

Grants Policy Issuance (GPI) 13-02: Streamlining Tribal Grants Management

1.0 Purpose

This policy provides a framework for a streamlined, consistent approach to managing grants (including cooperative agreements) awarded to tribes.

2.0 Effective Date and Applicability

The effective date of the original policy is **November 1, 2013**. Initially, it applies to all new grant awards, including supplemental and incremental funding amendments, made on and after that date, for programs under 40 CFR Part 35 Subpart B. A list of the programs covered under this policy can be found here: [List of 40 CFR Subpart B Programs covered by GPI 13-02 Streamlining Tribal Grants Management Policy](#). This policy also includes a process for expanding coverage, as appropriate, in subsequent fiscal years.

3.0 Background

EPA and the tribes are developing a new EPA/Tribal Partnership Paradigm to provide tribes with the greatest measure of self-determination, including flexibility in grants management to accomplish successful environmental programs while ensuring the integrity of resources. Although the new Paradigm is intended to address all aspects of the EPA-tribal relationship, one of its major goals is to streamline tribal grants management.

In response to that goal, the Office of Grants and Debarment (OGD) collaborated with the American Indian Environmental Office (AIEO), National Program Managers (NPMs)/Regions, and the tribes to develop this policy. The policy covers major phases of the grants cycle. For purposes of this policy, streamlining includes reforms within EPA's statutory and regulatory authority that reduce tribal burden, promote consistency and efficiency in the application of grants management requirements, and further the Government-to-Government relationship underlying EPA's Indian Policy while enhancing the quality of grants and ensuring accountability.

4.0 Policy

This policy establishes a reform framework, including an initial set of flexibilities and efficiencies. The expected trajectory of this policy will be to incorporate additional streamlining reforms over time, taking into account changes in Office of Management and Budget (OMB) grant requirements, the outcomes of the Agency's Grants Management Transformation Initiative, programmatic/legal requirements, and tribal experience with the grants process.

4.1 Selection of Award Instrument

a. Unless a National Program Manager (NPM) has made a class determination under

paragraph c., Project Officers must apply the criteria in Section 7 of EPA Order 5700.1 Policy for Distinguishing Between Assistance and Acquisition, to determine whether a grant or cooperative agreement is the appropriate instrument for a particular tribal award. Under the Order, the distinguishing factor between a grant and a cooperative agreement is the anticipated degree of EPA involvement during the performance of workplan activities.

b. For non-Performance Partnership assistance agreements, if a Project Officer expects to be substantially involved in workplan activities, then a cooperative agreement is the proper funding mechanism and EPA's expected involvement must be communicated to the recipient during workplan negotiations. If no substantial involvement is anticipated, the award must be funded by a grant. NPMs with jurisdiction over a particular Subpart B program may make a class determination that cooperative agreements will be used for all program awards due to the need for substantial EPA involvement. NPMs must describe these determinations in NPM grant guidance and summarize them in the associated Catalog of Federal Domestic Assistance program description.

c. For a Performance Partnership assistance agreement, a cooperative agreement is the proper funding mechanism if at least one program under the workplan will require substantial EPA involvement and EPA's expected involvement must be communicated to the recipient during workplan negotiations. However, because not all of the programs included in a Performance Partnership assistance agreement may warrant or require substantial EPA involvement, the agreement should clearly define the programs and activities that are subject to substantial involvement. The remaining program/activities will be treated as if the award was a grant and substantial EPA involvement would not be appropriate consistent with EPA Order 5700.1.

4.2 Principles for Allocation, Workplan Negotiation, Application, and Award EPA will apply the principles included in this section to tribal grants as appropriate, taking into account the differing requirements of Subpart B programs, the availability of funds, applicant capacity, and the type of activity (i.e., a project grant or program grant) supported by an award. These principles address the need for timely obligation and award of Subpart B grant funds.

a. Funding Allocation and Timing

For non-competitive Subpart B programs, NPMs are expected to provide national/Regional allocations for tribal grant programs (or Tribe-specific allocations, where appropriate) and Regional Program Offices are expected to provide tribe-specific allocations to the tribes in a timely manner. In conjunction with the development of Continuing Resolution or Advice of Allowance Guidance, the Office of Budget in the Office of the Chief Financial Officer (OCFO), and OGD will work with NPMs to facilitate the development of grant allocations/targets.

For all Part 35 Subpart B programs, Regional Program Offices must establish clear and consistent processes for making funding decisions/issuing request for proposals and timely communicate these processes to tribes to enhance their planning in applying for EPA grants. Regional Program Offices, in coordination with NPMs, must also, to the maximum extent practicable, coordinate allocation and award processes for different programs to align the timing of tribal awards. This will facilitate tribal use of Performance Partnership Grants (PPGs) (see section 4.6 of this Policy) as well as tribal planning for holistic environmental programs.

b. Workplan Negotiation for non-competitive 40 CFR Part 35 Subpart B Programs

- (1) As required by 40 C.F.R. §35.507, when negotiating tribal workplans, Regional Program Offices will consider tribal environmental and programmatic needs.
- (2) To streamline workplan negotiations, Regional Program Offices may place greater emphasis on reviewing new priorities consistent with NPM guidance, and less emphasis on reviewing recurring activities/commitments, provided:
 - i.) the level of funding is not significantly different from the previous year's grant amount;
 - ii.) the Tribe has a satisfactory record of performing the recurring activities; and
 - iii.) the Project Officer determines that changes to recurring activities are unnecessary.

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).

- (3) Once EPA has negotiated and approved an acceptable annual workplan for grant-eligible activities under 40 C.F.R. §35.507, and §35.511(a)(4), it may not unilaterally require the Tribe to revise the workplan.

c. Multi-year Awards

Regional Program Offices will provide tribal recipients the opportunity to utilize multi-year awards (i.e., awards with project periods of two years or more) in Subpart B programs that are structured to accommodate multi-year planning. This includes submitting applications budget and workplans that cover the entire project period.

d. Electronic Submission of Applications

For non-competitive Subpart B awards, applications and supporting documents may be submitted in pdf format either through GAP Online, email, or Grants.gov and GMOs will not require hardcopy submissions. Also, GMOs, in coordination with OGD, will establish procedures to receive electronic submissions and provide notification of those submissions to affected Program Offices. The Director, OGD, will issue supplemental guidance, as necessary, to facilitate electronic submissions.

For competitive Subpart B awards, applications will be submitted in accordance with the instructions in the solicitation.

e. Pen and Ink Changes

For non-competitive Subpart B awards, if the final amount of funding is lower than the amount applied for, Regions will work with tribes to identify necessary changes. Tribes will not be required to submit a revised application. GMOs and Program Offices will document and date through pen and ink changes/email correspondence, agreed-upon revisions to the budget narrative, and application forms.

If the final amount of funding is higher than the amount applied for, Regions must request the Tribe to electronically submit only the revised application forms including the SF-424,

SF-424A and budget detail. As part of the submission, the Tribe must also describe any changes made to the workplan.

If the Project Officer determines that workplan changes associated with the reduced funding are not substantial, the pen and ink process may also be used to identify workplan revisions, eliminating the need for a new workplan submission.

f. Conditional Approval

For non-competitive Subpart B awards, if the Tribe 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 for Conditional Approvals, as maintained in the EPA Admin database, 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.

For competitive Subpart B awards and PPGs that include a competitive component in the workplan, if the Region has completed the review of part of the workplan, it may conditionally approve the workplan and obligate the full amount of the award in accordance with the paragraph above.

OGD will work with the Las Vegas Finance Center to develop standard operating procedures for the establishment and lifting of draw-down/payment restrictions.

g. Workplan and Application Technical Assistance

To communicate more effectively on the required contents of a workplan or application, Regional Program Offices may provide tribal applicants checklists and other helpful tools for suggested use.

4.3 Target Outlay Strategies and Timely Drawdown of Federal Funds

For non-competitive Subpart B awards, Regional Program Offices will negotiate with tribal recipients 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- 424A 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.

Regional Program Offices may not approve tribal 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 tribal grant outlay rates.

4.4 Reporting

a. Federal Financial Reports (FFRs)

Tribal recipients will not be required to submit Federal Financial Reports (FFRs) more frequently than annually, unless specific conditions have been applied to their assistance agreements as described in 2 C.F.R. §200.207.

b. Grant Workplan Progress Reports

Frequency

As Tribes develop proficiency in the grant management process, EPA's expectation is that the typical frequency of progress reporting will change from quarterly reporting to less frequent reporting. Project Officers must address reporting frequency for a particular program during workplan negotiations. If an applicant requests a change from quarterly reporting, the Project Officer will consider whether less frequent reporting is warranted based on the following criteria: whether the applicant: 1) has an established, on-going grant relationship with EPA; 2) a satisfactory record of financial and programmatic performance, including meeting programmatic goals and objectives in a timely, cost-effective manner; 3) adequate managerial capacity; and 4) has not had specific conditions applied to their assistance agreements as described in 2 CFR 200.207. Where approved by the Project Officer, semi-annual or annual frequency will be reflected in the progress reporting term and condition. The term and condition should also include a provision authorizing EPA to require quarterly reporting if the Project Officer finds that there has been a change in the Tribe's ability to meet the four criteria noted above. The condition will be maintained in the EPA Admin database under the title "Semi-Annual Reports – Tribes".

Project Officers should supplement tribal progress report with frequent informal communication (e.g., conference calls) to facilitate grant performance.

Content

Consistent with 2 C.F.R. §200.328, progress reports will contain brief information on the following: 1) a comparison of actual accomplishments to established objectives; 2) the reasons for slippage if established objectives were not met; and 3) additional pertinent information, including, when appropriate, an analysis of cost overruns or high unit costs. Project Officers may require more detailed progress reports, as necessary, if a tribal recipient has specific conditions applied to their assistance agreement as described in 2 C.F.R. §200.207 or otherwise agrees as part of workplan negotiations.

Relationship to monitoring, unliquidated obligation (ULO) reviews and notification of significant developments

Nothing in this section limits the ability of Project Officers or Grants Specialists to require tribes to provide necessary programmatic or budgetary information in response to issues identified in progress reports or during monitoring or ULO reviews or to notify EPA of significant developments under 2 C.F.R. §200.328(b).

EPA Point of Contact

The EPA Project Officer or designated technical representative will be the Agency's single point of contact for receiving workplan progress reports under 2 C.F.R. §200.328.

c. Disadvantaged Business Enterprise (DBE) Reports

Good Faith Efforts:

As provided in 40 C.F.R. §33.304, a tribal recipient or prime contractor must follow the six good faith efforts only if doing so would not conflict with existing Tribal or Federal law, including but not limited to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e). Tribal governments with promulgated tribal laws and regulations concerning the solicitation and recruitment of Native-owned and other minority business enterprises, including women-owned business enterprises, have the discretion to utilize these tribal laws and regulations in lieu of the six good faith efforts. If the effort to recruit Indian organizations and Indian-owned economic enterprises is not successful, then the recipient must follow the six good faith efforts outlined in 40 C.F.R. Part 33 Subpart C.

DBE Reporting

All tribal recipients still must retain records documenting compliance in accordance with 40 C.F.R. §33.501 and must report to EPA on their accomplishments in accordance with 40 C.F.R. §33.502.

4.5 Cost Reviews for Personnel and Travel Costs

Program Offices and GMOs may apply to tribal applicants the cost review standards for personnel and travel costs associated with recurring activities in Grants Policy Issuance (GPI) 08-04 if:

1. The applicant has an established, on-going grant relationship with EPA;
2. The applicant has a satisfactory record of performance and adequate capacity;
3. The applicant can provide the necessary internal control assurances as described in Attachment 1 of the GPI.

OGD is responsible for coordinating the update of the applicable Cost Review Templates for Projects Officers and Grants Specialists.

4.6 Performance Partnership Grants (PPGs)

EPA will provide tribal PPG recipients the full flexibility afforded PPGs under 40 C.F.R. Part 35 Subpart B.

Each tribal PPG will have one budget and FFR, along with one workplan that incorporates commitments for each workplan component funded by the PPG (See Section 2-10 of the Tribal PPG Best Practices Guide).

Workplan Progress Reports for tribal PPGs are subject to the limits on frequency and content contained in Section 4.5 b. and are intended to show progress in achieving PPG workplan commitments. Standard PPG flexibility also includes submitting one progress report, instead of separate progress reports, and not subdividing a report by media program area. During workplan negotiations, Tribes and Project Officers may mutually agree to alternative report formats that reduce Tribal administrative burden and facilitate effective grants administration, including effective tracking of workplan

commitments/accomplishments.

In managing tribal PPGs, EPA Regions will establish an internal process to ensure efficient coordination of the work of participating Program Offices. AIEO, assisted by OGD and the Office of Congressional and Intergovernmental Relations (OCIR), will provide additional guidance to support achieving this coordination.

Once grant funds are combined in a PPG, tribal PPG recipients are not required to track the funds by the original program source (See 40 C.F.R. §35.530(b)).

OGD will work with the Office of General Counsel (OGC) to identify programs that can be added to the list of programs eligible for inclusion in PPGs.

4.7 NPM Coordination and Grant Guidance

To foster consistent application of this policy, NPMs with jurisdiction over a particular Subpart B program must provide appropriate coordination with Regional Program Offices, including addressing the principles in Sections 4.3-4.7 of this policy in their NPM grant guidance.

4.8 Leveraging Resources

OGD, in partnership AIEO, will keep tribes apprised of opportunities to leverage grant funds from other federal agencies, including opportunities to use EPA grant funds as a match for other programs when legally permissible.

OGD, in partnership with AIEO, will also keep tribes apprised of Federal technical assistance programs that tribes may access through intergovernmental agreements using EPA grant funds. Such agreements are not subject to the procurement requirements of 2 C.F.R. 200.317 - 200.326 and 2 CFR 1500.9 and 1500.10, and may be used, with the concurrence of the EPA Project Officer and Grants Management Office, to help meet workplan commitments.

5.0 Indirect Cost Rate Approval Process

EPA has issued [GPI 18-02 EPA Indirect Cost Policy for Assistance Agreements](#) to establish a more flexible approach to indirect cost funding for recipients.

6.0 Expanded Coverage

OGD, in coordination with AIEO, NPMs and the Regions may expand the applicability of this policy to cover other grant programs/activities, as appropriate.

7.0 Review and Evaluation

In partnership with NPMs, Regional Program and Grants Management Offices, AIEO and the tribal grants management community and in consultation with the tribes, OGD, in coordination with the EPA grants management community, will periodically review this policy to assess its effectiveness.

8.0 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 because of national security concerns, circumstances of unusual or compelling urgency, unique programmatic considerations, or because the waiver would be in the public

interest.

9.0 Relationship to Other Grants Management Policies

In applying the streamlining principles in this policy, Project Officers and GMOs must continue to ensure that awarded grants meet applicable policy/regulatory requirements for accountability and results.

10.0 Roles and Responsibilities

The Office of Grants and Debarment (OGD) is responsible for:

1. Providing necessary oversight of conditional approvals as described in Section 4.3 of this policy.
2. Issuing supplemental guidance, as necessary, to facilitate electronic submissions as described in Section 4.3 of this policy.
3. Updating Cost Review Templates for Project Officers and Grant Specialists as described in Section 4.6.
4. Coordinating with OGC to evaluate whether programs can be added to the list of programs eligible for PPG inclusion as described in Section 4.7 of this policy.
5. Assisting AIEO in the development of guidance on PPG coordination as described in Section 4.7 of this policy.
6. Keeping tribes apprised of leveraging resource opportunities as described in Section 4.9 of this policy.
7. Issuing a final indirect cost rate policy as described in Section 5.0 of this policy.
8. Expanding the coverage of this policy, as appropriate, as described in Section 6.0 of this policy.
9. Reviewing this policy periodically as described in Section 7.0 of this policy
10. Issuing waivers, where appropriate, under Section 8.0 of this policy.

The Office of the Chief Financial Officer, Office of Budget (OB) and OGD are responsible for:

1. Working with National Program Managers (NPMs) to facilitate the development of tribal grant allocation/funding targets as described in Section 4.3 of this policy.
2. Providing periodic reports on tribal grant outlay rates as described in Section 4.4 of this policy.

National Program Managers (NPM) are responsible for:

1. Making cooperative agreement class determinations where appropriate and as described under Section 4.2 of this policy.
2. Providing timely funding allocations under Section 4.3 of this policy.
3. Consulting with OGD and OCFO for proposed awards involving substantial delays in the drawdown of grant funds as described in Section 4.4 of this policy.
4. Coordinating with Regional Program Offices as described in Section 4.8 of this policy.
5. Partnering with OGD in the review/evaluation described in Section 7.0 of this policy.

The American Indian Environmental Office (AIEO) is responsible for:

1. Providing guidance on program coordination in PPGs in accordance with Section

- 4.7 of this policy.
2. Partnering with OGD in identifying leveraging opportunities and review/evaluation as described in Sections 4.9 and 7.0 of this policy.

The Office of Congressional and Intergovernmental Relations is responsible for:

1. Assisting AIEO in the development of guidance on PPG coordination as described in Section 4.7 of this policy.
2. Issuing additions to the list of PPG-eligible programs under Section 4.7 of this policy.

The Office of Small Business Programs

1. Updating OGD, AIEO and the tribes on changes to DBE reporting requirements.

Regional Program Offices/Project Officers are responsible for:

1. Making award instrument determinations consistent with EPA Order 5700.1 as described in Section 4.2 of this policy.
2. Establishing clear and consistent cost allocation processes and mechanisms as described in Section 4.3 on this policy.
3. Coordinating the funding of projects to facilitate tribal use of PPGs tribal planning of holistic environmental programs as described in Section 4.3 of this policy.
4. In coordination with Grants Management Offices (GMOs), applying Workplan Negotiation, Application, and Award principles as described in Section 4.3 of this policy.
5. Negotiating with tribal recipients a reasonable outlay strategy as described in Section 4.4 of this policy.
6. Requesting NPM review of proposed awards where drawdown of a substantial amount of EPA grant funds will be delayed until the end of a project period as described in Section 4.4 of this policy.
7. Establishing appropriate progress reporting requirements and ensuring ongoing communication with recipients as described in Section 4.5 of this policy.
8. In coordination with GMOs, applying the cost review principles as set forth in Section 4.6 of this policy.
9. Providing tribal PPG recipients the administrative and programmatic flexibilities authorized by 40 C.F.R. § 35.530, with appropriate internal Regional coordination, as described in Section 4.7 of this policy.
10. Following NPM guidance as may be issued under Section 4.8 of this policy.
11. Participating in the review of this policy as described in Section 7.
12. Continuing to ensure that awarded grants meet applicable policy/regulatory requirements for accountability and results as described in Section 9.0 of this policy.

Regional Grants Management Offices (GMOs) are responsible for:

1. Applying GMO-related Application and Award principles as described in Section 4.3 of this policy and FFR reporting frequency as described in Section 4.5 of this policy.
2. Coordinating with Program Offices in the application of cost-review principles under Section 4.6 of this policy.
3. Partnering with OGD in the review/evaluation described in Section 7.0 of this policy.

4. Continuing to ensure that awarded grants meet applicable policy/regulatory requirements for accountability and results as described in Section 9.0 of this policy.
5. Collaborating with OGD to ensure consistent administrative application of this policy.



Funding Guidance for State and Tribal Response Programs Fiscal Year 2013

Section 128(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, authorizes a noncompetitive \$50 million grant program to establish and enhance state¹ and tribal² response programs. CERCLA 128(a) response program grants are funded with categorical³ State and Tribal Assistance Grant (STAG) appropriations. Section 128(a) cooperative agreements are awarded and administered by the U.S. Environmental Protection Agency (EPA) regional offices. Generally, these response programs address the assessment, cleanup, and redevelopment of brownfields sites and other sites with actual or perceived contamination. This document provides guidance that will enable states and tribes to apply for and use Fiscal Year 2013 section 128(a) funds⁴.

The Catalogue of Federal Domestic Assistance entry for the section 128(a) State and Tribal Response Program cooperative agreements is 66.817. This grant program is eligible to be included in state and tribal Performance Partnership Grants under 40 CFR Part 35 Subparts A and B, with the exception of funds used to capitalize a revolving loan fund for brownfield remediation under section 104(k)(3); or purchase insurance or develop a risk sharing pool, an indemnity pool, or insurance mechanism to provide financing for response actions under a State or Tribal response program.

Requests for funding will be accepted from December 1, 2012 through January 31, 2013. Requests EPA receives after January 31, 2013 will not be considered for FY2013 funding. Information that must be submitted with the funding request is listed in Section VIII of this guidance. States or tribes that do not submit the request in the appropriate manner may forfeit their ability to receive funds. First time requestors are strongly encouraged to contact their Regional EPA Brownfields contacts, listed on the last page of this guidance, prior to submitting their funding request.

Requests submitted by the January 31, 2013 request deadline are preliminary; final cooperative agreement work plans and budgets will be negotiated with the regional offices once final funding allocation determinations are made. As in previous years, EPA will place special emphasis on reviewing a cooperative agreement recipient's use of prior section 128(a) funding in making allocation decisions and unexpended balances are subject to 40 CFR 35.118 and 40 CFR 35.518 to the extent consistent with this guidance.

States and tribes requesting funds are required to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number with their cooperative agreement's final package. For more information, please go to www.grants.gov.

¹The term "state" is defined in this document as defined in CERCLA section 101(27)

²The term "Indian tribe" is defined in this document as it is defined in CERCLA section 101(36). Intertribal consortia, as defined in the Federal Register Notice at 67 FR 67181, Nov. 4, 2002, are also eligible for funding under CERCLA section 128(a).

³Categorical grants are issued by the U.S. Congress to fund state and local governments for narrowly defined purposes.

⁴The Agency may waive any provision of this guidance that is not required by statute, regulation, Executive Order or overriding Agency policies.

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I. BACKGROUND

State and tribal response programs oversee assessment and cleanup activities at the majority of brownfields sites across the country. The depth and breadth of state and tribal response programs vary. Some focus on CERCLA related activities, while others are multi-faceted, for example, addressing sites regulated by both CERCLA and the Resource Conservation and Recovery Act (RCRA). Many state programs also offer accompanying financial incentive programs to spur cleanup and redevelopment. In enacting CERCLA section 128(a)⁵ Congress recognized the accomplishments of state and tribal response programs in cleaning up and redeveloping brownfields sites. Section 128(a) also provides EPA with an opportunity to strengthen its partnership with states and tribes.

This funding is intended for those states and tribes with overall management and administrative capacity within their government required to administer a federal grant. The primary goal of this funding is to ensure that state and tribal response programs include, or are taking reasonable steps to include, certain elements of an environmental response program and that the response program establishes and maintains a public record of sites addressed.

Subject to the availability of funds, EPA regional personnel will be available to provide technical assistance to states and tribes as they apply for and carry out section 128(a) cooperative agreements.

II. ELIGIBILITY FOR FUNDING

To be eligible for funding under CERCLA section 128(a), a state or tribe must:

1. demonstrate that its response program includes, or is taking reasonable steps to include, the four elements of a response program, described in Section IV of this guidance; **or** be a party to voluntary response program Memorandum of Agreement (VRP MOA) with EPA;

AND

2. maintain and make available to the public a record of sites at which response actions have been completed in the previous year and are planned to be addressed in the upcoming year, see CERCLA section 128(b)(1)(C).

III. MATCHING FUNDS/COST-SHARE

States and tribes are not required to provide matching funds for cooperative agreements awarded under section 128(a), with the exception of the section 128(a) funds a state or tribe uses to capitalize a Brownfields Revolving Loan Fund under CERCLA section 104(k)(3).

IV. THE FOUR ELEMENTS - SECTION 128(a)

Section 128(a) recipients that do not have a VRP MOA with EPA must demonstrate that their response program includes, or is taking reasonable steps to include, the four elements.

⁵Section 128(a) was added to CERCLA in 2002 by the Small Business Liability Relief and Brownfields Revitalization Act (Brownfield Amendments).

Attachment A

Achievement of the four elements should be viewed as a priority. Section 128(a) authorizes funding for activities necessary to establish and enhance the four elements and to establish and maintain the public record requirement.

The four elements of a response program are described below:

1. *Timely survey and inventory of brownfields sites in state or tribal land.* EPA's goal in funding activities under this element is to enable the state or tribe to establish or enhance a system or process that will provide a reasonable estimate of the number, likely locations, and the general characteristics of brownfields sites in their state or tribal lands.

EPA recognizes the varied scope of state and tribal response programs and will not require states and tribes to develop a "list" of brownfields sites. However, at a minimum, the state or tribe should develop and/or maintain a system or process that can provide a reasonable estimate of the number, likely location, and general characteristics of brownfields sites within their state or tribal lands. Inventories should evolve to a prioritization of sites based on community needs, planning priorities, and protection of human health and the environment. Particular attention should focus on those communities with limited capacity to compete for, and manage a competitive brownfield assessment, revolving loan, and cleanup grant.

Given funding limitations, EPA will negotiate work plans with states and tribes to achieve this goal efficiently and effectively and within a realistic time frame. For example, many of EPA's Brownfields Assessment cooperative agreement recipients conduct inventories of brownfields sites in their communities or jurisdictions. EPA encourages states and tribes to work with these cooperative agreement recipients to obtain the information that they have gathered and include it in their survey and inventory.

2. *Oversight and enforcement authorities or other mechanisms and resources.* EPA's goal in funding activities under this element is to have state and tribal response programs that include oversight and enforcement authorities or other mechanisms, and resources that are adequate to ensure that:
 - a. a response action will protect human health and the environment and be conducted in accordance with applicable laws; and
 - b. the state or tribe will complete the necessary response activities if the person conducting the response activities fails to complete the necessary response activities (this includes operation and maintenance and/or long-term monitoring activities).
3. *Mechanisms and resources to provide meaningful opportunities for public participation.*⁶ EPA's goal in funding activities under this element is to have states and tribes include in their response program mechanisms and resources for meaningful public participation, at the local level, including, at a minimum:

⁶States and tribes establishing this element may find useful information on public participation on the EPA's community involvement web site

Attachment A

- a. public access to documents and related materials that a state, tribe, or party conducting the cleanup is relying on or developing in making cleanup decisions or conducting site activities;
 - b. prior notice and opportunity for meaningful public comment on cleanup plans and site activities including input into the prioritization of sites; and
 - c. a mechanism by which a person who is, or may be, affected by a release or threatened release of a hazardous substance, pollutant, or contaminant at a brownfields site — located in the community in which the person works or resides — may request that a site assessment be conducted. The appropriate state or tribal official must consider this request and appropriately respond.
4. *Mechanisms for approval of a cleanup plan and verification and certification that cleanup is complete.* EPA's goal in funding activities under this element is to have states and tribes include in their response program mechanisms to approve cleanup plans and to verify that response actions are complete, including a requirement for certification or similar documentation from the state, the tribe, or a licensed site professional that the response action is complete. Written approval by a state or tribal response program official of a proposed cleanup plan is an example of an approval mechanism.

V. PUBLIC RECORD REQUIREMENT

In order to be eligible for section 128(a) funding, states and tribes (including those with MOAs) must establish and maintain a public record system, described below, in order to receive funds. The public record should be made available to the public in an effort to provide a mechanism for meaningful public participation (refer to Section IV 3 above). Under section 128(b)(1)(C), states and tribes must:

1. maintain and update, at least annually or more often as appropriate, a record of sites that includes the name and location of sites at which response actions have been completed during the previous year;
2. maintain and update, at least annually or more often as appropriate, a record of sites that includes the name and location of sites at which response actions are planned to be addressed in the next year;
3. identify in the public record whether or not the site, upon completion of the response action, will be suitable for unrestricted use. If not, the public record must identify the institutional controls relied on in the remedy and include relevant information concerning the entity that will be responsible for oversight, monitoring, and/or maintenance of the institutional and engineering controls; and how the responsible entity is implementing those activities (see Section V.C).

Section 128(a) funds may be used to maintain and make available a public record system that meets the requirements discussed above.

A. Distinguishing the “survey and inventory” element from the “public record”

It is important to note that the public record requirement differs from the "timely survey and inventory" element described in the “Four Elements” section above. The public record addresses sites at which response actions have been completed in the previous year and are planned to be addressed in the upcoming year. In contrast, the "timely survey and inventory" element, described above, refers to identifying brownfields sites regardless of planned or completed actions there.

B. Making the public record easily accessible

EPA’s goal is to enable states and tribes to make the public record and other information, such as information from the “survey and inventory” element, easily accessible. For this reason, EPA will allow states and tribes to use section 128(a) funding to make the public record, as well as other information, such as information from the “survey and inventory” element, available to the public via the internet or other means. For example, the Agency would support funding state and tribal efforts to include detailed location information in the public record such as the street address and latitude and longitude information for each site.⁷ States and tribes should ensure that all affected communities have appropriate access to the public record including making it available on-line, in print at libraries, or other community gathering places.

In an effort to reduce cooperative agreement reporting requirements and increase public access to the public record, EPA encourages states and tribes to place their public record on the internet. If a state or tribe places the public record on the internet, maintains the substantive requirements of the public record, and provides EPA with the link to that site, EPA will, for purposes of cooperative agreement funding only, deem the public record reporting requirement met.

C. Long-term maintenance of the public record

EPA encourages states and tribes to maintain public record information, including data on institutional controls, on a long term basis (more than one year) for sites at which a response action has been completed. Subject to EPA regional office approval, states or tribes may include development and operation of systems that ensure long term maintenance of the public record, including information on institutional controls (such as ensuring the entity responsible for oversight, monitoring, and/or maintenance of the institutional and engineering controls is implementing those activities) in their work plans.⁸

⁷For further information on latitude and longitude information, please see the EPA's data standards web site

⁸States and tribes may find useful information on institutional controls on the EPA's institutional controls web site

VI. USE OF FUNDING

A. Overview

Section 128(a)(1)(B) describes the eligible uses of cooperative agreement funds by states and tribes. In general, a state or tribe may use a cooperative agreement to "establish or enhance" their response programs, including elements of the response program that include activities related to responses at brownfields sites with petroleum contamination. Eligible activities include, but are not limited to, the following:

- developing legislation, regulations, procedures, ordinances, guidance, etc. that establish or enhance the administrative and legal structure of their response programs;
- establishing and maintaining the required public record described in Section V of this guidance;
- operation, maintenance and long-term monitoring of institutional controls and engineering controls;
- conducting site-specific activities, such as assessment or cleanup, provided such activities establish and/or enhance the response program and are tied to the four elements. In addition to the requirement under CERCLA section 128(a)(2)(C)(ii) to provide for public comment on cleanup plans and site activities, EPA strongly encourages states and tribes to seek public input regarding the priority of sites to be addressed and solicit input from local communities, especially potential environmental justice communities, communities with a health risk related to exposure to hazardous waste or other public health concerns, economically disadvantaged or remote areas, and communities with limited experience working with government agencies. EPA will not provide section 128(a) funds solely for assessment or cleanup of specific brownfields sites; site-specific activities must be part of an overall section 128(a) work plan that includes funding for other activities that establish or enhance the four elements;
- capitalizing a revolving loan fund (RLF) for brownfields cleanup under CERCLA section 104(k)(3). These RLFs are subject to the same statutory requirements and cooperative agreement terms and conditions applicable to RLFs awarded under section 104(k)(3). Requirements include a 20 percent match (can be in the form of a contribution of money, labor, material, or services from a non-federal source) on the amount of section 128(a) funds used for the RLF, a prohibition on using EPA cooperative agreement funds for administrative costs relating to the RLF, and a prohibition on using RLF loans or subgrants for response costs at a site for which the recipient may be potentially liable under section 107 of CERCLA. Other prohibitions contained in CERCLA section 104(k)(4) also apply; and
- purchasing environmental insurance or developing a risk-sharing pool, indemnity pool, or insurance mechanism to provide financing for response actions under a state or tribal response program.

B. Uses related to “establishing” a state or tribal response program

Under CERCLA section 128(a), "establish" includes activities necessary to build the foundation for the four elements of a state or tribal response program and the public record requirement. For example, a state or tribal response program may use section 128(a) funds to develop regulations, ordinances, procedures, and/or guidance. For more developed state or tribal response programs, “establish” may also include activities that keep their program at a level that meets the four elements and maintains a public record required as a condition of funding under CERCLA section 128(b)(1)(C).

C. Uses related to “enhancing” a state or tribal response program

Under CERCLA section 128(a), "enhance" is related to activities that add to or improve a state or tribal response program or increase the number of sites at which response actions are conducted under a state or tribal response program.

The exact "enhancement" uses that may be allowable depend upon the work plan negotiated between the EPA regional office and the state or tribe. For example, regional offices and states or tribes may agree that section 128(a) funds may be used for outreach and training directly related to increasing awareness of its response program, and improving the skills of program staff. It may also include developing better coordination and understanding of other state or tribal programs, e.g., programs that address RCRA or underground storage tanks (USTs), etc. As another example, states and tribal response programs enhancement activities can include outreach to local communities to increase their awareness and knowledge regarding the importance of monitoring engineering and institutional controls. Other "enhancement" uses may be allowable as well.

D. Uses related to site-specific activities

1. Uses for site-specific activities

States and tribes may use section 128(a) funds for site-specific activities that improve state or tribal capacity. The amount grantees may request for site-specific assessments and cleanups may not exceed 50% of the total amount of funding. A grantee may request a waiver to exceed the 50% of annual funding for site specific activities. In order for EPA to consider the waiver, the total amount of the request may not exceed the grantee’s prior year’s funding level. The funding request must include a brief justification describing the reason(s) for spending more than 50% of an annual allocation on site-specific activities.

An applicant when requesting a waiver must include the following information in the written justification:

- total amount requested for eligible brownfield site-specific activities;
- percentage of the eligible brownfield site-specific activities (assuming waiver is approved) in the total budget;
- site specific activities that will be covered by this funding. If known, provide site specific information and describe the development or

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enhancement of your state/tribal site specific program. Further explain how the community will be (or has been) involved in prioritization of site work and especially those sites where there is a potential or known significant environmental impact to the community;

- please explain how this shift in funding will not negatively impact the core programmatic capacity (i.e., the ability to establish/enhance four elements of a response program) and how related activities will be maintained in spite of an increase in site-specific work. Grantees must demonstrate that they have adequate funding from other sources to effectively carry out work on the four elements for EPA to grant a waiver of the 50% limit on using 128(a) funds for site-specific activities;
- describe how this shift in funding towards site-specific work is more appropriate for your response program rather than a request for an increase in overall funding;
- please explain whether the sites to be addressed are those for which the affected community(ies) has requested work be conducted (refer to Section VI.A Overview of Funding for more information).

EPA Headquarters will base approval of waivers on the information that is included in the justification along with the request for funding, as well as other information available to the Agency. EPA's Regional Brownfield Coordinators will inform grantees of the Agency's final decision(s).

2. Uses related to site-specific assessment and cleanup activities

Site-specific assessment and cleanup activities should establish and/or enhance the response program and be tied to the four elements. Site-specific assessments and cleanups must comply with all applicable laws and are subject to the following restrictions:

- a. section 128(a) funds can only be used for assessments or cleanups at sites that meet the definition of a brownfields site at CERCLA section 101(39). EPA encourages states and tribes to use site-specific funding to perform assessment (e.g. phase II and phase III assessments) and cleanup activities that will lead more quickly to the reuse of sites. Furthermore, states and tribes that perform site-specific activities should plan to engage the targeted community in the project. For example, Community Relations Plans (CRP) could be developed to address reasonable notice to the public concerning the cleanup, and provide opportunities for the public to comment on the cleanup. States and tribes should work towards securing additional funding for site-specific activities by leveraging

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resources from other sources such as businesses, non-profit organizations, education and training providers, and/or federal, state, tribal, and local governments.

- b. absent EPA approval, no more than \$200,000 per site assessment can be funded with section 128(a) funds, and no more than \$200,000 per site cleanup can be funded with section 128(a) funds;
- c. absent EPA approval, the state/tribe may not use funds awarded under this agreement to assess and clean up sites owned or operated by the recipient; and
- d. assessments and cleanups cannot be conducted at sites where the state/tribe is a potentially responsible party pursuant to CERCLA section 107, except:
 - at brownfields sites contaminated by a controlled substance as defined in CERCLA section 101(39)(D)(ii)(I); or
 - when the recipient would satisfy all of the elements set forth in CERCLA section 101(40) to qualify as a bona fide prospective purchaser except that the date of acquisition of the property was on or before January 11, 2002.

Subgrants cannot be provided to entities that may be potentially responsible parties (pursuant to CERCLA section 107) at the site for which the assessment or cleanup activities are proposed to be conducted, except:

1. at brownfields sites contaminated by a controlled substance as defined in CERCLA section 101(39)(D)(ii)(I); or
2. when the recipient would satisfy all of the elements set forth in CERCLA section 101(40) to qualify as a bona fide prospective purchaser except that the date of acquisition of the property was on or before January 11, 2002.
3. *Uses related to site-specific activities at petroleum brownfields sites*

States and tribes may use section 128(a) funds for activities that establish and enhance their response programs including addressing petroleum brownfield sites. Specifically, the costs of site-specific activities, such as site assessments or cleanup at petroleum contaminated brownfields sites, defined at CERCLA section 101(39)(D)(ii)(II), are eligible and are allowable if the activity is included in the work plan negotiated between the EPA regional office and the state or tribe. Section 128(a) funds used to capitalize a Brownfields RLF may be used at brownfields sites

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contaminated by petroleum to the extent allowed under CERCLA section 104(k)(3).

4. Other Eligible Uses of Funding

Other eligible uses of funds for site-specific related work include, but are not limited to, the following activities:

- technical assistance to federal brownfields cooperative agreement recipients;
- development and/or review of quality assurance project plans (QAPPs); and
- entering data into the ACRES database

E. Uses related to activities at “non-brownfields” sites

Costs incurred for activities at non-brownfields sites, e.g., oversight, may be eligible and allowable if such activities are included in the state's or tribe's work plan. These costs need not be incurred in connection with a brownfields site to be eligible, but must be authorized under the state's or tribe's work plan to be allowable. Other uses may be eligible and allowable as well, depending upon the work plan negotiated between the EPA regional office and the state or tribe. *However, assessment and cleanup activities may only be conducted on eligible brownfields sites, as defined in CERCLA section 101(39).*

VII. GENERAL PROGRAMMATIC GUIDELINES FOR SECTION 128(a) GRANT FUNDING REQUESTS

Funding authorized under CERCLA section 128(a) is awarded through a cooperative agreement⁹ between EPA and a state or a tribe. The program is administered under the general EPA grant and cooperative agreement regulations for states, tribes, and local governments found in the Code of Federal Regulations at 40 CFR Part 31 as well as applicable provisions of 40 CFR Part 35 Subparts A and B. Under these regulations, the cooperative agreement recipient for section 128(a) grant program is the government to which a cooperative agreement is awarded and which is accountable for the use of the funds provided. The cooperative agreement recipient is the entire legal entity even if only a particular component of the entity is designated in the cooperative agreement award document. Further, unexpended balances of cooperative agreement funds are subject to 40 CFR 35.118 and 40 CFR 35.518 to the extent consistent with this guidance. EPA allocates funds to state and tribal response programs under 40 CFR 35.420 and 40 CFR 35.737

A. One application per state or tribe

Subject to the availability of funds, EPA regional offices will negotiate and enter into

⁹A cooperative agreement is an agreement to a state/tribe that includes substantial involvement by the EPA on activities described in the work plan which may include technical assistance, collaboration on program priorities, etc.

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section 128(a) cooperative agreements with eligible and interested states or tribes. EPA will accept only one application from each eligible state or tribe.

B. Define the state or tribal response program

States and tribes must define in their work plan the "section 128(a) response program(s)" to which the funds will be applied, and may designate a component of the state or tribe that will be EPA's primary point of contact for negotiations on their proposed work plan. When EPA funds the section 128(a) cooperative agreement, states and tribes may distribute these funds among the appropriate state and tribal agencies that are part of the section 128(a) response program. This distribution must be clearly outlined in their annual work plan.

C. Separate cooperative agreements for the capitalization of RLFs using Section 128(a) funds

If a portion of the section 128(a) grant funds requested will be used to capitalize a revolving loan fund for cleanup, pursuant to section 104(k)(3), two separate cooperative agreements must be awarded, i.e., one for the RLF and one for non-RLF uses. States and tribes may, however, submit one initial request for funding, delineating the RLF as a proposed use. Section 128(a) funds used to capitalize an RLF are not eligible for inclusion into a Performance Partnership Grant (PPG).

D. Authority to manage a revolving loan fund program

If a state or tribe chooses to use its section 128(a) funds to capitalize a revolving loan fund program, the state or tribe must have the authority to manage the program, e.g., issue loans. If the agency/department listed as the point of contact for the section 128(a) cooperative agreement does not have this authority, it must be able to demonstrate that another state or tribal agency does have the authority to manage the RLF and is willing to do so.

E. Section 128(a) cooperative agreements can be part of a Performance Partnership Grant (PPG)

States and tribes may include section 128(a) cooperative agreements in their PPG 69 Fed. Reg. 51,756 (2004). Section 128(a) funds used to capitalize an RLF or purchase insurance or develop a risk sharing pool, an indemnity pool, or insurance mechanism to provide financing for response actions under a state or tribal response program are not eligible for inclusion in the PPG.

F. Project period

EPA regional offices will determine the project period for each cooperative agreement. These may be for multiple years depending on the regional office's cooperative agreement policies. Each cooperative agreement must have an annual budget period tied to an annual work plan. Pre-award costs are subject to 40 CFR 35.113 and 40 CFR 35.513.

G. Demonstrating the four elements

As part of the annual work plan negotiation process, states or tribes that do not have VRP MOAs must demonstrate that their program includes, or is taking reasonable steps to include, the four elements described in Section IV. EPA will not fund, in future years, state or tribal response program annual work plans if EPA determines that these requirements are not met or reasonable progress is not being made. EPA may base this determination on the information the state or tribe provides to support its work plan, or on EPA's review of the state or tribal response program.

H. Establishing and maintaining the public record

Prior to funding a state's or tribe's annual work plan, EPA regional offices will verify and document that a public record, as described in Section V and below, exists and is being maintained.¹⁰ Specifically for:

- states or tribes that received initial funding prior to FY12: Requests for FY13 funds will not be accepted from states or tribes that fail to demonstrate, by the January 31, 2013 request deadline, that they established and are maintaining a public record. (*Note*, this would potentially impact any state or tribe that had a term and condition placed on their FY12 cooperative agreement that prohibited drawdown of FY12 funds prior to meeting public record requirement). States or tribes in this situation will not be prevented from drawing down their prior year funds once the public record requirement is met; and
- states or tribes that received initial funding in FY12: By the time of the actual FY13 award, the state or tribe must demonstrate that they established and maintained the public record (those states and tribes that do not meet this requirement will have a term and condition placed on their FY13 cooperative agreement that prevents the drawdown of FY13 funds until the public record requirement is met).

I. Demonstration of significant utilization of prior years' funding

States and tribes should be aware that EPA and its Congressional appropriations committees place significant emphasis on the utilization of prior years' funding. Unused funds from prior years will be considered in the allocation process. Existing balances of cooperative agreement funds as reflected in EPA's Financial Data Warehouse could support an allocation amount below a grantee's request for funding or, if appropriate deobligation and reallocation by EPA Regions as provided for in 40 CFR 35.118 and 40 CFR 35.518 . Grantees should include a detailed explanation and justification of funds that remain in EPA's Financial Data Warehouse from prior years (that are related to response program activities or brownfield related activities).

EPA Regional staff will review EPA's Financial Database Warehouse to identify the amount of remaining prior year(s) funds. The cooperative agreement recipient should work, as early as possible, with both their own finance department, and with their

¹⁰ For purposes of cooperative agreement funding, the state's or tribe's public record applies to that state's or tribe's response program(s) that utilized the section 128(a) funding.

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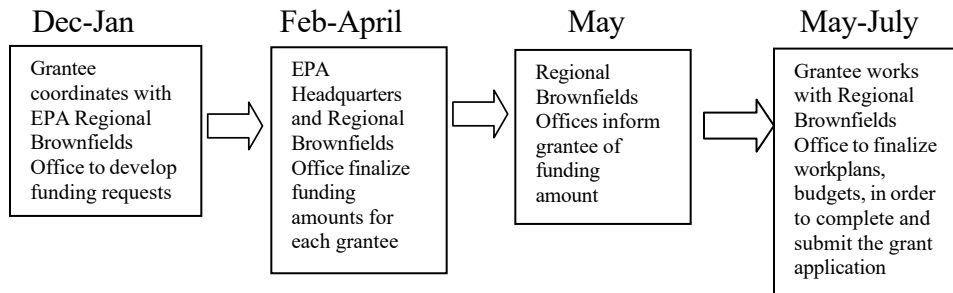
Regional Project Officer to reconcile any discrepancy between the amount of unspent funds showing in EPA’s system, and the amount reflected in the recipient’s records. The recipient should obtain concurrence from the Region on the amount of unspent funds requiring justification by the deadline for this request for funding.

L. Optional: Explanation of overall program impacts of possible funding reductions

Please explain the programmatic effects of a reduction (to your current funding amount) on significant activities of your response program. Specifically, at what amount (e.g., percentage of your current funding level) would your response program experience core programmatic impacts such as a reduction in staff, a decrease in oversight activities, or other impacts to the environment and health of the communities the program serves, etc.? An EPA Region may require that this information be submitted as part of the request for funding in order to fully understand the individual program impacts associated with decreased funding. These impacts will be considered as part of the decision for the final allocation.

K. Allocation system and process for distribution of funds

EPA regional offices will work with interested states and tribes to develop their preliminary work plans and funding requests. Final cooperative agreement work plans and budgets will be negotiated with the regional office once final allocation determinations are made. Please refer to process flow chart below (dates are estimates and subject to change):



For Fiscal Year 2013, EPA will consider funding requests up to a maximum of \$1.1 million per state or tribe. Please note the CERCLA 128(a) annual program’s budget has remained static while demand for funding continues to increase every year¹¹. Therefore, it is likely that the FY13 state and tribal individual funding amounts will be less than the FY12 individual funding amounts.

After the January 31, 2013 request deadline, EPA’s regional offices will submit

¹¹ FY12 the EPA received \$57.4 Million in requests for funding from States and Tribes under CERCLA 128(a). The FY12 enacted budget was \$49.3 Million. The resulting budget shortfall was approximately \$8.1 Million.

summaries of state and tribal requests to EPA Headquarters. Before submitting requests to EPA Headquarters, regional offices may take into account additional factors when determining recommended allocation amounts. Such factors include, but are not limited to, the depth and breadth of the state or tribal program; scope of the perceived need for the funding, e.g., size of state or tribal jurisdiction or the proposed work plan balanced against capacity of the program, amount of current year funding, funds remaining from prior years, etc.

After receipt of the regional recommendations, EPA Headquarters will consolidate requests and allocate funds accordingly.

VIII. INFORMATION TO BE SUBMITTED WITH THE FUNDING REQUEST

A. Demonstration of significant utilization of prior years' funding

States and tribes requesting section 128(a) FY13 funds must submit the following information, as applicable, to their regional brownfield contact on or before January 31, 2013. When submitting a request for FY13 funds, include a detailed explanation and justification of funds that remain in EPA's financial Data Warehouse from prior years (that are related to response program activities or brownfield related activities).

For those states and tribes that received section 128(a) funds, you must provide the amount of prior years' funding including funds that recipients have not received in payments (i.e., funds EPA has obligated for grants that remain in EPA's Financial Data Warehouse). EPA will take into account these funds in the allocation process when determining the recipient's programmatic needs under 40 CFR 35.420 and 40 CFR 35.737.

B. Summary of planned use of FY13 funding

All states and tribes requesting FY13 funds must submit a summary of the planned use of the funds with associated dollar amounts. Please provide the request in the chart below. The amount of funding requested should be an amount that can be reasonably spent in one year. It is likely that the FY13 state and tribal individual funding amounts will be less than the FY12 individual funding amounts. The requestor should work, as early as possible, with their EPA Regional Program contact to ensure that the funding amount requested and related activities are reasonable.

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Funding Use	FY12 Awarded	FY13Requested	Summary of Intended Use (EXAMPLE USES)
<p>Establish or enhance the four elements:</p> <ol style="list-style-type: none"> 1. Timely survey and inventory of brownfields sites; 2. Oversight and enforcement authorities or other mechanisms; 3. Mechanisms and resources to provide meaningful opportunities for public participation; 4. Mechanisms or approval of a cleanup plan and verification and certification that cleanup is complete. 	<p>\$XX,XXX</p>	<p>\$XX,XXX</p>	<ol style="list-style-type: none"> 1. Examples: <ul style="list-style-type: none"> • inventory and prioritize brownfields sites • institutional control (IC)/engineering control (EC) tracking 2. Examples: <ul style="list-style-type: none"> • develop/enhance ordinances, regulations, procedures for response programs 3. Examples: <ul style="list-style-type: none"> • develop a community involvement process • fund an outreach coordinator • issue public notices of site activities • develop a process to seek public input from local communities, especially potential environmental justice communities, communities with a health risk related to exposure to hazardous waste or other public health concerns, economically disadvantaged or remote areas, and communities with limited experience working with government agencies to prioritize sites to be addressed 4. Examples: <ul style="list-style-type: none"> • review cleanup plans and verify completed actions
<p>Establish and maintain the public record</p>	<p>\$XX,XXX</p>	<p>\$XX,XXX</p>	<ul style="list-style-type: none"> • maintain public record • create web site for public record • disseminate public information on how to access the public record

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Funding Use	FY12 Awarded	FY13Requested	Summary of Intended Use (EXAMPLE USES)
Enhance the response program	\$XX,XXX	\$XX,XXX	<ul style="list-style-type: none"> • provide oversight of site assessments and cleanups • attend training and conferences on brownfields cleanup technologies & other brownfields topics • update and enhance program management activities • negotiate/oversee contracts for response programs • enhance program management & tracking systems
Site-specific activities <i>(amount requested should be incidental to the workplan, see Section VI.D for more information on what activities should be considered when calculating site specific activities)</i>	\$XX,XXX	\$XX,XXX	<ul style="list-style-type: none"> • perform site assessments and cleanups • develop QAPPs • prepare Property Profile Forms/input data into ACRES database for these sites
Environmental insurance	\$XX,XXX	\$XX,XXX	<ul style="list-style-type: none"> • review potential uses of environmental insurance • manage an insurance risk pool
Revolving loan fund	\$XX,XXX	\$XX,XXX	<ul style="list-style-type: none"> • create a cleanup revolving loan fund
Total funding	\$XXX,XXX	\$XXX,XXX	Performance Partnership Grant? Yes <input type="checkbox"/> No <input type="checkbox"/>

IX. TERMS AND REPORTING

Cooperative agreements for state and tribal response programs will include programmatic and administrative terms and conditions. These terms and conditions will describe EPA's substantial involvement including technical assistance and collaboration on program development and site-specific activities. Each of the subsections below summarizes the basic terms and conditions and related reporting that will be required if a cooperative agreement with EPA is awarded.

A. Progress reports

In accordance with 40 CFR 31.40, states and tribes must provide progress reports as provided in the terms and conditions of the cooperative agreement negotiated with EPA regional offices. State and tribal costs for complying with reporting requirements are an eligible expense under the section 128(a) cooperative agreement. At a minimum, state or tribal progress reports must include both a narrative discussion and performance data relating to the state's or tribe's accomplishments and environmental outputs associated with the approved budget and workplan and should provide an accounting of section 128(a) funding. If applicable, the state or tribe must include information on activities related to establishing or enhancing the four elements of the state's or tribe's response program. All recipients must provide information relating to establishing or, if already established, maintaining the public record. Depending upon the activities included in the state's or tribe's work plan, an EPA regional office may request that a progress report include:

1. *Reporting interim and final progress reports.* Reports must prominently display the following three relevant Essential Elements as reflected in the current EPA strategic plan: Strategic Plan Goal 3: Cleaning Up Communities and Advancing Sustainable Development Strategic Plan Objective 3.1: Promote Sustainable and Livable Communities, and Work plan Commitments and Timeframes. EPA's strategic plan on the internet:
2. *Reporting environmental insurance.* Recipients with work plans that include funding for environmental insurance must report the :
 - number and description of insurance policies purchased (*e.g.*, type of coverage provided; dollar limits of coverage; any buffers or deductibles; category and identity of insured persons; premium; first dollar or umbrella; site specific or blanket; occurrence or claims made, etc.);
 - number of sites covered by the insurance;
 - amount of funds spent on environmental insurance (*e.g.*, amount dedicated to insurance program, or to insurance premiums); and
 - amount of claims paid by insurers to policy holders.
3. *Reporting for site-specific assessment or cleanup activities.* Recipients with work plans that include funding for *brownfields site assessment or cleanup* must input information required by the OMB-approved Property Profile Form into the Assessment Cleanup and Redevelopment Exchange System (ACRES) database for each site assessment and cleanup. In addition, recipients must report how they provide the affected community with prior notice and opportunity for meaningful participation as per CERCLA Section 128(a)(2)(C)(ii) on proposed cleanup plans and site

activities. For example, EPA strongly encourages states and tribes to seek public input regarding the priority of sites to be addressed and solicit input from local communities, especially potential environmental justice communities, communities with a health risk related to exposure to hazardous waste or other public health concerns, economically disadvantaged or remote areas, and communities with limited experience working with government agencies.

4. *Reporting for other site-specific activities.* Recipients with work plans that include funding for *other site-specific related activities* must include a description of the site-specific activities and the number of sites at which the activity was conducted. For example, the:
 - number and frequency of oversight audits of licensed site professional certified cleanups;
 - number and frequency of state/tribal oversight audits conducted;
 - number of sites where staff conducted audits, provided technical assistance, or conducted other oversight activities; and
 - number of staff conducting oversight audits, providing technical assistance, or conducting other oversight activities.
5. *Reporting required when using funding for an RLF.* Recipients with work plans that include funding for revolving loan fund (RLF) must include the information required by the terms and conditions for progress reporting under CERCLA section 104(k)(3) RLF cooperative agreements.
6. *Reporting for Non-MOA states and tribes.* All recipients without a VRP MOA must report activities related to establishing or enhancing the four elements of the state's or tribe's response program. For each element states/tribes must report how they are maintaining the element or how they are taking reasonable steps to establish or enhance the element as negotiated in individual state/tribal work plans. For example, pursuant to CERCLA section 128(a)(2)(B), reports on the oversight and enforcement authorities/mechanisms element may include a:
 - narrative description and copies of applicable documents developed or under development to enable the response program to conduct enforcement and oversight at sites. For example:
 - legal authorities and mechanisms (e.g., statutes, regulations, orders, agreements); and
 - policies and procedures to implement legal authorities; and other mechanisms;
 - description of the resources and staff allocated/to be allocated to the response program to conduct oversight and enforcement at sites as a result of the cooperative agreement;

- narrative description of how these authorities or other mechanisms, and resources, are adequate to ensure that:
 - a response action will protect human health and the environment; and be conducted in accordance with applicable federal and state law; and if the person conducting the response action fails to complete the necessary response activities, including operation and maintenance or long-term monitoring activities, the necessary response activities are completed; and
- narrative description and copy of appropriate documents demonstrating the exercise of oversight and enforcement authorities by the response program at a brownfields site.

The regional offices may also request additional information be added to the progress reports, as appropriate, to properly document activities described by the cooperative agreement work plan.

EPA regions may allow states or tribes to provide performance data in appropriate electronic format.

The regional offices will forward progress reports to EPA Headquarters, if requested. This information may be used to develop national reports on the outcomes of CERCLA section 128(a) funding to states and tribes.

B. Reporting of program activity levels

States and tribes must report, by January 31, 2013, a summary of the *previous federal fiscal year's* work (October 1, 2011 through September 30, 2012). The following information must be submitted to your regional project officer:

- environmental programs where CERCLA 128(a) funds are used to support capacity building (general program support, non-site-specific work). Indicate as appropriate from the following:
 - Brownfields
 - Underground Storage Tanks/Leaking Underground Storage Tanks
 - Federal Facilities
 - Solid Waste
 - Superfund
 - Hazardous Waste Facilities
 - VCP (Voluntary Cleanup Program, Independent Cleanup Program, etc.)
 - Other _____;
- number of properties (or sites) enrolled in a response program during FY12;
- number of properties (or sites) where documentation indicates that cleanup work is complete and all required institutional controls (IC's) are in place, or not required;
- total number of acres associated with properties (or sites) in the previous bullet;
and

- number of properties where assistance was provided, but the property was not enrolled in the response program (OPTIONAL).

EPA may require states/tribes to report specific performance measures related to the four elements which can be aggregated for national reporting to Congress.

For example:

1. timely survey and inventory - estimated number of brownfields sites in the state or on tribal land;
2. oversight and enforcement authorities/mechanisms - number of active cleanups and percentage that received oversight; percentage of active cleanups not in compliance with the cleanup workplan and that received communications from recipient regarding non-compliance;
3. public participation - percentage of sites in the response program where public meetings/notices were conducted regarding the cleanup plan and/or other site activities; number of requests and responses to site assessment requests; and
4. cleanup approval/certification mechanisms - total number of "no further action" letters or total number of certificate of completions.

[NOTE: This reporting requirement may include activities not funded with CERCLA Section 128(a) funding, because this information may be used by EPA to evaluate whether recipients have met or are taking reasonable steps to meet the four elements of a response program pursuant to CERCLA Section 128(a)(2).]

C. Reporting of public record

All recipients must report, as specified in the terms and conditions of their cooperative agreement, information related to establishing, or if already established, maintaining the public record, described above. States and tribes can refer to an already existing public record, e.g., website or other public database to meet the public record requirement. Recipients' reporting may only be required to demonstrate that the public record; a) exists and is up-to-date; and b) is adequate. A public record may include the following information:

A list of sites at which response actions have been completed including:

- date the response action was completed;
- site name;
- name of owner at time of cleanup, if known;
- location of the site (street address, and latitude and longitude);
- whether an institutional control is in place;
- type of institutional control in place (e.g., deed restriction, zoning restriction, local ordinance, state registries of contaminated property, deed

notices, advisories, etc.);

- nature of the contamination at the site (e.g., hazardous substances, contaminants or pollutants, petroleum contamination, etc.); and
- size of the site in acres.

A list of sites planned to be addressed by the state or tribal response program including:

- site name and the name of owner at time of cleanup, if known;
- location of the site (street address, and latitude and longitude);
- to the extent known, whether an institutional control is in place;
- type of the institutional control in place (e.g., deed restriction, zoning restriction, local ordinance, state registries of contaminated property, deed notices, advisories, etc.);
- to the extent known, the nature of the contamination at the site (e.g., hazardous substances, contaminants, or pollutants, petroleum contamination, etc.); and
- size of the site in acres.

D. Award administration information

1. Subaward and executive compensation reporting

Applicants must ensure that they have the necessary processes and systems in place to comply with the subaward and executive total compensation reporting requirements established under OMB guidance at 2 CFR Part 170, unless they qualify for an exception from the requirements, should they be selected for funding.

2. Central Contractor Registration (CCR)/System for Award Management (SAM) and Data Universal Numbering System (DUNS) Requirements

Unless exempt from these requirements under OMB guidance at 2 CFR Part 25 (e.g., individuals), applicants must:

- a) register in the CCR/SAM prior to submitting an application or proposal under this announcement. CCR/SAM information can be found at the SAM site.
- b) maintain an active CCR/SAM registration with current information at all times during which it has an active Federal award or an application or proposal under consideration by an agency, and
- c) provide its DUNS number in each application or proposal it submits to the agency. Applicants can receive a DUNS number, at no cost, by visiting the D&B website at:
<https://iupdate.dnb.com/iUpdate/companylookup.htm>.

Failure to comply with these requirements will affect the applicant's ability to receive funding. Please note that the CCR has been replaced by the System for Award Management (SAM). To learn more about SAM, go to SAM.gov

3. Use of funds

An applicant that receives an award under this announcement is expected to manage assistance agreement funds efficiently and effectively and make sufficient progress towards completing the project activities described in the work-plan in a timely manner. The assistance agreement will include terms/conditions implementing this requirement.

REGIONAL STATE AND TRIBAL BROWNFIELDS CONTACTS

REGION	STATE	TRIBAL
1 CT, ME, MA, NH, RI, VT	James Byrne 5 Post Office Square, Suite 100 (OSRR07-2) Boston, MA 02109-3912 Phone (617) 918-1389 Fax (617) 918-1291	AmyJean McKeown 5 Post Office Square, Suite 100 (OSRR07-2) Boston, MA 02109-3912 Phone (617) 918-1248 Fax (617) 918-1291
2 NJ, NY, PR, VI	Alison Devine 290 Broadway, 18th Floor New York, NY 10007-1866 Phone (212) 637-4158 Fax (212) 637-3083	Alison Devine 290 Broadway, 18th Floor New York, NY 10007-1866 Phone (212) 637-4158 Fax (212) 637-4158
3 DE, DC, MD, PA, VA, WV	Janice Bartel 1650 Arch Street (3HS51) Philadelphia, PA 19103 Phone (215) 814-5394 Fax (215) 814-3015	
4 AL, FL, GA, KY, MS, NC, SC, TN	Nicole Comick-Bates 61 Forsyth Street, S.W, 10TH FL (9T25) Atlanta, GA 30303-8909 Phone (404) 562-9966 Fax (404) 562-8788	Cindy J. Nolan 61 Forsyth Street, S.W, 10TH FL (9T25) Atlanta, GA 30303-8909 Phone (404) 562-8425 Fax (404) 562-8788
5 IL, IN, MI, MN, OH, WI	Jan Pels 77 West Jackson Boulevard (SE-7J) Chicago, IL 60604-3507 Phone (312) 886-3009 Fax (312) 692-2161	Jane Neumann 77 West Jackson Boulevard (SE-7J) Chicago, IL 60604-3507 Phone (312) 353-0123 Fax (312) 697-2649
6 AR, LA, NM, OK, TX	Amber Perry 1445 Ross Avenue, Suite 1200 (6SF) Dallas, TX 75202-2733 Phone (214) 665-3172 Fax (214) 665-6660	Amber Perry 1445 Ross Avenue, Suite 1200 (6SF) Dallas, TX 75202-2733 Phone (214) 665-3172 Fax (214) 665-6660
7 IA, KS, MO, NE	Susan Klein 11201 Renner Boulevard (SUPRSTAR) Lenexa KS 66219 Phone (913) 551-7786 Fax (913) 551-9786	Susan Klein 11201 Renner Boulevard (SUPRSTAR) Lenexa KS 66219 Phone (913) 551-7786 Fax (913) 551-9798
8 CO, MT, ND, SD, UT, WY	Christina Wilson 1595 Wynkoop Street (EPR-B) Denver, CO 80202-1129 Phone (303) 312-6706 Fax (303) 312-6065	Barbara Benoy 1595 Wynkoop Street (8EPR-SA) Denver, CO 80202-1129 Phone (303) 312-6760 Fax (303) 312-6962
9 AZ, CA, HI, NV, AS, GU	Eugenia Chow 75 Hawthorne St. (SFD-6-1) San Francisco, CA 94105 Phone (415) 972-3160 Fax (415) 947-3520	Glenn Kistner 75 Hawthorne St. (SFD-6-1) San Francisco, CA 94105 Phone (415) 972-3004 Fax (415) 947-3520
10 AK, ID, OR, WA	Mary K. Goolie 222 West 7th Avenue #19 (AOO) Anchorage, AK 99513 Phone ((907) 271-3414 Fax (907) 271-3424	Mary K. Goolie 222 West 7th Avenue #19 (AOO) Anchorage, AK 99513 Phone ((907) 271-3414 Fax (907) 271-3424



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

November 9, 2012

Ref: 8P-TA

Address

Re: Funding Opportunity Notices
Fiscal Year 2014 Environmental Grants

Proposal Due Date: January 11, 2013

Dear Tribal Leader:

The U.S. Environmental Protection Agency Region 8 is pleased to announce Funding Opportunity Notices under the following authorities:

- The Clean Air Act (CAA), Sections 103 and 105 grant programs;
- The Clean Water Act (CWA), Section 106 Base Program;
- The Clean Water Act (CWA), Section 106 Special Project Grants;
- The General Assistance Program (GAP), under the Indian Environmental General Assistance Program Act of 1992 as amended;
- The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); and
- The Underground Storage Tank (UST) and Leaking Underground Storage Tank (LUST) grant programs.

The EPA invites you to submit a proposal package to the appropriate EPA contact, as listed in Enclosure 11, by **January 11, 2013**. Grant awards may be reduced for late submissions and/or incomplete responses to the criteria and requirements in the enclosed documents. Applicants can anticipate that past performance will be a major factor in determining award amounts.

Signed application packages, including approved work plans and budgets, must be emailed or postmarked by April 26, 2013, to your respective EPA contact (see Enclosure 11). The application forms can be found at the Region 8 site. Please be advised that any deviations or omissions from the process and schedule (e.g., incomplete or recycled work plans, late submittals, untimely responses to EPA requests) will result in either an award delay, reduced funding amounts or no funding award.

Attachment B

If you have any questions about the enclosed Funding Opportunity Notices, please contact your respective EPA contact. If you have any questions about the grant application process, please contact your assigned Grants Specialist (see Enclosure 11).

Sincerely,

Alfreda Mitre, Director
Tribal Assistance Program

Enclosures:

- (1) CAA 103/105 Funding Opportunity Notice
- (2) CAA example work plan
- (3) CWA 106 Base Grant Funding Opportunity Notice
- (4) CWA 106 Special Projects Grants Funding Opportunity Notice
- (5) CWA 106 example work plan
- (6) GAP Funding Opportunity Notice
- (7) GAP standardized work plan format
- (8) FIFRA Funding Opportunity Notice
- (9) UST/LUST Funding Opportunity Notice
- (10) UST and LUST example work plans
- (11) Tribal Program Managers' Assignments
- (12) Funding for Indirect Cost (IDC) Rate

cc: Tribal Environmental Directors (sent electronically)

Award Tribal Application Checklist and Helpful Tips

(Used for New and/or Supplemental Funding Applications) Background/Purpose

The purpose of this checklist is to assist the Tribes in the development of workplans, applications, and reports. Any specific questions on grant administration should be directed to your Project Officer.

If needed, additional programmatic guidance will be provided by individual Program Project Officers. By reviewing your proposed workplans against the checklist, and by including well-defined outputs, outcomes, deliverables, timelines, and milestones, revisions will be minimized.

This checklist is not intended as a substitute for meeting applicable regulatory requirements. Grantees are responsible for ensuring that they meet all applicable requirements.

APPLICATION INFORMATION

- Cover Letter
- Application for Federal Assistance SF-424 - Review and complete all fields of the SF-424 Application SF 424
- Review for correct start dates and end dates.
- Ensure that the federal funding amount and applicant amounts are consistent with the budget narrative in the workplan. Note: Only provide “new” or “supplemental” funding requests in your application, rather than a cumulative total for your grant application.
- SF424a or budget short form. This information should match the budget narrative.
- Annual Bundled Certifications:
 - Assurances Form 424B
 - Certification Regarding Lobbying
 - Pre-award Compliance (Civil Rights) Form--EPA Form 4700
 - Key Contacts Form
 - Indirect Cost Rate Agreement:
If current agreement is not available, provide most recent agreement.

Note: Region 5 strongly encourages the Tribe to submit Bundled Certifications. These certifications are good for a year from the date submitted and are applicable to all of the Tribe's grant applications. If the Tribe does not submit Bundled Certifications, then each of the forms must be submitted with **each** application package.

Application forms are available at the EPA Grants site.

- Final workplans and applications should be sent to the Chief of the Region 5 Assistance Section, at the address listed below, with a copy to the Project Officer.

Sharon Green, Chief, Assistance Section – MC-10J U.S. Environmental
Protection Agency, Region 5
77 West Jackson Blvd. Chicago, Illinois 60604
Green.Sharon@epa.gov

WORKPLAN CONTENTS – HELPFUL TIPS

(Please refer to the complete description of workplan requirements found in 40 CFR 35 Subpart B). Other useful guidance can be found at *[insert appropriate EPA website]*****

[] EPA Order 5700.7 on Environmental Results generally describes workplans:

Workplans must contain well-defined outputs and, to the maximum extent practicable, well-defined outcomes. The term “outcome” means the result, effect or consequence that will occur from carrying out an environmental program or activity that is related to an environmental or programmatic goal or objective. Outcomes may be environmental, behavioral, health-related or programmatic in nature, must be quantitative, and may not necessarily be achievable within an assistance agreement funding period. The term “output” means an environmental activity, effort, and/or associated work products related to an environmental goal or objective, that will be produced or provided over a period of time, or by a specified date. Outputs may be quantitative or qualitative but must be measurable during an assistance agreement funding period.

The full text of EPA Order 5700 can be found at: [fill in]

[] The workplan should contain specific milestones in support of the tasks listed. An estimated completion date is needed for each task.

[] The workplan should specify whether there are deliverables (i.e. reports, pamphlets, etc.) for the approved activities. Deliverables are work products that are provided to the EPA Project Officer.

[] When using acronyms, spell out the term the first time it is used in the workplan. For example: Clean Water Act (CWA) 106.

[] If grant funds are to be used for staff training, education, outreach, or conferences and meetings (and any associated travel costs), include these activities as a separate task. Explain the purpose for taking the training or attending the conferences. To the extent you know of specific courses, conferences or events, list those in the work plan along with intended staff to participate. Additional details for training or conferences involving travel is required in the budget narrative (see below).

Special Requirements for Workplans That Include Sampling or Data Gathering

[] Always provide a justification as well as timeline for sampling.

[] Sampling plans (including parameters, sample locations, rationale for both, etc.) must be approved by EPA before field work takes place. This information is submitted as part of the work plan for some programs (such as water grants) and as a separate deliverable after award (such as site response program grants). Talk with your program contact to determine which way this should be done for each particular type of funding you are seeking. Always provide in the work plan your best estimate of the dates/timelines when the sampling, monitoring and data collection are taking place. You can use a table format.

[] Quality Assurance Project Plan (QAPP) – If you already have a QAPP in place, identify which QAPP covering the proposed work was submitted to EPA and the EPA approval date. Also include a task to annually review and update any QAPP applicable to the activities in the workplan.

[] If no applicable approved QAPP is in place, include a task explaining that you will prepare and submit a QAPP for EPA review and approval prior to any data gathering

Attachment C

If your contractor will be collecting environmental data, an EPA-approved QAPP

is still needed, just as it would be if the data was to be collected by your staff.

BUDGET NARRATIVE

You should use only whole numbers.

You should check to ensure that there are no math errors.

You should check to make sure you have correctly calculated your matching fund requirement(s) and that you have shown them in each applicable workplan/budget category.

Be sure you attach a separate budget justification narrative which provide details of the costs for each category.

Note: A table format summarizing both the federal and tribal match (if applicable) is one way to present this information, as illustrated below. . Please see other examples at Tab/Attachment/Appendix XXX .

Name of Project - Tribe's Name					
Category	Program	Detail	Federal Share	Tribal Match	Total
1. Personnel Indicate salaries and wages by job title of individuals who will be supplemented with these funds.	Air - Section 105	Air Tech - \$15/hr*40 hr*52 weeks = \$31,200	\$ 30,000.00	\$ 1,200.00	\$ 31,200.00
	Brownfields	Program Manager- \$22/hr*40 hr*52 weeks= \$45,760	\$ 34,320.00	\$ 11,440.00	\$ 45,760.00
	Water				\$ -
	Program Name				\$ -
	Program Name				\$ -
	Program Name				\$ -
Total Cost			\$ 64,320.00	\$ 12,640.00	\$ 76,960.00

Object Class Categories:

A full list of definitions can be found at 40 C.F.R. Part 31. Applicable guidance can be found on the EPA Grants site.

PERSONNEL – Provide a breakdown for personnel. (Applicant’s budget detail must identify the personnel and Title by Full-Time Equivalent (FTE), including percentage of FTE for part-time employees and number of personnel proposed for each category. This will include the FTE Title, Salary per hr./monthly/or yearly.)

FRINGE BENEFITS – Fringe benefits include, but are not limited to, employee insurance, pensions, and unemployment benefit plans. The cost of leave can be included under either Personnel or Fringe Benefits, at the applicant’s discretion. Please indicate how the fringe benefits are calculated (i.e. % x Personnel).

TRAVEL EXPENSE - Travel costs are the expenses for proposed/estimated transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business. In a narrative statement, for each trip list the title of all travelers, the reason and purpose of the travel, number of days, which

Attachment C

types of costs are included (i.e. lodging, per diem, air fare, other). If specific destinations are known for each trip indicate those. Additional information on travel expenses may be found at 2 C.F.R. 225, App B.

Note: The Tribal government must establish its own travel policies. If a tribal government does not have a written policy related to travel costs, it may use the GSA allowable cost rates and amounts established by the General Services Administration (GSA) as guidance for developing policies. View the travel cost guidelines on the GSA website, <http://www.gsa.gov/>.

EQUIPMENT EXPENSES - This category includes only equipment proposed to be purchased as a direct cost. Equipment is defined as tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit, although a lower dollar amount threshold can be established by the applicant. If the applicant uses a lower threshold for equipment, please indicate this in the budget information. (Note: Equipment does not include: 1) equipment planned to be leased/rented, including lease/purchase agreements; or 2) equipment service or maintenance contracts. These types of proposed costs should be included in the “Other” category.)

Provide the name/type equipment to be purchased, estimated costs of each piece of equipment, why the equipment is needed/or required and which workplan task the new equipment will help support. The budget narrative must include an itemized listing of all equipment proposed under the agreement.

Applicants must conduct a price-cost analysis for equipment purchases as required under 40 CFR 31.36. A copy of your price-cost analysis may be included with your workplan to ensure approval of these costs or may be submitted after the award is made and prior to procuring the equipment.

Note: If non-competitive (e.g., sole-source) procurement is proposed by applicants, the applicant must prepare a technical justification for the non-competitive procurement. Please state if equipment is purchased by sole-source or bid.

SUPPLIES – Supplies are tangible personal property other than equipment. Any single item valued at \$5,000 or more in this category should be moved to the “Equipment” category. Non-tangible goods and services associated with supplies, such as printing services, photocopy services, and rental costs should be included in the “Other” category. The budget narrative must include a brief description of the supplies required to perform the work. These costs should be listed by major supply categories and include the estimated costs by category.

CONTRACTUAL/CONSULTANT SERVICES - Contractual/consultant services are those services to be carried out by an individual or organization other than the applicant in the form of a contract for the procurement of services.

For each planned contract, you should list the proposed contract activities along with a brief description of--the scope of work or services to be provided, proposed duration, and proposed procurement method (competitive or non-competitive), if known. Also you should provide a basis for all cost calculations (e.g., number of samples and price per analysis, average hourly rate and estimated hours, etc.).

You must conduct a price-cost analysis for all procurements as required under 40CFR 31.36.

United States Geological Survey (USGS) costs should be listed in the “Other” category and not the Contractual Category.

You must state if you will seek bids on your contract or if you will select a sole source provider. If you are choosing to use a sole source, you must provide the justification required under 40 CFR 31.36(d).

Attachment C

The consultant fee cap applies if you contract with a single individual or if you contract with a multi-person firm and the recipient directs specific work under the contract to individual employees. If any of your contracts include hourly rates that exceed the fee cap, you must be able to provide a statement that the recipient's contract does not grant authority to the recipient to direct work to specific individuals at the firm.

OTHER DIRECT COSTS – This category should include only those types of direct costs that do not fit in any of the other budget categories. Examples of costs that may be in this category include: insurance, rental/lease of equipment or supplies, equipment service or maintenance contracts, printing or photocopying, sub-award costs, and USGS costs.

If you choose to categorize as direct costs those costs that are regularly considered indirect costs (i.e. rent, phone, utilities, space allocation, etc.), you must include a statement that such costs are **not** part of your indirect cost rate pool and you must explain how these costs are calculated.

INDIRECT COST RATE--Include Indirect Cost Rate (IDC) amount and costs covered under your IDC rate. Provide how your IDC rate was calculated in the narrative (i.e. rate multiplied by the base you have included).

Include a copy of your latest IDC rate agreement.