

**Office of Congressional and Intergovernmental Relations (OCIR) FY 2020-2021 National Program Guidance: External Comments and Responses**  
**June 7, 2019**

Comment	Commenter(s)	Location in Draft Guidance	National Program Offices Response	Action Taken in Final Guidance
<p>ECOS and states appreciate working closely with EPA on Cooperative Federalism Oversight efforts and inclusion in its NPG of promoting use of Oversight Principles and templates. Collaborating on activities such as permitting and related work such as timely review and approval of State Implementation Plans (SIP) benefit from close communication and coordination.</p>	<p>ECOS</p>	<p>p7</p>	<p>EPA will continue to work in close partnership with ECOS on oversight efforts and ensure regular communication with the states.</p>	<p>No change</p>
<p>EPA should continue to work closely with ECOS membership and the ECOS State Grants Subgroup in formulating and tracking the number of state grant commitments achieved, including defining a subset of nationwide state grant commitments to serve as a baseline. EPA should allow thorough state review of materials associated with these initiatives and address state feedback prior to launch. Tracking efforts should seek to pull from existing reporting to the greatest extent and seek to minimize any additional reporting burden.</p>	<p>ECOS</p>	<p>pp4-6</p>	<p>EPA will continue to work closely with ECOS and the ECOS State Grants Subgroup in implementing the Strategic Measure for tracking the number of state grant commitments achieved.</p>	<p>No change</p>

Comment	Commenter(s)	Location in Draft Guidance	National Program Offices Response	Action Taken in Final Guidance
<p>The principles outlined in ECOS' Cooperative Federalism 2.0 paper emphasized that states should have flexibility to determine the best way for their programs to achieve national minimum standards. ECOS believes that it will be beneficial to the cooperative federalism relationship for the NPG documents to include language wherever possible that encourages regional staff and states to collaboratively pursue this flexibility. Some effective avenues for flexibility include Performance Partnership Agreements/Grants (PPAs/PPGs), E-Enterprise Tradeoffs, Alternative Compliance Monitoring Tradeoffs (ACMS), and innovative financing models. To examine more areas for potential flexibility, please see ECOS' Field Guide to Flexibility and Results report.</p>	ECOS	p5	<p>OCIR's draft NPG included language to support the cooperative federalism effort.</p> <p>In addition, other NPGs address flexibility, as appropriate, and the <i>Overview to the NPGs</i> discusses flexibility for PPAs and PPGs.</p>	<p>OCIR added a reference and link to ECOS' <b>Cooperative Federalism 2.0</b> paper (p5).</p>
<p>Through E-Enterprise for the Environment, ECOS' Innovation &amp; Productivity Committee, and other contexts, ECOS has supported the ability of states to improve their efficiency and effectiveness in implementing environmental programs through streamlining and modernization activities. ECOS hopes that EPA program offices include guidance language wherever possible that encourages close, proactive communication between regional and state staff to identify and pursue opportunities for these activities.</p>	ECOS	All NPGs	<p>OCIR's draft NPG recognized the importance for incorporating E-Enterprise initiatives into workplan activities and sites the Guidance on E-Enterprise workload tradeoffs (p6).</p> <p>The <i>Overview to the NPGs</i> includes a description of E-Enterprise and links for accessing additional information. Other NPGs also specifically encourage E-Enterprise activities.</p>	No change

Comment	Commenter(s)	Location in Draft Guidance	National Program Offices Response	Action Taken in Final Guidance
<p>ECOS supports the focus on core, strategic agency performance measures brought about through the EPA Lean Management System (ELMS). As the process of adopting ELMS throughout the agency continues, ECOS encourage EPA’s regions, program offices, and Office of Continuous Improvement to hold ongoing, open discussions with states regarding the status and import of ELMS-related operational changes, how these changes will affect states, and how states can better align their own efforts toward business process improvement with ELMS.</p>	<p>ECOS</p>	<p>All NPGs</p>	<p>OCIR’s draft NPG included language to reflect its commitment to promoting ELMS throughout the agency (p8).</p> <p>OCIR encourages regions, program offices, and Office of Continuous Improvement to engage with states to better align their own efforts toward business process improvement with ELMS.</p>	<p>No change</p>

Comment	Commenter(s)	Location in Draft Guidance	National Program Offices Response	Action Taken in Final Guidance
<p>The third paragraph of the INTRODUCTION ends with the following statements:  <i>“Similarly, EPA-Tribal Environmental Plans (ETEPEs) serve to improve the EPA-tribal partnerships by fostering collaboration and priority setting of environmental commitments in alignment with the Agency’s FY 2018-2022 Strategic Plan. Regions should rely on established EPA-Tribal Environmental Plans (ETEPEs) to guide federal environmental program activities in Indian country, including direct implementation and technical and financial assistance.</i></p> <p>These statements are an inaccurate representation of the purposes for and appropriate uses of ETEPEs that should be deleted.</p> <p>As provided in the 2013 GAP Guidance, ETEPEs are intended to inform GAP workplans and to reference in measuring performance under GAP. “Established” ETEPEs contain provisions specifically to serve this purpose and were not intended by the Tribes that have approved ETEPEs to inform any other aspect of the relationship between Tribes and EPA.</p> <p>If the Agency wants to consider and propose a regulation or policy to more broadly rely on ETEPEs to define the relationship between various EPA offices and Tribes, it should do this in an action separate from the NPMG development process, after thorough and meaningful government-to-government consultation as required by EPA’s 2011 Policy on Consultation and Coordination with Indian Tribes</p>	<p>Alan Bacock, Region 9  RTOC Tribal Co-Chair</p>	<p>p3</p>	<p>See final OITA Guidance</p>	<p>See final OITA Guidance</p>

Comment	Commenter(s)	Location in Draft Guidance	National Program Offices Response	Action Taken in Final Guidance
<p>The discussions in this section regarding how strategic measures will be implemented contain several provisions of concern, in particular related to standardized and templated grant commitments and reporting, as well as Agency oversight and engagement described in subsections 1.3, 1.4 and 2.</p> <p>The proposed approach of developing a new set of standardized grant commitments, reporting, oversight and engagement templates that would apply equally to tribal grantees and states makes little sense. While there is some overlap, a significant amount of work that Tribes perform using EPA grant funding or otherwise in partnership with the Agency is notably different from the work performed by states. In addition, this approach violates several principles of EPA’s 1984 Indian Policy recently reaffirmed by Administrator Wheeler, among other well-established authorities pursuant to which EPA has recognized the authority of Tribal Governments to implement Tribally-identified tasks to address Tribal priority issues in Tribally-appropriate ways.</p> <p>Before any further action is taken to pursue this standardized approach, EPA must first engage in a thorough and meaningful consultation with all Tribes whose interests may be affected by this proposal.</p>	<p>Alan Bacock, Region 9 RTOC Tribal Co-Chair</p>	<p>pp4-7</p>	<p>OCIR recognizes the challenges in implementing a new strategic measure to track grant commitments.</p> <p>OCIR’s initial approach focuses on tracking a subset of state grant commitments among the agency’s core environmental programs.</p>	<p>No change</p>

Comment	Commenter(s)	Location in Draft Guidance	National Program Offices Response	Action Taken in Final Guidance
<p>The guidance indicates, “The Regions should prepare and anticipate foreseeable priority readjustments within their grant workplans, in the event of unforeseen environmental or budget variations. For additional reference, the Regions should refer to ECOS’s Field Guide to Flexibility.”</p> <p>South Dakota uses the National Environmental Performance Partnership System which does supply some flexibility. However, all EPA programs need to be aware that flexibility is not enough to overcome the cuts in the President’s budget if it is adopted. Our budget is very tight and the cuts in the President’s budget would require us to discuss the option of returning delegated programs to EPA.</p>	<p>South Dakota Department of Environment and Natural Resources</p>	<p>p6</p>	<p>OCIR acknowledges the budgetary challenges states and tribal entities face.</p>	<p>No change</p>