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DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

15 CFR Part 2301

[Docket No. 170627596-7803-02]

RIN 0660-AA34

Repeal of Regulations Governing the Public Telecommunications Facilities Program

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: The National Telecommunications and Information Administration (NTIA) is repealing its regulations governing the Public Telecommunications Facilities Program (PTFP). The PTFP was a competitive grant program that helped public broadcasting stations, state and local governments, Indian Tribes, and nonprofit organizations to construct public television and radio stations. As of Fiscal Year 2011, no funds have been available for PTFP grants. NTIA is repealing its regulations governing the PTFP because the regulations are unnecessary and obsolete.

DATES: This rule becomes effective on [insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Milton Brown, Deputy Chief Counsel, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Room 4713, Washington, DC 20230; telephone: (202) 482-1816; facsimile: (202) 501-8013; or email: mbrown@ntia.doc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The PTFP was a competitive grant program that supports the planning and construction of public telecommunications facilities.¹ The program helped public broadcasting stations, state and local governments, Indian Tribes, and nonprofit organizations to construct public television and radio stations. On November 8, 1996, NTIA issued a final rule entitled, “Public Telecommunications Facilities Program,” to carry out its statutory responsibility to administer the PTFP.² The regulations outlined the PTFP grant application requirements, the evaluation and selection process, post-award requirements, and the completion of PTFP grant projects. Between Fiscal Years 1994 and 2010, NTIA awarded between \$14 and \$42 million each year in PTFP grant awards to assist radio, television, digital television including digital conversion projects, and distance learning.

For the past seven years, no funds have been available for PTFP grants. In 2010, the Department of Commerce found that the majority of PTFP grants had assisted digital television conversion projects which had concluded, and that support for public broadcasters was available from other sources.³ For these reasons, the Department of Commerce identified the PTFP as

¹ The PTFP is authorized under the Public Telecommunications Financing Act of 1978, as amended, 47 U.S.C. 390-393, 397-399b.

² 61 FR 57966 (Nov. 8, 1996). (The rules were codified at 47 CFR part 2301.)

³ See Commerce, Justice, Science, and Related Agencies Appropriations for Fiscal Year 2011: Hearing before the Subcommittee on Commerce, Justice, Science, and Related Agencies of the Senate Committee on Appropriations, 111th Cong. 12, 22 (Mar. 4, 2010).

“outdated, ineffective, or duplicative.”⁴ Accordingly, Congress appropriated no funds for PTFP in Fiscal Year 2011.⁵

As a result of the lack of funding, NTIA began the orderly shutdown of the PTFP thereafter. NTIA has not processed applications or awarded any additional grants under the PTFP since that time. NTIA has continued to monitor PTFP grants it awarded before Fiscal Year 2011 to ensure taxpayer funds have been utilized in the most responsible and efficient manner.

II. Comments

On July 18, 2017, NTIA published a Notice of Proposed Rulemaking (NPRM) in the *Federal Register* seeking comment on its proposed repeal of regulations governing the PTFP. NTIA did not receive any comments in response to the NPRM.

III. Repeal of Regulations for the Public Telecommunications Facilities Program

Congress authorized NTIA to establish regulations “as may be necessary to carry out” the PTFP.⁶ Due to the lack of funding for seven years and no prospective funding for the PTFP, the regulations governing the PTFP are unnecessary and obsolete. If these regulations are not removed, it may suggest that the program is still active and may cause confusion regarding the status of the program. Accordingly, NTIA is repealing its regulations governing the PTFP.

⁴ *Id.* at 12.

⁵ See Department of Defense and Full-Year Continuing Appropriations Act of 2011, Pub. L. No. 112-10, sec. 1320 (Apr. 15, 2011) (“Notwithstanding section 1101, the level of the following accounts shall be \$0: ‘Department of Commerce, National Telecommunications and Information Administration, Public Telecommunications Facilities Planning and Construction’”). In the 2014 appropriation, Congress rescinded \$8.5 million from the NTIA PTFP account. Consolidated Appropriations Act, 2014, Pub. L. No. 113-76, sec. 524(a) (Jan. 17, 2014) (“Of the unobligated balances available for ‘Department of Commerce, National Telecommunications and Information Administration, Public Telecommunications Facilities, Planning and Construction,’ \$8,500,000 is hereby rescinded”).

⁶ 47 U.S.C. 392(e).

Administrative Procedure Act

The Final Rule relates solely to the repeal of grant program processes, and, as such, is not subject to the requirements of the Administrative Procedure Act, 5 U.S.C. 553(a)(2).

Congressional Review Act

It has been determined that this final rule is not major under 5 U.S.C. 801 *et seq.*

Executive Order 12866

The repeal of the regulations governing the PTFP is not a significant regulatory action as defined by Executive Order 12866.

Executive Order 13132

The repeal of the regulations governing the PTFP does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 13132.

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the repeal of regulations governing the PTFP would not have a significant impact on a substantial number of small entities in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)). NTIA received no comments on the certification, which remains unchanged.

Paperwork Reduction Act

The repeal of the regulations governing the PTFP contains no collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 is not required. In 2013, OMB approved NTIA's requests to discontinue the following collections associated with the regulations governing the PTFP: OMB Control

Numbers 0660-0003, 0660-0001, and 0605-0001; consequently, NTIA has no active collections associated with its regulations governing the PTFP.

Lists of Subjects in 15 CFR Part 2301

Administrative procedure, Grant programs-communications, Reporting and recordkeeping requirements, Telecommunications.

For the reasons stated above, and under the authority of 47 U.S.C. 390-393 and 397-399b, NTIA is removing and reserving 15 CFR part 2301.

PART 2301—[REMOVED AND RESERVED]

Dated: September 15, 2017.

Leonard Bechtel,

Director of Administration and Chief Financial Officer, performing the non-exclusive duties of the Assistant Secretary for Communications and Information,
National Telecommunications and Information Administration.

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