

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.

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 FR 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 geo-

graphical 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 Priority 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

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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.

[61 FR 57974, Nov. 8, 1996; 61 FR 64948, Dec. 9, 1996]

§ 2301.5 Special consideration.

In accordance with section 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 con-

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sideration 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) percent Federal funding will be the general presumption for projects to activate stations or to extend service.

(ii) Fifty (50) percent 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 indirect 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.