donor Code	2009 data	Revision
1 PROFESSIONAL SERVICES (must be eligible as NFFS)	\$		\$0	\$
A. Legal	\$		\$0	\$

	2008 data	<u>Donor Code</u>	2009 data	Revision
B. Accounting and/or auditing	\$		\$0	\$
C Engineering	\$		\$0	\$
D. Other professionals (see specific line item instructions in Guidelines before completing)	\$		\$0	\$
2 GENERAL OPERATIONAL SERVICES (must be eligible as NFFS)	\$		\$0	\$
A. Annual rental value of space (studios, offices, or tower facilities)	\$		\$0	\$
B. Annual value of land used for locating a station-owned transmission tower	\$		\$0	\$
C Station operating expenses	\$		\$0	\$
D. Other (see specific line item instructions in Guidelines before completing)	\$		\$0	\$
3. OTHER SERVICES (must be eligible as NFFS)	\$		\$0	\$
A ITV or educational radio	\$		\$0	\$
B. State public broadcasting agencies (APBC, FL-DOE, NYN, eTech Ohio, PPTN)	\$		\$0	\$
C Local advertising	\$		\$0	\$
D National advertising	\$		\$0	\$
4. Total in-kind contributions - services and other assets eligible as NFFS (sum of lines 1 through 3), forwards to Line 3a of the Summary of Nonfederal Financial Support	\$		\$0	\$
5 IN-KIND CONTRIBUTIONS INELIGIBLE AS NFFS	\$		\$0	\$
A. Compact discs, records, tapes and cassettes	\$		\$0	\$
B. Exchange transactions	\$		\$0	\$
C. Federal or public broadcasting sources	\$		\$0	\$
D. Fundraising related activities	\$		\$0	\$
E. ITV or educational radio outside the allowable scope of approved activities	\$		\$0	\$
F Local productions	\$		\$0	\$
G. Program supplements	\$		\$0	\$
H Programs that are nationally distributed	\$		\$0	\$
I. Promotional items	\$		\$0	\$
J Regional organization allocations of program services	\$		\$0	\$
K. State PB agency allocations other than those allowed on line 3(b)	\$		\$0	\$
L. Services that would not need to be purchased if not donated	\$		\$0	\$
M. Other	\$		\$0	\$
6. Total in-kind contributions - services and other assets (line 4 plus line 5), forwards to Schedule F, line 1c. Must agree with in-kind contributions recognized as revenue in the AFS	\$		\$0	\$

## Comments

Comment	Name	Date	Status
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Schedule D  
WSWP-TV (T15700-00)(1932)  
Charleston, WV

	2008 data	<u>Donor Code</u>	2009 data	Revision
1 Land (must be eligible as NFFS)	\$		\$0	\$
2 Building (must be eligible as NFFS)	\$		\$0	\$
3 Equipment (must be eligible as NFFS)	\$		\$0	\$
4 Vehicle(s) (must be eligible as NFFS)	\$		\$0	\$
5 Other (specify) (must be eligible as NFFS)	\$		\$0	\$
6. Total in-kind contributions - property and equipment eligible as NFFS (sum of lines 1 through 5), forwards to Line 3b of the Summary of Nonfederal Financial Support	\$		\$0	\$
7. IN-KIND CONTRIBUTIONS INELIGIBLE AS NFFS	\$		\$0	\$
a) Exchange transactions	\$		\$0	\$
b) Federal or public broadcasting sources	\$		\$0	\$
c) TV only—property and equipment that includes new facilities (land and structures), expansion of existing facilities and acquisition of new equipment	\$		\$0	\$
d) Other (specify)	\$		\$0	\$
8. Total in-kind contributions - property and equipment (line 6 plus line 7), forwards to Schedule F, line 1d. Must agree with in-kind contributions recognized as revenue in the AFS	\$		\$0	\$

Comments

Comment	Name	Date	Status
Schedule E WSWP-TV (T15700-00)(1932) Charleston, WV			

**EXPENSES**

(Operating and non-operating)

	2008 data	2009 data	Revision
<b>PROGRAM SERVICES</b>			
1 Programming and production	\$2,315,976	\$2,391,600	\$
2 Broadcasting and engineering	\$1,854,229	\$1,925,393	\$
3 Program information and promotion	\$271,752	\$282,679	\$
<b>SUPPORT SERVICES</b>			
4. Management and general	\$2,141,027	\$1,960,624	\$
5 Fund raising and membership development	\$369,729	\$447,557	\$
6 Underwriting and grant solicitation	\$0	\$0	\$
7. Depreciation and amortization (if not allocated to functional categories in lines 1 through 6)	\$0	\$0	\$
8. Total Expenses (sum of lines 1 to 7) must agree with audited financial statements	\$6,952,713	\$7,007,853	\$

**INVESTMENT IN CAPITAL ASSETS**

Cost of capital assets purchased or donated

	2008 data	2009 data	Revision
9 Total capital assets purchased or donated	\$458,400	\$754,081	\$
9a Land and buildings	\$0	\$0	\$
9b Equipment	\$458,400	\$754,081	\$
9c All other	\$0	\$0	\$
<b>10. Total expenses and investment in capital assets (Sum of lines 8 and 9)</b>	<b>\$7,411,113</b>	<b>\$7,761,934</b>	<b>\$</b>

**Additional Information**

(Lines 11 + 12 must equal line 8 and Lines 13 + 14 must equal line 9)

	2008 data	2009 data	Revision
11. Total expenses (direct only)	\$6,952,713	\$7,007,853	\$
12. Total expenses (indirect and in-kind)	\$0	\$0	\$
13 Investment in capital assets (direct only)	\$458,400	\$754,081	\$
14. Investment in capital assets (indirect and in-kind)	\$0	\$0	\$

## Comments

Comment Name Date Status

Schedule F  
WSWP-TV (T15700-00)(1932)  
Charleston, WV

	2009 data	Revision
<b>1. Data from AFR</b>		
a Schedule A, Line 21	\$11,593,051	\$0
b Schedule B, Line 5	\$0	\$0
c Schedule C, Line 6	\$0	\$0
d Schedule D Line 8	\$0	\$0
e Total from AFR	\$11,593,051	\$11,593,051

**Choose Reporting Model**

You must choose one of the three reporting models in order to complete Schedule F. After making your selection, click the "Choose" button below, which will display your reporting model. When changing to a different reporting model all data entered in the current reporting model will be lost.

- FASB
  GASB Model A proprietary enterprise-fund financial statements with business-type activities only
  GASB Model B public broadcasting entity-wide statements with mixed governmental and business-type activities

	2009 data	Revision
<b>2. GASB Model A proprietary enterprise-fund financial statements with business-type activities only</b>		
a. Operating revenues	\$3,974,219	\$3,974,219
b. Non-operating revenues	\$859,188	\$859,188
c Other revenue	\$6,759,644	\$6,759,644
d. Capital grants, gifts and appropriations (if not included above)	\$0	\$0
e Total From AFS lines 2a-2d	\$11,593,051	\$11,593,051

**Reconciliation**

2009 data	Revision
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3. Difference (line 1 minus line 2)	\$0	\$0
4. If the amount on line 3 is not equal to \$0 click the "Add" button and list the reconciling items	\$0	\$0

Comments

Comment	Name	Date	Status
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## Attachment 2

Federal Register, Part IV, Volume 61, Issue 218, p. 57966, November 8, 1996

### 15 CFR PART 2301 -- PUBLIC TELECOMMUNICATIONS FACILITIES PROGRAM

**AUTHORITY:** 47 U.S.C. §§390-393 and 397-399b.

#### Subpart A - General

##### §2301.1 Program Purposes.

Pursuant to §390 of the Act, (The Communications Act of 1934, as amended), the purpose of the Public Telecommunications Facilities Program (PTFP) is to assist, through matching grants, in the planning and construction of public telecommunications facilities in order to achieve the following objectives:

- (a) extend delivery of public telecommunications services to as many citizens in the United States as possible by the most efficient and economical means, including the use of broadcast and nonbroadcast technologies;
- (b) increase public telecommunications services and facilities available to, operated by, and owned by minorities and women; and
- (c) strengthen the capability of existing public television and radio stations to provide public telecommunications services to the public.

##### §2301.2 Definitions.

"Act" means Part IV of Title III of the Communications Act of 1934, 47 U.S.C. §§390-393 and 397-399b, as amended.

"Administrator" means the Assistant Secretary for Communications and Information of the United States Department of Commerce who is also Administrator of the National Telecommunications and Information Administration.

"Agency" means the National Telecommunications and Information Administration of the United States Department of Commerce.

"Broadcast" means the distribution of electronic signals to the public at large using television (VHF or UHF) or radio (AM or FM) technologies.

"Closing date" means the date and time which the Administrator sets as the deadline for the receipt of applications during a grant cycle.

"Construction" (as applied to public telecommunications facilities) means

acquisition (including acquisition by lease), installation, and improvement of public telecommunications facilities and preparatory steps incidental to any such acquisition, installation or improvement.

"*Department*" means the United States Department of Commerce.

"*FCC*" means the Federal Communications Commission.

"*Federal interest period*" means the period of time during which the Federal government retains a reversionary interest in all facilities constructed with Federal grant funds. This period begins with the purchase of the facilities and continues for ten (10) years after the official completion date of the project. Although OMB Circular A-110 sections 33 and 34 (58 FR 62992, Nov. 29, 1993) and 15 CFR §§24.31 and 24.32, specify that the Federal government maintains a reversionary interest in the facilities for as long as the facilities are needed for the originally authorized purpose, PTFP's authorizing statute (47 U.S.C. 392(g)) limits the reversionary period for ten years for purposes of this program. However, Federal Constitutional limitations on the use of the facilities survive for the useful life of the facilities whether or not this period extends beyond the ten-year Federal interest period.

"*Minorities*" means American Indians, Alaska Natives, Asian or Pacific Islanders, Hispanics, and Blacks, not of Hispanic Origin.

"*Nonbroadcast*" means the distribution of electronic signals by a means other than broadcast technologies. Examples of nonbroadcast technologies are Instructional Television Fixed Service (ITFS), satellite systems, and coaxial or fiber optic cable.

"*Noncommercial educational broadcast station*" or "*public broadcast station*" means a television or radio broadcast station that is eligible to be licensed by the FCC as a noncommercial educational radio or television broadcast station and that is owned (controlled) and operated by a state, a political or special purpose subdivision of a state, public agency or nonprofit private foundation, corporation, institution, or association, or owned (controlled) and operated by a municipality and transmits only noncommercial educational, cultural or instructional programs.

"*Noncommercial telecommunications entity*" means any enterprise that is owned (controlled) and operated by a state, a political or special purpose subdivision of a state, a public agency, or a nonprofit private foundation, corporation, institution, or association; and that has been organized primarily for the purpose of disseminating audio or video noncommercial educational, cultural or instructional programs to the public by means other than a primary television or radio broadcast station, including, but not limited to, coaxial cable, optical fiber, broadcast translators, cassettes, discs, satellite, microwave or laser transmission.

"*Nonprofit*" (as applied to any foundation, corporation, institution, or

association) means a foundation, corporation, institution, or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"*Operational cost*" means those approved costs incurred in the operation of an entity or station such as overhead labor, material, contracted services (such as building or equipment maintenance), including capital outlay and debt service.

"*Planning*" (as applied to public telecommunications facilities) means activities to form a project for which PTFP construction funds may be obtained.

"*Pre-operational costs*" means all nonconstruction costs incurred by new public telecommunications entities before the date on which they began providing service to the public, and all nonconstruction costs associated with the expansion of existing stations before the date on which such expanded capacity is activated, except that such costs shall not include any portion of the salaries of any personnel employed by an operating public telecommunications entity.

"*PTFP*" means the Public Telecommunications Facilities Program, which is administered by the Agency.

"*PTFP Director*" means the Agency employee who recommends final action on public telecommunications facilities applications and grants to the Administrator.

"*Public telecommunications entity*" means any enterprise which is a public broadcast station or noncommercial telecommunications entity and which disseminates public telecommunications services to the public.

"*Public telecommunications facilities*" means apparatus necessary for production, interconnection, captioning, broadcast, or other distribution of programming, including but not limited to studio equipment, cameras, microphones, audio and video storage or processors and switchers, 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, optical fiber communications equipment, and other means of transmitting, emitting, storing, and receiving images and sounds or information, except that such term does not include the buildings to house such apparatus (other than small equipment shelters that are part of satellite earth stations, translators, microwave interconnection facilities, and similar facilities).

"*Public telecommunications services*" means noncommercial educational and cultural radio and television programs, and related noncommercial



instructional or informational material that may be transmitted by means of electronic communications.

"*Sectarian*" means that which has the purpose or function of advancing or propagating a religious belief.

"*State*" includes each of the fifty states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

"*System of public telecommunications entities*" means any combination of public telecommunications entities acting cooperatively to produce, acquire or distribute programs, or to undertake related activities.

"*Useful life*" means the normal operating life of equipment .

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## **Subpart B - Application Requirements**

### **§2301.3 Applicant Eligibility.**

(a) To apply for and receive a PTFP Construction or Planning Grant, an applicant must be:

- (1) a public or noncommercial educational broadcast station;
- (2) a noncommercial telecommunications entity;
- (3) a system of public telecommunications entities;
- (4) a nonprofit foundation, corporation, institution, or association organized primarily for educational or cultural purposes (see also 60 Fed. Reg. 66491(Dec. 22, 1995)); or,
- (5) a state, local, or Indian tribal government (or agency thereof), or a political or special purpose subdivision of a state.

(b) An applicant whose proposal requires an authorization from the FCC must be eligible to receive such authorization.

(c) If an applicant does not meet the above eligibility requirements, the application may be rejected and returned without further consideration.

(d) An applicant may request a preliminary determination of eligibility any time prior to the closing date.

### **§2301.4 Types of Projects and Broadcast Priorities.**

An applicant may file an application with the Agency for a planning or construction grant. To achieve the objectives set forth at 47 U.S.C. § 393 (b), the Agency has developed the following categories. Each application shall be identified as a broadcast or nonbroadcast project and must fall within at least one of the following categories:

### (a) Special Applications

NTIA possesses the discretionary authority to recommend awarding grants to eligible nonbroadcast applicants whose proposals are *unique or innovative* and which address demonstrated and substantial community needs (e.g., service to the blind or deaf and nonbroadcast projects offering educational or instructional services).

(b) **Broadcast Applications.** The Broadcast *Priorities* are set forth in order of priority for funding.

- (1) *Priority 1 -- Provision of Public Telecommunications Facilities for First Radio and Television Signals to a Geographic Area.* Within this category, NTIA establishes three subcategories:
  - (i) *Priority 1A. Projects that include local origination capacity.* This subcategory includes the planning or construction of new facilities that can provide a full range of radio and/or television programs, including material that is locally produced. Eligible projects include new radio or television broadcast stations, new cable systems, or first public telecommunications service to existing cable systems, provided that such projects include local origination capacity.
  - (ii) *Priority 1B. Projects that do not include local origination capacity.* This subcategory includes projects such as increases in tower height and/or power of existing stations and construction of translators, cable networks, and repeater transmitters that will result in providing public telecommunications services to previously unserved areas.
  - (iii) *Priority 1C. Projects that provide first nationally distributed programming.* This subcategory includes projects that provide satellite downlink facilities to noncommercial radio and television stations that would bring nationally distributed programming to a geographic area for the first time.
  - (iv) Priority 1 and its subcategories apply only to grant applicants proposing to plan or construct new facilities to bring public telecommunications services to geographic areas that are presently unserved, i.e., areas that do not receive public telecommunications services. (It should be noted that television and radio are considered separately for the purposes of determining coverage. In reviewing applications from FM stations that propose to serve, or that already serve, areas covered by AM-daytime only stations, PTFP will evaluate the amount of service provided via the AM-daytime only station in determining whether the FM proposal qualifies for a Priority 1 or Priority 2, as appropriate.)
  - (v) An applicant proposing to plan or construct a facility to serve a geographical area that is presently unserved should indicate the number of persons who would receive a first public telecommunications signal as a result of the proposed project.
- (2) *Priority 2 -- Replacement of Basic Equipment of Existing Essential*

*Broadcast Stations.*

- (i) Projects eligible for consideration under this category include the urgent replacement of obsolete or worn out equipment at "essential stations" (i.e., existing broadcast stations that provide either the only public telecommunications signal or the only locally originated public telecommunications signal to a geographical area).
  - (ii) To show that the urgent replacement of equipment is necessary, applicants must provide documentation indicating excessive downtime, or a high incidence of repair (i.e., copies of repair records, or letters documenting non-availability of parts). Additionally, applicants must show that the station is the only public telecommunications station providing a signal to a geographical area or the only station with local origination capacity in a geographical area.
  - (iii) The distinction between Priority 2 and Priority 4 is that Priority 2 is for the urgent replacement of basic equipment for essential stations. Where an applicant seeks to "improve" basic equipment in its station (i.e., where the equipment is not "worn out"), or where the applicant is not an essential station, NTIA would consider the applicant's project under Priority 4.
- (3) *Priority 3 -- Establishment of a First Local Origination Capacity in a Geographical Area.*
- (i) Projects in this category include the planning or construction of facilities to bring the first local origination capacity to an area already receiving public telecommunications services from distant sources through translators, repeaters, or cable systems,
  - (ii) Applicants seeking funds to bring the first local origination capacity to an area already receiving some public telecommunications services may do so, either by establishing a new (and additional) public telecommunications facility, or by adding local origination capacity to an existing facility. A source of a public telecommunications signal is distant when the geographical area to which the source is brought is beyond the grade B contour of the origination facility.
- (4) *Priority 4 -- Improvement of Public Broadcasting Services.*
- (i) Projects eligible for consideration under this category are intended to improve the delivery of public broadcasting services to a geographic area. These projects include the establishment of a public broadcast facility to serve a geographic area already receiving public telecommunications services, projects for the replacement of basic obsolete or worn-out equipment at existing public broadcasting facilities and the upgrading of existing origination or delivery capacity to current industry performance standards (e.g., improvements to signal quality, and significant improvements in equipment flexibility or reliability). As under Priority 2, applicants seeking to replace or improve basic equipment under Priority 4 should show that the replacement of the equipment is necessary by including in their

applications data indicating excessive downtime, or a high incidence of repair (such as documented in repair records). Within this category, NTIA establishes two subcategories: Priority 4A and 4B.

- (ii) *Priority 4A.*
  - (A) Applications to *replace* urgently needed equipment from public broadcasting stations that do not meet the Priority 2 criteria because they do not provide either the only public telecommunications signal or the only locally originated public telecommunications signal to a geographic area. NTIA will also consider applications that *improve* as well as *replace* urgently needed production-related equipment at public radio and television stations that do not qualify for Priority 2 consideration but that produce, on a continuing basis, significant amounts of programming distributed nationally to public radio or television stations.
  - (B) The establishment of public broadcasting facilities to serve a geographic area already receiving public telecommunications services. The applicant must demonstrate that it will address underserved needs in an area which significantly differentiates its service from what is already available in its service area.
  - (C) The acquisition of satellite downlinks for public radio stations in areas already served by one or more full-service public radio stations. The applicant must demonstrate that it will broadcast a program schedule that does not merely duplicate what is already available in its service area.
  - (D) The acquisition of the necessary items of equipment to bring the inventory of an already-operating station to the basic level of equipment requirements established by PTFP. This is intended to assist stations that went on the air with a complement of equipment well short of what the Agency considers as the basic complement.

(iii) *Priority 4B.* The improvement and non-urgent replacement of equipment at any public broadcasting station.

(5) *Priority 5 -- Augmentation of Existing Broadcast Stations .*

Projects in this category would equip an existing station beyond a basic capacity to broadcast programming from distant sources and to originate local programming.

- (i) *Priority 5A. Projects to equip auxiliary studios at remote locations, or to provide mobile origination facilities.* An applicant must demonstrate that significant expansion in public participation in programming will result. This subcategory includes mobile units, neighborhood production studios, or facilities in other locations within a station's service area that would make participation in local programming accessible to additional segments of the population.
- (ii) *Priority 5B. Projects to augment production capacity beyond*

*basic level in order to provide programming or related materials for other than local distribution.* This subcategory would provide equipment for the production of programming for regional or national use. Need beyond existing capacity must be justified.

(6) *Other cases.* NTIA possesses the discretionary authority to recommend awarding grants to eligible broadcast applicants whose proposals are so unique or innovative that they do not clearly fall within the five Priorities listed in this section. Innovative projects submitted under this category must address demonstrated and substantial community needs or must address issues related to the conversion of public broadcasting facilities to advanced digital technologies.

(c) An applicant may request a preliminary determination of whether a proposed project fits within at least one of the above listed categories any time prior to the closing date.

(d) All applications will be reviewed after the closing date. If an application does not fall within one of the listed categories, it may be rejected and returned without further consideration.

#### **§2301.5 Special Consideration.**

In accordance with §392(f) of the Act, the Agency will give special consideration to applications that foster ownership of, operation of, and participation in public telecommunications entities by minorities and women. Ownership and operation of includes the holding of management and other positions in the entity, especially those concerned with programming decisions and day-to-day operation and management. Participation may be shown by the entity's involvement of women and minorities in public telecommunications through its programming strategies as meeting the needs and interests of those groups. Minorities include American Indians or Alaska natives; Asian or Pacific Islanders, Hispanics, and Blacks, not of Hispanic Origin. The special consideration element is provided as one of several evaluation criteria contained in the regulations at 15 CFR §2301.17 (b)(6).

#### **§2301.6 Amount of Federal Funding.**

(a) Planning grants. The Agency may provide up to one hundred (100) percent of the funds necessary for the planning of a public telecommunications construction project.

- (1) Seventy-five (75) percent Federal funding will be the general presumption for projects to plan for a public telecommunications construction project.
- (2) A showing of extraordinary need (e.g., small community group proposing to initiate new public telecommunication service) will be taken into consideration as justification for grants of up to 100% of the total project cost.

(b) Construction grants. (1) A Federal grant for the construction of a public telecommunications facility may not exceed seventy-five (75) percent of the amount determined by the Agency to be the reasonable and necessary cost of such project.

- (i) Seventy-five (75) per cent Federal funding will be the general presumption for projects to activate stations or to extend service.
- (ii) Fifty (50) per cent Federal funding will be the general presumption for the replacement, improvement or augmentation of equipment. A showing of extraordinary need (i.e. small community-licensee stations or a station that is licensed to a large institution [e.g., a college or university] documenting that it does not receive direct or in-kind support from the larger institution), or an emergency situation will be taken into consideration as justification for grants of up to 75% of the total project cost for such proposals.
- (2) Since the purpose of the PTFP is to provide financial assistance for the acquisition of public telecommunications facilities, total project costs do not normally include the value of eligible apparatus owned or acquired by the applicant prior to the closing date. Inclusion of equipment purchased prior to the closing date will be considered on a case-by-case basis only when clear and compelling justifications are provided to PTFP. Obligating funds -- either in whole or in part -- for equipment before the closing date is considered ownership or acquisition of equipment. In like manner, accepting title to donated equipment prior to the closing date is considered ownership or acquisition of equipment.

(c) No part of the grantee's matching share of the eligible project costs may be met with funds:

- (1) paid by the Federal government, except where the use of such funds to meet a Federal matching requirement is specifically and expressly authorized by the relevant Federal statute, or
- (2) supplied to an applicant by the Corporation for Public Broadcasting, except upon a clear and compelling showing of need.

(d) No funds from the Federal share of the total project cost may be obligated until the award period start date. If an applicant or recipient obligates anticipated Federal Award funds before the start date, the Department may refuse to offer the award or, if the award has already been granted, disallow those costs of the grant. After the closing date, the applicant may, at its own risk, obligate non-Federal matching funds for the acquisition of proposed equipment.

#### **§2301.7 Eligible and Ineligible Project Costs.**

(a) Each year the Agency reviews its list of eligible and ineligible equipment, supplies, and costs. The list is published in the Federal Register as part of the solicitation for applications and a copy is provided with every application package for PTFP grants.

(b) All broadcast equipment that a grantee acquires under this program shall be of professional broadcast quality. An applicant proposing to utilize nonbroadcast technology shall propose and purchase equipment that is compatible with broadcast equipment wherever the two types of apparatus interface.

(c) Total project costs do not include the value of eligible apparatus owned or acquired by the applicant prior to the closing date unless approved by PTFP on a case-by-case basis in writing pursuant to 2301.6(b)(2).

### **§2301.8 Submission of Applications.**

(a) Applications can be obtained from the following address: Public Telecommunications Facilities Program, NTIA/DOC, 14th Street and Constitution Avenue, N.W., Room H-4625, Washington, DC 20230.

(b) The Administrator shall select and publish in the *Federal Register* a closing date by which applications for funding in a current fiscal year are to be filed.

(c) All applications, whether mailed or hand delivered, must be received by the Agency at the address listed in the annual Federal Register announcement requesting applications at or before 5:00 P.M. on the closing date. Applications received after the closing date shall be rejected and returned without further consideration (but see §2301.26).

(d) A complete application must include all of the information required by the Agency application materials and must be submitted in the number of copies specified by the Agency.

(e) Each copy of the Agency application must contain an original signature of an officer of the applicant who is legally authorized to sign for the applicant.

(f) Applicants must certify whether they are delinquent on any Federal debt.

(g) Applicants may be required to submit Name Check forms (Form CD-346) which may be used to ascertain background information on key individuals associated with potential grantees as part of the application, per Department Pre-Award Administrative Requirements and Policies.

(h) Applicant organizations may also be subject to a responsibility determination by the Department which may include but not be limited to reviews of financial and other business activities. Responsibility determinations are intended to ascertain whether potential grantee organizations or their key personnel have been involved in or are facing any matters that might significantly and negatively impact on their business honesty, financial integrity and/or ability to successfully perform the proposed grant activities.

(i) Unsatisfactory performance by the applicant under prior Federal awards may result in the application not being funded.

#### **§2301.9 Deferred Applications.**

(a) An applicant may reactivate an application deferred by the Agency in a prior year during the two consecutive years following the application's initial filing with the Agency; provided the applicant has not substantially changed the stated purpose of the application.

(b) To reactivate a deferred application, the applicant must file an updated application, whether mailed or hand delivered, at or before 5:00 P.M. on the closing date.

(c) An updated application must include all of the information required by the Agency application materials and must be submitted in the number of copies specified by the Agency.

(d) Deferred applications that are resubmitted under this section and contain substantial changes will be considered as new applications.

(e) All deferred applications may be subject to a determination of eligibility during subsequent grant cycles.

#### **§2301.10 Applications Resulting From Catastrophic Damage or Emergency Situations.**

(a) An application may be filed with a request for a waiver of the closing date, as provided in §2301.26, 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 complete equipment failure, and is in dire need of assistance in funding replacement of the damaged equipment. This section is limited to equipment essential to a station's continued operation such as transmitters, tower, antennas, STL's or similar equipment which, if the equipment failed, would result in a complete loss of service to the community.

(b) The request for a waiver must set forth the circumstances that prompt the request and be accompanied by appropriate supporting documentation.

(c) A waiver will be granted only if it is determined that the applicant either carried adequate insurance or had acceptable self-insurance coverage.

(d) Applicants claiming complete failure of equipment must document the circumstances of the equipment failure and demonstrate that the equipment has been maintained in accordance with standard broadcast engineering practices.



(e) Applications filed and accepted pursuant to this section 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.

(f) The application will be subject to the same evaluation and selection process followed for applications received in the normal application cycle, although the Administrator may establish a special timetable for evaluation and selection to permit an appropriately timely decision.

#### **§2301.11 Service of Applications.**

On or before the closing date, all new or deferred applicants must serve a summary copy of the application on the following agencies:

(a) In the case of an application for a construction grant for which FCC authorization is necessary, the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, DC 20554;

(b) The state telecommunications agency(-ies), if any, having jurisdiction over the development of broadcast and/or nonbroadcast telecommunications in the state(s) and the community(-ies) to be served by the proposed project; and

(c) The state office established to review applications under Executive Order 12372, 47 FR 30959, 3 CFR, 1982 Comp., p. 197, as amended by Executive Order 12416, 48 FR 15587, 3 CFR, 1983 Comp., p. 186, in all states where equipment requested in the application will be located and where the state has established such an office and wishes to review these applications.

#### **§2301.12 Federal Communications Commission Authorizations.**

(a) Each applicant whose project requires FCC authorization must file an application for that authorization on or before the closing date. NTIA recommends that its applicants submit PTFP-related FCC applications to the FCC at least 60 days prior to the PTFP closing date. The applicant should clearly identify itself to the FCC as a PTFP applicant.

(b) In the case of FCC authorizations where it is not possible or practical to submit the FCC license application with the PTFP application, such as C-band satellite uplinks, low-power television stations and translators, remote pickups, studio-to-transmitter links, and Very Small Aperture Terminals, a copy of the FCC application as it will be submitted to the FCC, or the equivalent engineering data, must be included in the PTFP application.

(c) Applications requesting C-band downlinks are not required to submit the FCC application or equivalent engineering data as part of the PTFP application. When such a project is funded, however, grantees will be required to submit evidence of FCC registration of the C-band downlink

prior to the release of Federal funds.

(d) Any FCC authorization required for the project must be in the name of the applicant for the PTFP grant.

(e) If the project is to be associated with an existing station, the FCC operating authority for that station must be current and valid.

(f) For any project requiring new authorization(s) from the FCC, the applicant must file a copy of each FCC application and any amendments with the Agency.

(g) If the applicant fails to file the required FCC application(s) by the closing date, or if the FCC returns, dismisses, or denies an application required for the project or any part thereof, or for the operation of the station with which the project is associated, the Agency may reject and return the application.

(h) No grant will be awarded until confirmation has been received from the FCC that any necessary authorization will be issued.

#### **§2301.13 Public Comments.**

(a) After the closing date, the Agency will publish a list of all applications received.

(b) The applicant shall make a copy of its application available at its offices for public inspection during normal business hours.

(c) A copy of the application will be available in the PTFP offices for public inspection during normal business hours.

(d) Any interested party may file comments with the Agency supporting or opposing an application and setting forth the grounds for support or opposition. Any opposing comments must contain a certification that a copy of the comments has been delivered to the applicant. Comments must be sent to the address listed in §2301.8(a).

(e) The Agency shall incorporate all comments from the public and any replies from the applicant in the applicant's official file for consideration during the evaluation of the application.

#### **§2301.14 Supplemental Application Information.**

(a) The Agency may request from the applicant any additional information that the Agency deems necessary to clarify the application. Applicants must provide to the Agency additional information that the Agency requests within fifteen (15) days of the date of the Agency's notice. Applicants must submit a copy of the requested information for each copy of the application submitted by the Closing Date.

(b) Applicants must immediately provide to the Agency information received after the closing date that materially affects the application, including:

- (1) State Single Point of Contact and State Telecommunications Agency comments on applications;
- (2) FCC file numbers and changes in the status of FCC applications necessary for the proposed project;
- (3) Changes in the status of proposed local matching funds, including notification of the passage (including reduction or rejection) of a proposed state appropriation or receipt (or denial) of a proposed substantial matching gift;
- (4) Changes that affect the applicant's eligibility under §2301.3;
- (5) Changes in the status of proposed production, participation, or distribution agreements (if relevant to the proposed project);
- (6) Changes in lease or site rights agreements; and
- (7) Complete failure of major items of equipment for which replacement costs have been requested or changes in the status of the need for the equipment requested.

(c) Applicants must place copies of any additional information submitted to the Agency in the copy of the application made available for public inspection pursuant to §2301.13.

(d) Neither the Department nor the Agency will discuss the merits of an application when it is under review.

#### **§2301.15 Withdrawal of Applications.**

(a) Applicants may request withdrawal of an application from consideration for funding without affecting future consideration. Withdrawn applications will be returned by the Agency.

(b) A request that the Agency defer an application for consideration in a subsequent year will be treated as a request for withdrawal.

### **Subpart C: Evaluation and Selection Process**

#### **§2301.16 Technical Evaluation.**

(a) In determining whether to approve or defer a construction or planning grant application, in whole or in part, and the amount of such grant, the Agency will evaluate all the information in the application file.

(b) PTFP grants are awarded on the basis of a competitive review process. The evaluation of the applications is based upon the evaluation criteria provided under §2301.17.

(c) The competitive review process may include the following: evaluation by PTFP staff; technical assessment by engineers; an evaluation by outside reviewers, all of whom have demonstrated expertise in either public broadcasting or distance learning; and rating by a national advisory panel, composed of representatives of major national public radio and television organizations.

(d) In acting on applications and carrying out other responsibilities under the Act, the Agency shall consult (as appropriate) with the FCC, the Corporation for Public Broadcasting, state telecommunications agencies, public broadcasting agencies, organizations, and other agencies administering programs that may be coordinated effectively with Federal assistance provided under the Act; and, the state office established to review applications under Executive Order 12372, as amended by Executive Order 12416,

(e) Based upon the evaluation criteria contained in §2301.17, the PTFP program staff will prepare summary evaluations. These will incorporate the outside reviewers' recommendations, engineering assessments, and program staff evaluations.

#### **§2301.17 Evaluation Criteria for Construction and Planning Applications.**

(a) For each application that is filed in a timely manner by an applicant, is materially complete, and proposes an eligible project, the Agency will consider the evaluation criteria listed in 2301.17(b):

- (1) The criteria in paragraphs b(1), *Applicant Qualifications*, and criterion (2), *Financial Qualifications*, of this section are qualifying criteria. Applications meeting the minimum qualifications on these criteria will be considered for further review.
- (2) The remaining four criteria listed in 2301.17(b) will be weighted in the evaluation as follows:
  - (i) The criteria in paragraphs b(3), *Project Objectives*, and criterion (4), *Urgency*, of this section will be given the most weight in the evaluation.
  - (ii) The remaining criteria in paragraphs b(5) *Technical/Planning Qualifications*, and b(6) *Special Consideration*, of this section will be given less weight and are listed in descending order.

#### (b) Evaluation criteria

- (1) *Applicant Qualifications*: Documentation that the applicant has or will have the ability to complete the project, including having sufficient qualified personnel to operate and maintain the facility, and to provide services of professional quality.
- (2) *Financial Qualifications*: Documentation reflecting the applicant's ability to provide non-Federal funds required for the project, including funds for the local match and funds to cover any ineligible costs

required for completion of the project; and to ensure long-term financial support for the continued operation of the facility during the Federal interest period.

- (3) *Project Objectives*: The degree to which the application documents that the proposed project fulfills the objectives and specific requirements of one or more of the categories set forth in §2301.4, documents the applicant's ability to implement the proposed project and adequately justify the need for Federal funds in excess of fifty (50) percent of total project costs (see §2301.6(b)(2)), if requested for equipment replacement, improvement, or augmentation projects; and, in the case of planning, adequately justifies the need for Federal funds in excess of seventy five (75) percent of total project costs (see §2301.6(a)(2)), if requested.
- (4) *Urgency*: Documentation that justifies funding the proposed project during the current grant cycle or, when appropriate, that the condition of existing equipment justifies its prompt replacement.
- (5)(i) *Technical Qualifications* (construction applicants only): Documentation that the eligible equipment requested is necessary to achieve the objectives of the project; that the proposed costs reflect the most efficient use of Federal funds in achieving project objectives; that the equipment requested meets current industry performance standards (and FCC standards, if appropriate) and that an evaluation of alternative technologies has been completed that justifies the selection of the requested technology (where alternative technologies are possible).
- (ii) *Planning Qualifications* (planning applicants only): Documentation of the feasibility of the proposed planning process and timetable for achieving the expected results; that costs proposed reflect the most efficient use of Federal funds; that the applicant has sufficient qualified staff or consultants to complete the planning project with professional results; and that an evaluation of alternative technologies will be incorporated into the plan, if appropriate.
- (6) *Special Consideration*: For this evaluation criterion, applicants should demonstrate that its broadcast or non-broadcast application will achieve significant diversity in the ownership of, operation of, and participation in public telecommunications facilities. Applicants may demonstrate how their project will better serve the characteristics, values and attitudes of diverse listeners by promoting the development of more effective programming strategies, conducting station outreach projects, through audience development efforts, and through the participation of minorities and women on the Board of Directors, and in other policy making positions.

(c) The Agency will provide each applicant with guidance in the application materials on the type of documentation necessary to meet each of the above evaluation criteria.

### **§2301.18 Selection Process.**

(a) The PTFP Director will consider the summary evaluations prepared by

program staff, rank the applications, and present recommendations to the OTIA Associate Administrator for review and approval. The Director's recommendations and the OTIA Associate Administrator's review and approval will take into account the following selection factors:

- (1) The program staff evaluations, including the outside reviewers.
- (2) The type of projects and broadcast priorities set forth at §2301.4.
- (3) Whether the application is for broadcast or a nonbroadcast project.
- (4) Whether the applicant has any current NTIA grants.
- (5) The geographic distribution of the proposed grant awards.
- (6) The availability of funds.

(b) Upon approval by the OTIA Associate Administrator, the Director's recommendations will then be presented to the Selecting Official, the NTIA Administrator.

(c) The Administrator makes 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 set forth at §2301.1(a) and (c).

(d) No grant will be awarded until confirmation has been received from the FCC that any necessary authorization will be issued.

(e) After final award selections have been made, the Agency will notify the applicant of one of the following actions:

- (1) Selection of the application for funding, in whole or in part;
- (2) Deferral of the application for subsequent consideration;
- (3) Rejection of the application with an explanation and the reason, if an applicant is not eligible or if the proposed project does not fall within at least one of the categories enumerated at §2301.4; or,
- (4) Return of applications that were deferred by the Agency after consideration during three grant cycles.

(f) The Agency will notify the following organizations of those applications selected for funding:

- (1) The state educational telecommunications agency(-ies), if any, in any state any part of which lies within the service area of the applicant's facility;
- (2) The FCC; and,
- (3) The Corporation for Public Broadcasting and, as appropriate, other public telecommunications entities.

## Subpart D Post -Award Requirements

### **§2301.19 General Conditions Attached to the Federal Award.**

(a) During the project award period and the remainder of the Federal interest period, the grantee must:

- (1) Continue to be an eligible organization as described in §2301.3;
- (2) Obtain and continue to hold any necessary FCC authorization(s);
- (3) Use the Federal funds for which the grant was made for the equipment and other expenditure items specified in the application for inclusion in the project, except that the grantee may substitute other items where necessary or desirable to carry out the purpose of the project if approved in advance by the Department in writing. These changes include but are not limited to the following:
  - (i) Costs (including planning costs),
  - (ii) Essential specifications of the equipment,
  - (iii) The engineering configuration of the project,
  - (iv) Extensions of the approved grant award period, and
  - (v) Transfers of a grant award to a successor in interest, pursuant to §2301.19(c).
- (4) Use the facilities and any monies generated through the use of the facilities primarily for the provision of public telecommunications services and ensure that the use of the facilities for other than public telecommunications purposes does not interfere with the provision of the public telecommunications services for which the grant was made;
- (5) Not make its facilities available to any person for the broadcast or other transmission intended to be received directly by the public, of any advertisement, unless such broadcast or transmission is expressly and specifically permitted by law or authorized by the FCC; and
- (6) State when advertising for bids for the purchase of equipment that the Federal government has an interest in facilities purchased with Federal funds under this program that begins with the purchase of the facilities and continues for ten (10) years after the completion of the project.

(b) During the period in which the grantee possesses or uses the Federally funded facilities, the grantee may not use or allow the use of the Federally funded equipment for purposes the essential thrust of which are sectarian for the useful life of the equipment even when this extends beyond the ten-year Federal interest period. Please see NTIA's published policy on sectarian activities at 60 Federal Register 66491 (December 22, 1995).

(c) If necessary to further the purpose of the Act, the Agency may reassign a grant to a successor in interest or subsidiary corporation of a grantee in cases where a similar operational entity remains in control of the grant and the original objectives of the grant remain in effect. Each party must provide, in writing, its assent to the substitution. Any substituted party must meet the eligibility requirements.

### **§2301.20 Schedules and Reports.**

(a) Within thirty (30) calendar days of the award date the grantee shall submit to the Agency, in duplicate, a construction schedule or a revised planning timetable that will include the information requested in the grant terms and conditions in the award package.

(b) During the project period of this grant, the grantee shall submit performance reports, in duplicate, on a calendar year quarterly basis for the period ending March 31, June 30, September 30, and December 31, or any portions thereof. The Quarterly Performance Reports should contain the following information:

- (1) A comparison of actual accomplishments during the reporting period with the goals and dates established in the Construction or Planning Schedule for that reporting period;
- (2) A description of any problems that have arisen or reasons why established goals have not been met;
- (3) Actions taken to remedy any failures to meet goals; and
- (4) Construction projects must also include a list of equipment purchased during the reporting period compared with the equipment authorized. This information must include manufacturer, make and model number, brief description, number and date of the items purchased, and cost.

### **§2301.21 Payment of Federal Funds.**

(a) The Department will not make any payment under an award, unless and until the recipient complies with all relevant requirements imposed by this Part. Additionally:

- (1) The Department will not make any payment until it receives confirmation that the FCC has granted any necessary authorization;
- (2) The Department may not make any payment under an award unless and until all special award conditions stated in the award documents that condition the release of Federal funds are met; and
- (3) An agreement to share ownership of the grant equipment (e.g., a joint venture for a tower) must be approved by the Agency before any funds for the project will be released.

(b) As a general matter, the Agency expects grantees to expend local matching funds at a rate at least equal to the ratio of the local match to the Federal grant as stipulated in the grant award.

### **§2301.22 Protection, Acquisition and Substitution of Equipment.**

(a) To assure that the Federal investment in public telecommunications facilities funded under the Act will continue to be used to provide public telecommunications services to the public during the Federal interest period, the Agency may require a grantee to:



- (1) Execute and record a document establishing that the Federal government has a priority lien on any facilities purchased with funds under the Act during the period of continuing Federal interest. The document shall be recorded where liens are normally recorded in the community where the facility is located and in the community where the grantee's headquarters are located; and
- (2) File a certified copy of the recorded lien with the Administrator ninety (90) days after the grant award is received.

(b) The grantee shall maintain protection against common hazards through adequate insurance coverage or other equivalent undertakings, except that, to the extent the applicant follows a different policy of protection with respect to its other property, the applicant may extend such policy to apparatus acquired and installed under the project. The grantee shall purchase flood insurance (in communities where such insurance is available) if the facilities will be constructed in any area that has been identified by the Federal Emergency Management Agency as having special flood hazards.

(c) The grantee shall not dispose of or encumber its title or other interests in the equipment acquired under this grant during the Federal interest period.

(d) The grantee shall demonstrate that the grantee has obtained appropriate title or lease satisfactory to protect the Federal interest to the site or sites on which apparatus proposed in the project will be operated. The grantee must have the right to occupy, construct, maintain, operate, inspect, and remove the project equipment without impediment to assure the sufficient continuity of operation of the facility; and nothing must prevent the Federal government from entering the property and reclaiming or securing PTFP-funded property.

(e) The Agency will allow the acquisition of facilities by lease; however, the following requirements apply:

- (1) The lease must be of benefit to the Federal government;
- (2) The actual amount of the lease must not be more than the outright purchase price would be; and
- (3) The lease agreement must state that in the event of anticipated or actual termination of the lease, the Federal government has the right to transfer and assign the leasehold to a new grantee for the duration of the lease contract.

(f) Transfer of equipment. Where the grant equipment is no longer needed for the original purposes of the project, the Department may transfer the equipment to the Federal government or an eligible third party, in accordance with Office of Management and Budget guidelines.

(g) Transfer of Federal interest to different equipment. The Department may transfer the Federal interest in PTFP-funded equipment to other

eligible equipment presently owned or to be purchased by the grantee with non-Federal monies, provided the following conditions are met:

- (1) If the Federal interest is to be transferred to other equipment presently owned or to be purchased by a grantee, the Federal interest in the new equipment must be at least equal to the Federal interest in the original equipment.
- (2) Equipment previously funded by PTFP that is within the Federal interest period may not be used in a transfer request as the designated equipment to which the Federal interest is to be transferred.
- (3) The same item can be used only once to substitute for the Federal interest. However, the Federal interest in several items of equipment from different grants may be transferred to a single item if the request for all such transfers is submitted at the same time.
- (4) A lien on equipment transferred to the Federal interest may be required by PTFP and must be recorded in accordance with §2301.23(b)(8). A copy of the lien document must be filed with the PTFP within sixty (60) days of the date of approval of the transfer of Federal interest.

(h) Termination by buy-out. A grantee may terminate the Federal revisionary interest in a PTFP grant by buying out the Federal interest with non-Federal monies. Buy-outs may be requested at any time.

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## **Subpart E-- Completion of Projects**

### **§2301.23 Completion of Projects.**

(a) Upon completion of a planning project, the grantee must promptly provide to the Agency two copies of any report or study conducted in whole or in part with funds provided under this program.

- (1) This report shall meet the goals and objectives for which the grant is awarded and shall follow the written instructions and guidance provided by the Agency. The grant award goals and objectives are stated in the planning narrative as amended and are incorporated by reference into the award agreement.
- (2) The Agency shall review this report for the extent to which those goals and objectives are addressed and met, for evidence that the work contracted for under the grant award was in fact performed, and to determine whether the written instructions and guidance provided by the Agency, if any, were followed.
- (3) If the Agency determines that the report fails to address or meet any grant award goals or objectives, or if there is no evidence that the work contracted for was in fact performed, or if this report clearly indicates that the written instructions and guidance provided by the Agency, if any, were disregarded, then the Agency may pursue

remedial action.

- (4) An unacceptable final report may result in the disallowance of claimed costs and the establishment of an account receivable by the Department.

(b) Upon completion of a construction project, the grantee must:

- (1) Certify that the grantee has acquired, installed, and begun operating the project equipment in accordance with the project as approved by the Agency, and has complied with all terms and conditions of the grant as specified in the Grant Award document;
- (2) Certify that the grantee has obtained any necessary FCC authorizations to operate the project apparatus following the acquisition and installation of the apparatus and document the same;
- (3) Certify and document that the facilities have been acquired, that they are in operating order, and that the grantee is using the facilities to provide public telecommunications services in accordance with the project as approved by the Agency;
- (4) Certify that the grantee has obtained adequate insurance to protect the Federal interest in the project in the event of loss through casualty;
- (5) Certify, if not previously provided, that the grantee has acquired all necessary leases or other site rights required for the project;
- (6) Certify, if appropriate, that the grantee has qualified for receipt of funds from the Corporation for Public Broadcasting;
- (7) Provide a complete and accurate final inventory of equipment acquired under the project and a final accounting of all project expenditures, including non-equipment costs (e.g., installation costs); and
- (8) Execute and record a final priority lien, if required by PTFP, reflecting the completed project and assuring the Federal government's reversionary interest in all equipment purchased under the grant project for the duration of the Federal interest period.

(c) When an applicant completes a construction project, the Agency will assign a completion date that the Agency will use to calculate the termination date of the Federal interest period. The completion date will usually be the date on which the project period expires unless the grantee certifies in writing prior to the project period expiration date that the project is complete and in accord with the terms and conditions of the grant, as required under §2301.23(b)(1). If the PTFP Director determines that the grantee improperly certified the project to be complete, the PTFP Director will amend the completion date accordingly.

#### **§2301.24 Final Federal Payment.**

If the total allowable, allocable, and reasonable costs incurred in completing the planning or construction project are less than the total project award amount, the Agency shall reduce the amount of the final Federal share on a pro rata basis. If, however, the actual costs incurred in

completing the project are more than the estimated total project costs, in no case will the final Federal funds paid exceed the grant award.

### **§2301.25 Retention of Records and Annual Status Reports**

(a) All grantees shall keep intact and accessible all records specified in Office of Management and Budget Circular A-110 (for educational institutions, hospitals, and nonprofit organizations), or 15 CFR Part 24 (for State and Local Governments).

(b) Recipients of construction grants:

- (1) Are required to submit an Annual Status Report for each grant project that is in the Federal interest period. The Reports are due no later than April 1 in each year of the Federal interest period. Information about what is to be included in the Annual Status Report is supplied to grant recipients at the time grants are closed out.
- (2) Shall retain an inventory of the equipment for the duration of the ten-year Federal interest period and shall mark project apparatus in a permanent manner to assure easy and accurate identification and reference to inventory records. The marking shall include the PTFP grant number and an inventory number assigned by the grantee.
- (3) May also be required to take whatever steps may be necessary to ensure that the Federal government's reversionary interest continues to be protected for the 10-year period by recording, when and where required, a lien continuation statement and reporting that fact in the Annual Status Report.

## **Subpart F: Waivers**

### **§2301.26 Waivers.**

It is the general intent of NTIA not to waive any of its regulations. However, under extraordinary circumstances and when it is in the best interests of the Federal government, NTIA, upon its own initiative or when requested, may waive the regulations adopted pursuant to Section 392(e) of the Act. Waivers may only be granted for regulatory requirements that are discretionary.