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NUCLEAR WASTE

DOE's Budgeting Process for Grants to Nevada Needs Revision





United States
General Accounting Office
Washington, D.C. 20548

Resources, Community, and
Economic Development Division

B-202377

October 20, 1989

The Honorable James D. Watkins
The Secretary of Energy

Dear Mr. Secretary:

We are reviewing the state of Nevada's use of grant funds provided under the Nuclear Waste Policy Act of 1982, as amended. The grants are awarded by the Department of Energy (DOE) for the state's participation in DOE's program to characterize (investigate) Yucca Mountain, Nevada, as a possible site for the disposal of civilian nuclear waste. A report on our overall findings will be issued next year. However, on the basis of our early work, we believe that DOE's process for budgeting funds for Nevada warrants your early attention as the Department prepares its fiscal year 1991 budget request to the Congress.

Results in Brief

DOE's financial assistance budget request of \$15 million for Nevada's fiscal year 1990 was not based on the amount that the state requested. Instead, it was derived by increasing Nevada's grant funds from the previous year in proportion to the increase in funds that DOE requested for its own activities at the Nevada site.

Further, DOE did not fully evaluate the reasonableness of the state's fiscal year 1990 request for \$22.9 million. DOE's evaluations of Nevada's requests are performed too late to be used in DOE's budget formulation process because Nevada has been applying for financial assistance at about the same time that DOE submits its budget request to the Congress.

Because of congressional interest in financial assistance to Nevada, DOE needs to ensure that its budget request for financial assistance is based on its evaluation of Nevada's proposal for overseeing DOE's waste program.

Background

The Nuclear Waste Policy Act of 1982 charged DOE with screening and investigating potential sites for two repositories for civilian nuclear waste, and for licensing, constructing, and operating one repository at a selected site. The Congress recognized the importance of state and public participation in this process. Therefore, the 1982 act also directed DOE to provide financial assistance to states and Indian tribes having potential repository sites within their borders. The assistance is for the general

\$14 million that DOE had provided to the state for the previous 16 months. After the appropriation limit had been established, DOE did not see a need to complete its review of the March 1988 application.

Although Nevada's fiscal year 1990 request for funding was based on its March 1988 request, DOE did not obtain the additional information that it had concluded in June 1988 was necessary to complete its review of the March request. Thus, DOE did not determine if the \$22.9 million requested for 1990 was in accordance with DOE's proposed program activities and schedule, or how it relates to activities that Nevada may have completed in the past year with the \$11 million that it received.

Changes Needed in DOE's Budget Formulation Process

Historically, DOE has not evaluated grantees' funding needs in developing its financial assistance budgets. In April 1986, for example, we reported that DOE's grant budgets were based on judgments of its field offices, prior grant funding levels, and its own planned activities.¹ DOE was not, we found, requesting information from states and Indian tribes for budget preparation purposes. To help facilitate congressional oversight and enable DOE to focus its budget preparation on the merits of grantees' applications, we recommended that DOE survey the projected needs of grantees and present the results in its budget requests. DOE agreed with our recommendation and began requesting, at the beginning of the budget preparation cycle, grantees to estimate their need for funds. DOE did not, however, obtain, evaluate, and use information supporting these estimates as the basis for its budget requests for financial assistance.

The importance of factoring DOE's evaluations of Nevada's projected needs into the formulation of DOE's budget has increased for three reasons. First, in DOE's appropriation for fiscal years 1989 and 1990, the Congress specified funding limits for Nevada and an aggregate funding level for affected local governments. The Congress had not exercised its authority in this area before fiscal year 1989. For fiscal year 1989, DOE requested \$16 million for Nevada based on an estimate provided by the state in February 1987. DOE did not, however, obtain and evaluate support for the estimate before requesting that amount in its budget. DOE also did not evaluate Nevada's assessment of its grant needs in developing DOE's financial assistance budget of \$15 million for Nevada during fiscal year 1990. Therefore, the Congress did not have the benefit of

¹Nuclear Waste: Department of Energy's Program for Financial Assistance (GAO/RCED-86-4, Apr. 1, 1986).

DOE officials said they would welcome an approach to the grant funding issue that would permit them to obtain and evaluate Nevada's requests in time for use in preparing DOE's budget requests.

Conclusions

DOE's current approach to developing budget requests for financial assistance to Nevada is not based on its evaluation of the state's projected needs. We previously recommended that DOE survey grantees to obtain and consider such information. It is now even more important for DOE to obtain and evaluate sufficient detail on Nevada's funding needs for three reasons. First, this approach will ensure that the Congress has the information it needs if it decides to establish funding limits for Nevada. Second, given the court decision that DOE cannot decline to fund the state's independent testing activities that meet certain criteria, it will ensure that DOE evaluates the reasonableness of proposed testing activities before submitting its budget to the Congress. And third, DOE cannot meet its commitment to support an appropriate amount of grant funds for oversight of its program without evaluating Nevada's request for grant funds.

One approach DOE could use is to require Nevada to submit a preliminary funding request in the fall so that DOE can consider the general scope of the request in preparing its January budget request. Nevada could base its preliminary request on activities planned by DOE for the upcoming fiscal year, as discussed in DOE's previous triennial budget. After DOE submits its new budget request to the Congress, Nevada could base its formal application for funding on activities DOE sets forth in its new budget. DOE could review Nevada's preliminary funding request and any changes contained in the subsequent formal application in time for the annual appropriations process. This approach would provide the Congress with DOE's evaluation of Nevada's funding request in time for the appropriations process.

Recommendation

To ensure that DOE considers Nevada's financial assistance requirements in formulating its nuclear waste program budget, we recommend that the Secretary of Energy require Nevada to provide information on its financial assistance needs on a schedule that permits DOE to evaluate the state's funding requests in preparing its budget.

- reviewing DOE's activities at Yucca Mountain to determine the potential economic, social, public health and safety, and environmental impacts of a repository on the state or affected local government and its residents;
- developing a request for assistance to mitigate the effects of construction and operation of a repository;
- engaging in any monitoring, testing, or evaluation activities related to DOE's site characterization program;
- providing information to Nevada residents about DOE, NRC, and state activities with respect to the site; and
- requesting information from, and providing comments and recommendations to, the Secretary of Energy regarding DOE's program activities.

The act precludes the use of grant funds for salary and travel expenses that would ordinarily be incurred by grantees.

In July 1988 the Congress imposed several restrictions on Nevada's use of grant funds provided under DOE's fiscal year 1989 appropriations act.³ Among other things, the Congress placed a ceiling of \$11 million on the amount of funds available to Nevada from July 1, 1988, through June 30, 1989. The Congress also limited funding of affected local governments to no more than \$5 million. In addition, the Congress

- precluded grantees from using fiscal year 1989 funds to influence legislative action, either directly or indirectly, on any matter pending before the Congress or a state legislature, or for any lobbying activity (as provided in 18 U.S.C. 1913) and
- limited the amount of fiscal year 1989 money that Nevada could spend for transportation and socioeconomic studies to \$1.5 million in each area.

The conference report on the appropriation act provides additional guidance about the use of grant funds. The report states that the Congress never intended that Nevada conduct its own program for characterizing the Yucca Mountain site. According to the report, the funds are solely for oversight and cannot be used to duplicate DOE's data collection activities. The report also states that grant funds are to be spent within the state to the maximum extent practicable and are not to be used to support "multi-state efforts for coalition building with respect to the transportation of nuclear waste to a repository in Nevada." Moreover, the report specifies how Nevada can spend \$1 million of the \$1.5 million appropriated for transportation studies.

³Public Law 100-371.

DOE's Budget Not Based on Evaluation of State's Need

Although DOE had information on Nevada's need for grant funds for fiscal year 1990, DOE did not evaluate this information as its basis for requesting \$15 million for the state in DOE's 1990 budget. In September 1988—more than 3 months before DOE submitted its budget to the Congress—Nevada informed DOE that it would need \$22.9 million to oversee DOE's program during fiscal year 1990. This amount was based on its request for fiscal year 1989. DOE had reviewed the 1989 request in detail in 1988 and raised a number of concerns. DOE did not resolve these concerns, however, because the Congress had limited Nevada's fiscal year 1989 spending to \$11 million, or less than one-half the amount that Nevada had requested for fiscal year 1989, at about the time DOE had completed its initial review.

In its March 3, 1988, application for fiscal year 1989 grant funds, Nevada had requested about \$23.1 million. DOE completed an extensive review of this request in June 1988. It concluded that it did not have sufficient information to adequately assess the full scope of the state's proposed work. In a June 20, 1988, letter to the state, DOE approved the general scope of Nevada's proposed activities, subject to the resolution of a number of concerns. For example, DOE was concerned that certain proposed activities could adversely affect the waste isolation capability of Yucca Mountain. DOE informed Nevada that it would not approve funding for these activities until Nevada had supplied information that would permit DOE and NRC to assess the potential effects of these activities on the site.

After the Congress established the \$11-million ceiling, DOE did not pursue its questions to determine the level of funding supported by the March 1988 application. According to DOE officials, DOE's questions on the \$23.1-million scope of work were no longer relevant.

In a September 19, 1988, letter to DOE, Nevada stated that it would need \$22.9 million for fiscal year 1990. According to the Executive Director of Nevada's Agency for Nuclear Projects, this amount was derived by reducing its original request for 1989 by about \$260,000 to eliminate state funding for Nye County, the county in which the Yucca Mountain site is located, and two local governments designated as affected units of local government by the Secretary of Energy. These local governments had been funded by the state through its grant, but they now receive funds directly from DOE.

On January 30, 1989, Nevada formally requested DOE to consider its original grant application for fiscal year 1989 as its request for fiscal

have used this information as the basis for its budget request for financial assistance, DOE would have had to resolve the concerns raised in its earlier review of the state's request for 1989. Also, DOE would have needed to examine Nevada's proposed funding levels in view of the work performed, ongoing work to be continued, and new work to be started. Instead, according to DOE officials, DOE developed a budget figure of \$15 million by adjusting the \$11-million amount provided to Nevada in fiscal year 1989 in proportion to the increase it was seeking for its site characterization program. DOE's fiscal year 1989 budget for work on the Yucca Mountain project totaled about \$224 million, and it requested about \$339 million in fiscal year 1990.

Changes Needed in DOE's Budget Formulation Process

Historically, DOE has not evaluated grantees' funding needs in developing its financial assistance budgets. In our April 1986 report,⁵ we stated that the amounts of some grant awards were dictated by budgetary considerations rather than on their merits, in part because grant budgets were not based on grantees' projected needs. To help facilitate congressional oversight and enable DOE to focus on the merits of a grantee's application in making judgments on what should be funded, we recommended that DOE survey grantees as to their projected needs and incorporate these assessments into more detailed presentations of budget data in annual appropriation requests to the Congress. DOE agreed with our recommendation and began requesting grantees to provide it with estimates of their budget needs. For example, in March 1988, when DOE was beginning to prepare its fiscal year 1990 budget, it asked Nevada to estimate its need for funds for 1990. DOE did not, however, require grantees to provide supporting details for DOE's evaluation and use in determining the amount of financial assistance to include in its request.

Since then, the importance of factoring DOE's evaluations of grantees' projected needs into the budget formulation process has increased for three reasons. First, in DOE's appropriation for fiscal years 1989 and 1990 the Congress specified funding limits for Nevada and an aggregate funding level for affected local governments. The Congress had not exercised its authority in this area before fiscal year 1989. Because DOE's 1989 and 1990 budget requests for financial assistance to Nevada were not based on an evaluation of Nevada's needs, however, the Congress did not have such information available to assist it in determining funding ceilings.

⁵Nuclear Waste: Department of Energy's Program for Financial Assistance (GAO/RCED-86-4, Apr. 1, 1986).

appropriate additional funds for the state to accomplish independent technical oversight of DOE's activities at Yucca Mountain.

Because of the need to find a way to incorporate the grantee's input into the formulation of DOE's budget, we discussed the subject with the Executive Director of Nevada's Agency for Nuclear Projects. We asked this official about the feasibility of submitting the state's annual funding request in a time frame that would allow DOE to use the request in preparing and submitting its budget to the Congress in January of each year. He said that it would be difficult for Nevada to submit a detailed application within this time frame because Nevada needs specific information about DOE's planned activities for the upcoming year to develop its own program. According to the Executive Director, such information is not available to Nevada early enough to provide a detailed application for DOE's use in preparing its budget.

The Executive Director said that Nevada could provide DOE with a ceiling estimate—and a commitment that the state's application would not exceed the estimate—in the fall for inclusion in DOE's January budget request to the Congress. In addition, he said Nevada could, in advance of the appropriation process, provide more detailed information directly to the Congress. Further, the Congress could direct DOE or others to review the information in time for congressional action. Also, later applications could highlight how Nevada had used funds made available to it. In the Executive Director's opinion, this approach would be useful to the Congress because it would permit Nevada's funding to be analyzed within the context of DOE's overall nuclear waste program budget. Finally, he said that this approach is consistent with what, in his view, is the Congress' intention to exercise control over financial assistance to Nevada through the annual appropriations process.

The proposal for a "ceiling estimate" is similar to DOE's current practice of requesting estimates from grantees at the beginning of the budget preparation cycle. Section 302(e) of NWPA requires DOE to annually submit a triennial budget to the Congress for the Nuclear Waste Fund. The proposed "ceiling estimate" appears appropriate for use in projecting the state's funding needs for the 2 succeeding budget years. Such a gross annual estimate, however, would not provide DOE with the detail needed to properly evaluate the merits of the request for the budget year. Moreover, the Executive Director's proposal to submit the details of Nevada's request directly to the Congress could be inconsistent with DOE's responsibility, as directed by NWPA, to administer the financial assistance program. Also, because Nevada's needs are based on DOE's planned

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Appendix I
DOE Budgeting of Financial Assistance to the
State of Nevada for Fiscal Year 1990

activities, it is important that DOE review Nevada's grant request to ensure that the state's planned activities are consistent with DOE's site characterization program at Yucca Mountain.

Second, a federal court decided that DOE cannot decline to fund Nevada's independent testing program if the program meets certain conditions. Although the NWPA did not define how much financial assistance should be provided to grantees, its legislative history shows that the Congress intended to retain control over the provision of grant funds through the appropriations process and instructed DOE to negotiate funding levels with grantees. However, in December 1984 Nevada sued DOE over its decision not to fund \$1.5 million for hydrologic and geologic studies planned by the state. Nevada contended that these activities were necessary and reasonable to oversee DOE's program and that DOE does not have the discretion to determine what state activities are funded as long as they are authorized by statute or written agreement. DOE reasoned that the studies were beyond an appropriate scope of work and would duplicate DOE's activities. Also, DOE said that the Congress did not intend mandatory funding of any activity a state feels is necessary for its participation.

In December 1985, the Ninth Circuit Court of Appeals found that certain sections of DOE's internal grant guidelines were unlawful because they undermined the independent oversight role in the nuclear waste program that the Congress envisioned for affected states.⁶ The court ruled that NWPA supports funding for independent site testing as long as the testing is essential to an informed "statement of reasons" for disqualifying a site under sec. 116(b) of the NWPA.⁷ The court also ruled, however, that the activities (1) must be scientifically justifiable (reasonable), (2) must be performed by demonstrably competent contractors, and (3) cannot unreasonably interfere with or delay DOE's waste program activities.

Independent testing activities make up about one-half of Nevada's entire program. Thus, unless the Congress limits funding for Nevada as it did in fiscal years 1989 and 1990, DOE may have to fund the state's testing program even when DOE has not adequately budgeted for it. In such a case, DOE would either have to reprogram funds from its own waste program activities or request and obtain a supplemental appropriation from the Congress.

Third, at a May 22, 1989, meeting between the Secretary of Energy and the Acting Governor of Nevada, the Secretary said that DOE will support

⁶State of Nevada v. John Herrington, 777 F.2d 529 (9th Cir. 1985).

⁷This section allows the governor or the legislature of the state in which DOE recommends that a repository be located to submit a "notice of disapproval." The notice must be accompanied by a statement explaining why the governor or state legislature disapproved the repository site.

year 1990. According to the state, its funding estimate of \$22.9 million was realistic because the Congress' decision to characterize only the Yucca Mountain site had expanded Nevada's oversight responsibilities.

In its 1989 request for financial assistance, Nevada had requested funding for a variety of activities. These included about \$1.5 million to support the state agency that oversees DOE's program, \$1.6 million for other government entities, \$.5 million for technical advisors, and \$19.5 million for other contract work in 14 technical areas. The technical activities ranged from developing and implementing a quality assurance program, as required by NRC's repository licensing regulations, to performing socioeconomic and environmental impact studies. About one-half of the funds were requested for the state's independent hydrologic and geologic testing programs.

According to the Executive Director of Nevada's Agency for Nuclear Projects, the state's fiscal year 1989 scope of work is the "baseline" necessary to adequately oversee DOE's Yucca Mountain project. In the state's view, its proposed program does not duplicate DOE's work and does not constitute site characterization. Instead, the work is specifically designed to address technical concerns that, in Nevada's view, DOE is not adequately addressing.

DOE's grant agreement with Nevada requires the state to submit its funding requests 5 months in advance of the beginning of the funding period. For fiscal years 1989 and 1990, the funding periods began on July 1, the beginning of Nevada's fiscal year. Consequently, Nevada was not required to submit its request until January 30, or after DOE has submitted its budget requests to the Congress. However, in September 1988 Nevada advised DOE that it would need about the same amount of fiscal year 1990 funding as it had requested for fiscal year 1989. This communication was more than 3 months before DOE submitted its fiscal year 1990 budget request. Even this notification may not have been early enough for DOE to review the request, however, because DOE's budgets are usually approved by the Office of Management and Budget in November.

In March 1988, DOE asked the state to provide estimated grant funding requirements for fiscal year 1990 and succeeding years. At that time, however, DOE did not request the support it would have needed to evaluate the estimate. Later that month, Nevada provided DOE with a rough estimate of about \$27 million for 1990. Then, in September 1988 Nevada notified DOE that it would need \$22.9 million for fiscal year 1990. To

As shown in table I.1, DOE has obligated about \$32.3 million to support Nevada's oversight activities since March 1983.⁴

Table I.1: Summary of Grant Obligations

Period	Approximate months in budget period	Amount obligated	Total cumulative period
Mar. 1983-Sept. 1983	7	\$350,000	\$350,000
Oct. 1983-Sept. 1984	12	646,083	996,083
Feb. 1985-Apr. 1986	15	1,898,778	2,894,861
May 1986-Feb. 1987	10	4,418,754	7,313,615
Mar. 1987-June 1988	16	13,998,663	21,312,278
July 1988-June 1989	12	11,000,000	32,312,278

Source: DOE

Budgets Should Consider Grantee's Needs

DOE, and therefore the Congress, have been making funding decisions without the best possible information available because DOE's evaluations of Nevada's grant funding requests are not an integral part of DOE's budget formulation process. For example, although Nevada's fiscal year 1989 application, which was also the basis for its 1990 request, was broken out in substantial detail, DOE did not require the application to be submitted for use in formulating its budget request for either year. Specifically, we found the following:

- DOE's fiscal year 1990 budget request for \$15 million in state grant funds was not based on an evaluation of Nevada's need for funds. Instead, DOE developed the estimate by adjusting Nevada's 1989 funding level in proportion to the increase in funds that DOE was requesting for its 1990 site characterization program at Yucca Mountain.
- DOE did not evaluate the state's \$22.9-million request for 1990 to determine what funding level was supported by the request.
- A change in DOE's budgeting and awarding of grant funds is warranted.

⁴DOE obligated the funds under two grant agreements. The first agreement was in effect between March 3, 1983, and February 28, 1985. On February 1, 1985, DOE issued a new grant agreement, which was extended through June 30, 1989. Although the budget periods between the two agreements overlap, DOE did not provide funds under the first agreement after September 30, 1984. DOE intended to extend this last agreement until the Congress acts upon its fiscal year 1990 appropriation.

DOE Budgeting of Financial Assistance to the State of Nevada for Fiscal Year 1990

Background

In 1982 the Congress found that federal efforts to dispose of radioactive waste accumulating at nuclear power plants had not been successful and that this waste had become a major source of public concern. To help ensure safe disposal of the waste, the Congress enacted the Nuclear Waste Policy Act of 1982 (NWPA). The act established a process for the identification and selection of candidate repository sites for two geologic repositories, charged the Department of Energy (DOE) with implementing the program, and assigned responsibility to the Nuclear Regulatory Commission (NRC) to license and regulate the repositories.

In enacting NWPA, the Congress recognized that state and public participation in planning and developing the repositories is essential to promote public confidence. Therefore, NWPA provided for the active participation of affected parties and required DOE to provide financial assistance (grants) to ensure that these parties could participate in the program. Through 1985, DOE had provided about \$23 million in financial assistance to 23 states, 3 Indian tribes, and the national conferences of state legislatures and American Indians.

In December 1987 the Congress amended NWPA.¹ The amendments directed DOE to terminate work at two candidate repository sites and characterize (investigate) only the Yucca Mountain, Nevada, site for possible use as a repository. The amendments also suspended, for about 20 years, all site-specific activities directed toward identifying candidate sites for a second repository. Finally, the amendments limited eligibility for financial assistance to the state of Nevada and affected local governments.

Section 116 of NWPA, as amended, requires DOE to make financial assistance grants from the Nuclear Waste Fund to the state of Nevada and affected local governments so that these government entities can oversee DOE's waste program activities.²

Activities eligible for funding include

¹The Nuclear Waste Policy Amendments Act of 1987, contained in the Budget Reconciliation Act for Fiscal Year 1988 (P.L. 100-203).

²Funding for the state's grant is provided through DOE's Nuclear Waste Fund appropriation. The fund, established by section 302 of the act, consists of fees paid by generators and owners of nuclear waste, and interest earned on investments of funds that are surplus to current program needs.

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Abbreviations

DOE	Department of Energy
GAO	General Accounting Office
NRC	Nuclear Regulatory Commission
NWPA	Nuclear Waste Policy Act
RCED	Resources, Community, and Economic Development Division

Scope and Methodology

To obtain information about DOE's budgeting process for Nevada's grants, we interviewed DOE and Nevada officials. Our work focused on fiscal years 1989 and 1990. We also reviewed applicable documents, such as grant agreements, Nevada's fiscal year 1989 application for financial assistance, DOE staff evaluations of this application, and correspondence about Nevada's 1990 funding needs.

We discussed the matters contained in the report with DOE and Nevada officials and included their comments where appropriate. Our work was performed between May and July 1989 in accordance with generally accepted government auditing standards.

We are sending copies of this report to congressional committees with oversight of DOE's nuclear waste activities and other interested parties. As you know, 31 U.S.C. 720 requires the head of a federal agency to submit a written statement on actions taken on our recommendations to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days after the date of this letter and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of this letter.

This report was prepared under the direction of Keith O. Fultz, Director of Energy Issues, (202) 275-1441. Other major contributors to this report are listed in appendix II.

Sincerely yours,



J. Dexter Peach
Assistant Comptroller General

Nevada's request, and DOE's evaluation, to assist it in determining an appropriate funding limit for those fiscal years.

Second, a federal court decided in December 1985 that DOE cannot decline to fund Nevada's independent testing activities if the activities are scientifically justifiable, performed by competent contractors, and do not interfere with or delay DOE's program. About one-half of Nevada's oversight program involves independent testing. Thus, unless the Congress limits funding for the state as it did for fiscal years 1989 and 1990, DOE may have to fund Nevada's testing activities regardless of whether DOE has adequately budgeted for them. In such a case, DOE would have either to reprogram some of its own funds or to obtain a supplemental appropriation from the Congress.

Third, the Secretary of Energy recently made a commitment to support appropriate additional grant funds to Nevada for independent technical oversight of DOE's activities at Yucca Mountain.

To determine if Nevada could provide DOE with sufficient information on its upcoming grant needs in time for DOE to evaluate them for its budget preparation, we spoke with the Executive Director of Nevada's Agency for Nuclear Projects. He said it would be difficult for Nevada to submit a detailed request for grant funds early enough because Nevada needs specific information about DOE's planned activities to develop its program. The Executive Director added, however, that Nevada could provide DOE with a ceiling estimate in the fall and, after DOE submits its budget to the Congress in January, could provide more detailed information directly to the Congress for use in the appropriation process. In his opinion, this approach would be useful to the Congress because it would permit Nevada's funding to be analyzed within the context of DOE's overall budget for the nuclear waste program. In his view, the approach is consistent with the Congress' intention to exercise control over financial assistance to the state.

The Nuclear Waste Policy Act requires DOE to annually submit a triennial budget. Incorporating the "ceiling estimate" that Nevada's Executive Director proposed into DOE's budget appears appropriate for the 2 succeeding years in DOE's 3-year budget. Such an estimate, however, would not provide DOE with the detail needed to properly evaluate the merits of the request for the budget year. Moreover, the proposal to submit the details of Nevada's request directly to the Congress could limit DOE's ability to administer the financial assistance program as required by the act.

purpose of overseeing DOE's activities within their jurisdictions, including engaging in monitoring, testing, or evaluation of DOE's site characterization program. The act did not, however, define how much financial assistance should be provided. Its legislative history shows that the Congress intended to retain control of this area through the appropriations process and to have DOE negotiate appropriate funding levels with individual grantees. Through 1985, DOE had provided about \$21 million in financial assistance to 23 states, 3 Indian tribes, and 2 national associations.

In December 1987 the Congress amended the 1982 act to, among other things, direct DOE to limit its investigation of candidate sites for a repository to Yucca Mountain, Nevada. It also suspended further consideration of a second repository and limited eligibility for financial assistance to the state of Nevada and affected local governments.

Budget Request Not Based on Evaluation of Grant Application

DOE submitted its budget request for fiscal year 1990 in January 1989. Its request for about \$339 million for the Yucca Mountain project included \$15 million for financial assistance to the state of Nevada. DOE officials told us that the latter amount was based on the amount appropriated by the Congress the previous year—\$11 million—escalated in proportion to the increase in funds that DOE requested for its own site characterization activities at Yucca Mountain. DOE used this approach even though Nevada had notified DOE in September 1988 that the state would need \$22.9 million for fiscal year 1990.

DOE Did Not Review Nevada's Grant Request in Detail

In January 1989 Nevada applied for financial assistance for its fiscal year 1990 (beginning July 1, 1989). The state requested \$22.9 million for program administration, technical advisors, and contract work in 14 technical areas, such as hydrologic and geologic testing. Nevada used its funding request for the previous fiscal year as the basis for its 1990 request.

In March 1988, Nevada had requested about \$23.1 million in grant funds for fiscal year 1989. On the basis of a comprehensive, initial review of that request, DOE concluded in June 1988 that it did not have sufficient information in some areas to evaluate the full scope of Nevada's proposed work. Before DOE had resolved this matter, the Congress appropriated funds for the nuclear waste program for fiscal year 1989 and limited grant funds available to Nevada to \$11 million from July 1, 1988, through June 30, 1989. This amount was roughly the same as the

