

Grants Policy Issuance- 12-06
Timely Obligation, Award and Expenditure of EPA Grant Funds

1.0 Purpose

The purpose of this policy is to further EPA's mission of protecting human health and the environment by ensuring the timely obligation, award and expenditure of EPA grant funds.

2.0 Effective Date

Except as otherwise specified below, the effective date of this policy is October 1, 2012.

3.0 Background

In response to Congressional scrutiny of EPA's grant unobligated balances and grantee unexpended appropriations, and State concerns over delays in receiving grant awards, the Office of Grants and Debarment (OGD) and the Office of the Chief Financial Officer (OCFO) convened a workgroup of Headquarters, Regional and State grant practitioners. The charge of the workgroup was to develop recommendations for streamlining grant processes and improving grant outlay rates. The workgroup focused on four issues: 1) EPA delays in obligating grant funds in the first year of availability; 2) EPA delays in awarding grant funds after the passage of a full appropriation; 3) grantee accumulation of unexpended appropriations in awarded grants; and 4) the need to accelerate grant outlays. This policy implements the workgroup's recommendations.

4.0 Definitions

Obligation- For purposes of this policy, EPA properly obligates an appropriation for a grant program by creating a definite liability against the appropriation during the period of its availability and as documented by the EPA grant award in accordance with 31 U.S.C. 1501(a)(5).

Outlay- An outlay is the issuance of checks, disbursement of cash or electronic transfer of funds generated to satisfy payment requests made by a grant recipient to a grant-funded program or project. Outlays during a fiscal year may be for payment of obligations incurred in prior years or in the same year. Outlays may be reported on a cash or accrual basis. See 40 C.F.R. 31.3 and 2 C.F.R. 215.2 (u).

5.0 Timely Obligation of Grant Funds

The goal for all EPA assistance agreement programs is to expeditiously obligate grant funds appropriated by Congress in the first year of availability. Beginning in FY 2013, OGD and OCFO will provide National Program Managers (NPMs) with quarterly reports measuring the agency's progress in meeting this goal.

6.0 Grant Competitions

This Section applies to all assistance agreement competitions initiated on or after October 1, 2012.

6.1 Evaluation Factor

All Program Offices conducting assistance agreement competitions must include the following evaluation factor (or one substantially similar) in Section V of competitive announcements. The announcement will also require the applicant to address this factor in their proposal. Program must assign the appropriate value for this factor (e.g., points or weight value) based on the nature of the competition and the importance of other evaluation factors.

Expenditure of Awarded Grant Funds (...points)

Under this criterion, applicants will be evaluated based on their approach, procedures, and controls for ensuring if awarded a grant that the grant funds will be expended in a timely and efficient manner.

6.2 Anticipatory Competitive Announcements

Program Offices conducting competitions may issue anticipatory competitive announcements in advance of funds being appropriated by Congress for awards under a particular assistance agreement program provided they obtain concurrence from: 1) the Director, Office of Budget, OCFO that there is a reasonable likelihood that Congress will appropriate funds for the program; and 2) OGD's Grants Competition Advocate that issuance of an anticipatory competitive announcement will not impose undue burden or risk on applicants or the agency.

7.0 Grant Process Streamlining Principles

This Section applies to new awards, including new assistance agreements, or incremental and supplemental funding amendments, made on or after October 1, 2012 for State/local environmental agency assistance agreement programs specified in Attachment A. It also applies, where practicable, to Attachment A awards made prior to October 1, 2012 for FY 2013 work. OGD, in consultation with NPMs, will review and revise Attachment A, as appropriate, to add additional grant programs.

7.1 Workplan Negotiation Phase

a. Range of Funding

Consistent with applicable NPM Guidance, EPA should request States to develop and/or submit their workplans and applications based on the previous year's award amount or the amount derived from the President's budget, whichever is higher. If amounts based on the President's budget are not known, negotiations should be based on the previous year's award amount.

To facilitate the negotiation process, NPMs are expected to provide Regional allocations (or State-specific allocations, where appropriate) and Regional Program Offices are expected to provide State-specific allocations to the States, as soon as possible. In conjunction with the development of Continuing Resolution or Advice of Allowance Guidance, the Office of Budget, OCFO, and OGD will work with NPMs to expedite the development of grant allocations/targets.

b. Primary Focus of the Negotiations

Assuming that the level of funding is not significantly different from the previous year's grant amount, the primary focus of workplan negotiations should be on new priorities consistent with applicable NPM guidance. Less emphasis should be placed on negotiating recurring activities/commitments where there is a satisfactory record of grant performance. Examples of recurring activities/commitments include base program or core activities that continue from year-to-year regardless of the final funding level (see, e.g., Grants Policy Issuance 08-04, *State Grant Cost Review*).

c. Multi-year Awards

For multi-year awards, applicants should apply for the total amount of funds expected for the period covered by the award and include any required match in the application. The workplan should also cover the same time period. EPA will fund the application incrementally as funds become available. When final funding levels differ than the amount applied for, refer to Section 7.2.c. to determine what documentation is needed.

7.2 Application Phase

a. Electronic Submission of Applications

Applications and supporting documents may be submitted in pdf format either through email or grants.gov and GMOs will not require hardcopy submissions. Also, GMOs, in coordination with OGD, will establish procedures to receive electronic submissions. The Director, OGD, will issue supplemental guidance, as necessary, to facilitate electronic submissions.

b. Concurrent Review of the Applications

Program Offices/Project Officers and Grants Management Offices (GMOs)/Grants Specialists will conduct their application review responsibilities concurrently.

c. Pen and Ink Changes

If the final amount of funding is lower than the amount applied for, Regions will work with States to identify necessary changes. The State will not need to submit a revised workplan or new application. Regions will document and date through pen and ink changes/email correspondence, agreed-upon revisions to the workplan, budget narrative, and application forms.

If the final amount of funding is higher than the amount applied for, Regions must request the State to electronically submit only the revised application forms including the SF-424, SF-424A and budget detail. As part of the submission, the State must also indicate whether any changes were made to the workplan. If changes were made to the workplan, the State must electronically submit a description of the changes.

For multi-year awards, fiscal changes can be done when the final cumulative funding amount is known or when the amount to be awarded exceeds the amount requested.

d. Conditional Approval

If the State and Region have completed negotiations for part of the workplan, the Region should conditionally approve the workplan and obligate the full amount of the award, once funding is available. The award must include the National Term and Condition contained in Attachment B

placing appropriate draw-down/payment restrictions for the portion of the workplan that has not been approved. This does not prohibit work from beginning on approved activities.

7.3 Award Phase

a. Program Office Completion of the Funding Recommendation

i. Standard Funding Recommendation

Regional Program Offices are expected to use standard Funding Recommendations (FRs) developed by OGD and NPMs. These FRs will pre-populate key fields, reducing the time for data entry by Project Officers. Once the FR is created for the grant through the template, the Project Officer may make any necessary project-specific changes. The OGD Director will issue implementing guidance to Regional Project Officers on the standard FR system.

ii. Grants Guide

The Grants Guide is a central electronic location for Project Officers and Grants Specialists to research essential information about a grant program. In FY 2013, OGD, working with NPMs, will conduct a Grants Guide pilot covering a subset of Attachment A programs. If the pilot is successful, OGD will expand the Guide to other grant programs in accordance with guidance issued by the OGD Director.

b. Electronic Award Notification

In coordination with OGD, GMOs will implement procedures to electronically (pdf) send the Notification of Award to recipients, in lieu of sending hard copies. Hard copies should only be sent in extenuating circumstances. See Attachment C for sample procedures.

c. White House Reporting Process

(a) To expedite the grant award process for Attachment A programs, Grants Management Offices (GMOs) should include in any weekly White House (WH) report submissions to OGD, notice of proposed awards where the underlying funding recommendations are near final and no major changes are expected. OGD will submit that information to the Office of the Administrator later in the same week. Beginning the following week, GMOs will have no further obligations under the WH reporting process. GMOs may proceed to finalize and sign the award, subject, where applicable, to the 5-day Congressional notification process.

(b) If a GMO has sent an incremental partial award that includes the total estimated award amount through the WH report process, no further processes for the WH report is necessary for subsequent incremental amendments to that award.

d. Pre-Award Costs

Appendix B to 2 C.F.R. Part 225 allows EPA to approve pre-award costs incurred directly pursuant to the negotiation and in anticipation of the award where the costs are necessary to comply with the proposed delivery schedule or period of performance and are otherwise allowable. Regional Program Offices and GMOs should ensure that any pre-award costs are consistent with Appendix B standards, contained in the Application for Federal Assistance, and approved in the award document.

e. Terms and Conditions

OGD and NPMs will periodically review terms and conditions for Attachment A programs and eliminate terms and conditions that are no longer necessary.

f. Continuing Resolutions

In a year with a Continuing Resolution (CR), Regions will follow requirements in OCFO's governing CR Guidance. For purposes of State Continuing Environmental Programs (CEPs), and excluding State Revolving Fund (SRF) Programs, that Guidance provides flexibility for moving funds between CEP programs to allow States to address priority needs. For the CR period, Regions should consult with the States to determine their actual funding needs and make an incremental partial award based upon the negotiated workplans.

8.0 Elimination of Affirmation of Award

This Section applies to all new awards and amendments made on or after November 1, 2012.

OGD is eliminating the requirement for recipients to submit a signed Affirmation of Award for new awards or amendments. The Notice of Award section of the agreement will include the language in Attachment D allowing recipients to demonstrate their commitment to carry out an award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award mailing date.

9.0 Target Outlay Strategy and Timely Drawdown of Federal Funds

This Section applies to the universe of assistance agreements covered by Section 7.0.

Regional Program Offices will negotiate with recipients of Attachment A grants a reasonable outlay strategy consistent with the project period and NPM guidance, and tailored to the particular characteristics of the grant program. The agreed-upon outlay strategy should be reflected in the workplan's negotiated milestones and be consistent with the Sufficient Progress Term and Condition required by Grants Policy Issuance 11-01: *Managing Unliquidated Obligations and Ensuring Progress under EPA Assistance Agreements*.

Outlay strategy discussions may begin with the submission of the SF-424A or earlier. Regional Program Offices may use the outlay rate information contained in Sections D and E of the SF 424-A as a basis for the required strategy, provided they determine it will promote accelerated outlays to the maximum extent practicable. In performing baseline and advanced monitoring, Regions should ensure that recipients are drawing down federal funds consistent with the negotiated outlay strategy, and if this is not occurring, work with the recipient to develop and implement appropriate corrective action strategies.

Regional Program Offices may not approve grants where it is anticipated that drawdown of a substantial portion of federal funds will be delayed until the end of the project period without the approval of the responsible NPM. Before approving any such grant, the responsible NPM will consult with the Director, OGD and the Director, Office of Budget, in a timely manner.

OGD and OCFO will provide NPMs and Regions periodic progress reports on grant outlay rates.

10.0 Project Period Lengths

Section 10 of GPI 11-01: *Managing Unliquidated Obligations and Ensuring Progress under EPA Assistance Agreements* is amended to apply to active awards made prior to October 1, 2010 for: 1) STAG-funded State CEP grants; 2), Leaking Underground Storage Tank cooperative agreements; 3) Clean Water and Drinking Water SRF capitalization grants; and 4) construction grants under Title II of the Clean Water Act, including constructions grants to the District of Columbia or the Territories funded with Clean Water SRF appropriations.

Beginning October 1, 2012, these awards cannot be extended beyond 7 years without approval from the Director, OGD, or designee, in accordance with the waiver procedures set forth in GPI 11-01. The OGD Director will consult with the Director, Office of Budget, OCFO on all waiver requests.

OGD will formally reissue GPI 11-01 to incorporate this change.

11.0 Clean Water Section 319 Program

The Office of Water (OW) will address the general principles in Section 7.0 in its Section 319 NPM grants guidance. In so doing, OW and Regional Section 319 Program Offices are expected, among other things, to work with States, where feasible, to adjust the schedule for project-specific Requests for Applications, to allow earlier submission of draft projects for Regional approval and to streamline the Regional approval process. OW will issue initial guidance under this Section in the second quarter of FY 2013.

12.0 Clean Water and Drinking Water SRF Programs

OW will address the general principles in Section 7.0 in its SRF NPM grants guidance. In so doing, OW and SRF Regional Program Offices are expected to implement streamlined processes, including submission of grant applications in the first year of SRF funds availability, early submission of draft Intended Use Plans (IUP), expanded use of First In-First Out payment procedures, where appropriate, and the negotiation of target outlay rates for set-aside programs. OW will issue initial guidance under this Section in the first quarter of FY 2013.

13.0 Evaluation and Reports

OGD will review this policy, in consultation with the NPMs and the States, within three years of issuance to assess its effectiveness. Also, OGD will issue periodic reports, in consultation with the NPMs and States, to ensure that sufficient progress is being made to achieve the goals of this policy.

14.0 Waivers

In response to a written request from the appropriate Senior Resource Official, the OGD Director, or designee, may approve waivers to this policy on an individual or class basis in circumstances of compelling urgency or unique programmatic considerations or where a waiver would be in the public interest.

15.0 Relationship to Other Grants Management Policies

In applying the streamlining principles in Section 7.0, EPA Grants Management Officials must continue to ensure that awarded grants meet applicable policy/regulatory requirements for accountability and results.

16.0 Roles and Responsibilities

a. National Program Managers (NPMs):

NPMs for all agency grant programs are responsible for:

- Providing oversight to promote timely obligation of grant funds under Section 5.0.

NPMs responsible for Attachment A programs are responsible for:

- Providing timely Regional or State target grant allocations as appropriate to Regional Program Offices to facilitate workplan negotiations under Section 7.0.
- Incorporating the workplan negotiation principles in Section 7.0. into their grant guidances starting in FY 2014.
- Working with OGD to facilitate the use of Standard Funding Recommendations and the Grants Guide under Section 7.3.a.
- Reviewing programmatic grant terms and conditions to determine continued relevancy under Section 7.3.e.
- Providing guidance to the Regions on the negotiations of target outlay strategies under Section 9.0.
- Approving or disapproving proposed awards involving delayed outlay of federal funds under Section 9.0, consulting with the Director, OGD and the Director, Office of Budget.

Section 319 and SRF NPMs are also responsible for implementing program-specific reforms as outlined in Sections 11.0 and 12.0 of this policy.

b. Headquarters and Regional Program Offices:

- Headquarters and Regional Program Offices conducting grant competitions are responsible for incorporating the required evaluation factor into announcements and obtaining the necessary concurrences to issue anticipatory announcements, under Section 6.0.
- Regional Program Offices seeking to extend grants awarded before October 1, 2010, as described in Section 10.0, are responsible for requesting a waiver from OGD.

c. Regional Program Offices implementing Attachment A Programs

Regional Program Offices implementing Attachment A Programs are responsible for:

- Providing timely grant specific allocations to the States to facilitate workplan negotiations under Section 7.0.
- Applying the grant process streamlining principles in Section 7.0. into workplan negotiations.
- Work with Regional GMOs to implement procedures for receiving application documents electronically under Section 7.2.a.
- Including the national term and condition for conditional awards under Section 7.2.d. in the FR.
- Negotiating target outlay strategies in accordance with Section 9.0.
- Seeking NPM approval to award a grant with delayed outlay of federal funds under Section 9.0.
- For SRF or Section 319 Regional Program Offices, complying with SRF and Section 319 NPM guidance under Sections 11.0 and 12.0.

d. Regional Grants Management Officers (GMOs): Regional Grants Management Officers are responsible for:

- Generally, collaborating with Regional Program Offices to implement the streamlined processes under Section 7.0.
- Concurrently reviewing workplans and applications with Regional Program Offices under Section 7.2.b.
- Including the national term and condition for conditional awards under Section 7.2.d. in the award document.
- Implementing an electronic process to send and receive the Notification of Award under Section 7.3.b.

e. Grants Competition Advocate's (GCA) Office: The Grants Competition Advocate's Office is responsible for:

- Providing guidance, as necessary, to implement Section 6.0;
- Concurring or non-concurring in the use of an Anticipatory Request For Proposals (RFP) under Section 6.2.

f. OGD: OGD is responsible for:

- Coordinating the development/implementation of procedures for electronic submission of applications and electronic award notification under Section 7.2.a. and Section 7.3.b.
- Leading the effort to develop Standard Funding Recommendations and Grants Guide under Section 7.3.a.
- Reviewing national administrative terms and conditions for continued relevancy under Section 7.3.e.
- Posting national terms and conditions/language for conditional awards and eliminating Affirmation of Award requirements under Section 7.2.d. and Section 8.0.

- Approving or disapproving requests for project period extension requests under Section 10.0, in consultation with the Director, Office of Budget, OCFO.
- Assessing Agency compliance with this policy under Section 13.0.
- Reviewing and approving waivers to this policy under Section 14.0.

g. OCFO: The Director, Office of Budget, OCFO is responsible for:

- Determining whether there is a reasonable expectation of appropriations so as to warrant an anticipatory RFP under Section 6.2.
- Providing Advice of Allowance guidance for Continuing Resolutions under Section 7.3.f.

h. OGD and OCFO: OGD and OCFO are responsible for issuing quarterly reports under Section 5.0 and Section 9.0.

Attachment A

Applicable Programs

Office	Grant Program
Office of Air and Radiation	Air Pollution Control (CAA Section 105)
Office of Air and Radiation	State Indoor Radon Grants (TSCA Section 306)
Office of Enforcement and Compliance Assurance	Toxic Substances Compliance Monitoring (TSCA Section 28)
Office of Enforcement and Compliance	Pesticides Cooperative Enforcement (FIFRA Section 23)
Office of Chemical Safety and Pollution Prevention	State Lead Grants (TSCA Section 404(g))
Office of Chemical Safety and Pollution Prevention	Pesticides Implementation Program (FIFRA Section 23)
Office of Solid Waste and Emergency Response	Hazardous Waste Management (RCRA Section 3011)
Office of Solid Waste and Emergency Response	Brownfields (CERCLA Section 128)
Office of Solid Waste and Emergency Response	Underground Storage Tanks Program (SWDA Section 2007(f)(2))
Office of Water	Water Pollution Control (CWA Section 106)
Office of Water	Public Water System Supervision (SDWA Section 1443)
Office of Water	Underground Injection Control (SDWA Section 1443)
Office of Water	Beaches Protection (CWA Section 406)
Office of Water	Non-point Source Management (CWA Section 319)
Office of Water	State Revolving Fund (DWSRF, CWSRF)
Office of Congressional and Intergovernmental Relations	Performance Partnership Grants

Attachment B

National Term and Condition for Conditional Approvals

EPA has conditionally approved the workplan to allow the recipient to proceed to work on approved workplan components. The recipient may incur costs on eligible activities associated with the approved workplan components up to \$XX. Until a final revised workplan has been approved by EPA: 1) the recipient should not request payments and EPA will not make payments for unapproved work; and 2) any costs incurred for unapproved work by the recipient are at its own risk.

Attachment C

Sample Electronic Award Notification Procedures

Region 8 –Grants Mailbox Overview

The Grants Mailbox is a shared email system that has enabled grants to be processed and managed more efficiently. The cost of setting up a shared email system is a Working Capital Fund Charge and can be set up through Information Management.

The primary functions of the email box include:

- Receives documents from Grantees to a centralized location to be distributed accordingly- applications, acceptance letters, Federal Financial Reports and MBE/WBE forms.
- Holds Grants Specialists (GS) award emails in draft until the mail-out date.
- Serves as an internal log to show and track the office workload – Applications received, Applications input into IGMS and awards letters in congressional hold.
- Prevents unnecessary duplicate printing.

Noted advantages and improvements:

- Reduced paper waste
- All application phases can occur at a faster rate with electronic correspondence and is monitored daily– Applications submittals, sent Award letters and returned acceptance letters.
- Enables us to back up GS in their absence, since documents are held in an accessible location.
- Reduced confusion about where & who to send important documents.
- A list of primary state and tribal contacts has been established as central points of contacts for all award mail outs, financial documents & MBE/WBE reporting, who conduct their internal distribution.
- Emails going out to recipients are consistent, email templates are standardized for the various types of electronic correspondence that are sent out on a regular basis.

If your region is interested in implementing such a system please contact in Region 8 Adrea Young at 303-312-6059 for technical support or Jasmin Guerra at 303-312-6508 from the Grants Management Office for more details.

ADDITIONAL INFORMATION

Initial Set-up

- Work with the Lotus Notes Administrator to set up a *Mail-In Database*.
- Basic parameters:

<p>All the grants staff needs to have access to the box</p> <ul style="list-style-type: none"> • Those with access comprise the <i>Group</i> who has access to the mailbox. 	<ul style="list-style-type: none"> • Compile names of all staff needing access • Consider assigning roles on managing various aspects of the mailbox or even one person as a Mailbox Administrator. • Assign 2 people with Special Rights that can add or remove staff from the <i>Group</i>.
<p>Group needs ability to send documents out of box</p>	
<p>External parties need ability to send things to the mail box</p>	<ul style="list-style-type: none"> • Inform recipients of email address and purpose of new box

- Once Implemented, send mass email to external parties informing them of the group email address, as well as the various purposes that it serves.
- *Mail-In Database* appears in the EPA Domino Directory.
- The Mailbox Administrator should create a set of folders for each needed category that are periodically archived.

FYI- External Contacts
<ul style="list-style-type: none"> • R8 worked with our states to identify the POCs for their internal distribution of award letters. This streamlines correspondence and allows the states determine the individuals that need to receive every award. • Usually the GS will need to send the award to the Project Officer, Project Manager and the State's POC. • Each state has also designated a POC to respond to MBE/WBE requests for each program, this has also helped increase compliance with MBE/WBE reporting.

Example of State Point of Contact List

Colorado	
Date: 3/2011	
Colorado Department of Public Health and Environment - All Grants Awards	
John Chase	john.chase@state.co.us
Linda White	linda.white@state.co.us
MBE/WBE	
John Chase	john.chase@state.co.us
Colorado Oil and Gas Commission	
Ruiping Ou	Ruiping.ou@state.co.us
Wendy Schultz	wendy.schultz@state.co.us

Grants Manual Summary - Overall, the folders were created to have a place for every document that comes in the box until it can be processed. The sub-folders also enable us to prioritize documents.

Application Folder:

Each grants specialist has their own sub-folder. When an application comes in the Mailbox Administrator identifies the GS for the application, prints out the application and puts in their bin. Once the application has been printed the email is dragged from the inbox to GS's folder. If the GS prints out their own application they would be the ones to drag the email into their folder. That is how we prevent printing multiple copies of an application.

Application Entry:

The application entry folder replaced our log book. When a GS submits an application to be input into IGMS they email the Grants Mailbox with the standard subject line, which shows that they have submitted an application to be entered. The Mailbox Administrator will drag that email from the inbox to the Application Entry folder. Even if a GS inputs their own application they still email the Grants Mailbox and drag the email to the appropriate folder themselves. This shows where the application is in the award process and in our office indicates a file with need to be set up. Once the application is input and processed the email is dragged into the processed sub-folder to show that it is complete and in IGMS.

Acceptance Agreements:

When acceptance agreements come in the Grants mailbox they have their own folder. They are held in that folder until the acceptance date has been input, at which point it is dragged into the Entered in IGMS sub-folder. A copy is printed and placed in the GS grant folder.

MBE/WBEs:

When MBE/WBE reports come into the Grants mailbox they have their own folder. They are held in that folder until the data has been input into IGMS, at which point it is dragged into the Entered in IGMS sub-folder. A copy is printed and placed in the GS grant folder.

Because a MBE/WBE reports may not be in the Post Award database at the time of a baseline, the GS should only have to look in two places to find an MBE/WBE report – IGMS Post Award or in the MBE/WBE main folder.

FFRs:

Most FFRs come from Las Vegas and we have asked them to write in the grant number on the subject line, but some grantees submit interim FFRs. The FFR is printed and dragged into the FFR Folder. The printed copy goes in the GS's bin.

Attachment D

Notice of Award Language

Based on your Application dated XX/XX/20XX including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$XX. EPA agrees to cost-share XX% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$XX. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA statutory provisions. The applicable regulatory provisions are 40 CFR Chapter 1, Subchapter B, and all terms and conditions of this agreement and any attachments.