

October 21, 2019 RTOC Action Items

2/11/2020

Identifier	Action Items	Tribal Contact	Lead	Status	Comments	Discuss during:
1	Consultation is an ongoing issue, and perhaps there is a disconnect about the definition of "Tribal Consultation" as there seem to be many opinions of what it entails. We request that Tribes and EPA have a robust discussion of the EPA consultation policy at the Spring RTOC. We would like AIEO and/or EPA HQ to attend and clarify the consultation policy. We would also like Tribes to present to EPA on what we want related to consultation, what we feel is proper consultation, and to provide examples of both good and bad experiences with consultation.	Rob Roy, rob.roy@lajolla-nsn.gov Melody Sees, melodysees@gmail.com Teresa Romero tromero@santaynezchumash.org	AIEO	Under Development	Under Development	Full RTOC
2	Tribes do a lot of reporting to EPA and would like increased reporting from EPA. We request that EPA R9 provide a quarterly report about all issues that may affect Tribal governments.	Rob Roy, rob.roy@lajolla-nsn.gov Melody Sees, melodysees@gmail.com Teresa Romero tromero@santaynezchumash.org	Tribal Branch	Completed	Quarterly RTOCs serve as a communication forum for Tribal activities, ensuring effective, two-way communication between the Tribes in the Region and EPA (Charter). EPA continues to be committed to quarterly RTOCs to share information and to provide updates/highlights. Please provide more information on the types of updates you are looking for.	Full RTOC
3	We request that the GAO attend the Spring RTOC to update Tribes on their ongoing review of Tribal conferences and EPA performance as well as listening to Tribal concerns about EPA including the lack of adequate reporting of Tribal accomplishments to Congress.	Rob Roy, rob.roy@lajolla-nsn.gov Melody Sees, melodysees@gmail.com Teresa Romero tromero@santaynezchumash.org	AIEO	in progress	Under Development	Full RTOC
4	Updates on allocation? With R3 joining, will there be an impact on allocation?	Not identified	Tribal Branch	Completed	The Agency is not changing the GAP allocation methodology at this time. The addition of Federally-recognized tribes to Region 3 is expected to have a less than 1% impact on the allocation to Region 9.	GAP workgroup session.
5	Workplan and budgets templates- put them on the web site	Not identified	Tribal Branch	Completed	The GAP FY 21 notification includes examples of these, and we recently posted online quarterly report templates, one of which can double as a workplan template. https://www.epa.gov/tribal-pacific-sw/region-9-tribal-environmental-gap-funding#reporting	GAP workgroup session.
6	EPA Project Officers are increasingly limiting how many hours and dollars a Tribe can allocate to various tasks during workplan negotiations. Not everyone has the same capacity and it takes different grantees differing amounts of time to complete tasks. How does EPA determine how much FTE and funding is allowable? Are there percentages of total costs or caps on FTE or \$ related to different workplan components?	Rob Roy, rob.roy@lajolla-nsn.gov Melody Sees, melodysees@gmail.com Teresa Romero tromero@santaynezchumash.org	Tribal Branch	Completed	Project Officers assess whether workplan budgets are reasonable. They compare the funds requested to the activities in the workplan. They may assess reasonability in a number of ways. They may independently estimate numbers of hours the activity might take and apply it to the hourly rates, fringe rates, and IDC rates to come up with an independent estimate of the activity. They may apply their knowledge or experience with similar work. They may apply knowledge of market values. If the requested funds differ significantly from the project officer assessment, the project officer reaches out to better understand how the estimate was developed and/or what assumptions were made to develop that estimate. In many cases, that conversation helps the project officer to understand why amount budgeted for that task was reasonable. In other cases, the grantee indicates that the requested funds was not based on the work described in the workplan, and either the request budget is adjusted, or the workplan is expanded upon. EPA recognizes that it takes different grantees different amounts of time to do activities that, on the surface, may appear to be the same. Caps may include awards for vehicles or percentage of awards used to seek additional funding.	GAP workgroup session.
7	We understand that the GAP Guidance Revision process has been stopped and the Funding Allocation Formula taken off the table. Is there a tentative roll out date for a new "first round"?	Stephanie Smith, Tejon Tribe	AIEO	Completed	Our efforts to revise the Guidance has not stopped; AIEO is actively working with its leadership on the evaluation process with particular emphasis on reducing administrative burden. Per Direct Scot Mason's Phase 1 consultation close out letter to the tribes, we anticipate consultation of draft revised guidance this fiscal year.	GAP workgroup session.
8	GAP 2.35 is shut down. Tribes are receiving different dates on when Tribes can pull down information before it becomes inaccessible. Need a clarification on what the final dates are and if GAP 3.0 has a potential roll out date.	Central CA Tribes	AIEO	Completed	Documents in GAP 2.35 are currently accessible. All documents should be downloaded on or before August 2020 before the system shuts down before the end of FY2020. GAP 3.0 is currently live and active.	GAP workgroup session.

9	New Action Item: The time between the work plans coming back from project officers and the timeframe to upload it to grants.gov is not enough. They are not allowing for council review time. Can we have extended time periods for the negotiation phase? Some Tribes require a longer timeframe for review of changes and approval per Tribal Council policies. So may need a longer time in the negotiation phase.	Brett Matzke, Kletsel Dehe Wintu Nation	Tribal Branch	Completed	Thank you for sharing this feedback. We recognize that some tribes require a longer timeframe for review of changes and approval per Tribal Council policies. Planning calls may begin earlier than October to allow for more time to develop workplans and budgets in advance of the application deadline. In addition, following the January 16 application deadline, the process still allows for the opportunity to make edits and corrections to workplans, budgets, and other application items.	GAP workgroup session.
10	Requests for WOTUS map / overlay of WOTUS. Requests by Emily Luscombe of Cahto and others in the Central Valley.	Emily Luscombe and others	Water Division	in progress	This request will be discussed at the Water work group session on Wednesday, Feb. 12. If interested parties cannot make the Water work group session, they may contact Jason Brush directly.	Water workgroup session.
11	This was an issue from last year's Summer RTOC: Now that the TAS and WOTUS information have been received, we would like to see the overlay maps on how the new definition will/may impact Tribal water resources/watersheds.	Central CA Tribes	Water Division	See above.	(see above)	Water workgroup session.
12	Tribes have sent comment letters to EPA and have not received responses many months later. We would like EPA to clarify the policy for timely responses to Tribal comment letters.	Rob Roy, rob.roy@lajolla-nsn.gov Melody Sees, melodysees@gmail.com Teresa Romero, tromero@santaynezchumash.org	Tribal Branch	in progress	EPA affirms its policy of providing timely responses to general correspondence. The timetables for regulatory actions are prescribed, and responses to comments related to a regulatory action usually follow decisions related to the action in question. The Agency recognizes the distinction between comments submitted in response to EPA requests for comment and the communication that takes during Tribal Consultation. For correspondence submitted as part of a tribal consultation, the EPA Policy on Consultation and Coordination with Indian Tribes is available at: https://www.epa.gov/sites/production/files/2013-08/documents/cons-and-coord-with-indian-tribes-policy.pdf .	Tribal Caucus.
13	Roles of grant specialists – which tribes they work with	Not identified	Grants Management Branch	Completed	At the last Annual Tribal Conference on October 23, 2019, the R9 EPA Grants Branch provided a presentation on the different phases of the grant process and the role of the Grants Specialist. Please see the Conference website to access this past presentation. https://www.tribalepa.com/2019-presentations/ If it will be useful, we can further clarify in a future grants presentation how the PO and GS work together for all phases of the grant award. We have developed a list of GSs and the tribes they work with we will share.	Tribal Caucus.
14	Is requesting a presentation: What role does the EPA Grants Specialist have in the grant award process? What is the process/protocol between the PO and the Grants Office in the sharing of information?	Eileen Nunez, Redwood Valley	Grants Management Branch	Completed	At the last Annual Tribal Conference on October 23, 2019, the R9 EPA Grants Branch provided a presentation on the different phases of the grant process and the role of the Grants Specialist. Please see the Conference website to access this past presentation. For a future grants presentation, we can clarify how the PO and GS work together for all phases of the grant award. https://www.tribalepa.com/2019-presentations/	Tribal Caucus.
15	This was brought up at RTOC if there could be a Fiscal Trainings at the Annual Conference. This did not happen, but tribes still want the training. There used to be an intensive two-day training and it has not happened for quite a while. Maybe they could do this as a one-day training prior to an RTOC like they did with Brownsfields?	Central CA Tribes	Grants Management Branch	Completed	The Grants Office is working with OGD to provide fiscal training nationally to all tribes to ensure the training content is consistent and comprehensive. Currently, OGD is exploring options for providing this training to all Tribes. For administrative training options, OGD has an online course for EPA applicants and recipients: https://www.epa.gov/grants/recipient-training-opportunities .	Tribal Caucus.
16	Also, tribes want the Tribal NPETE (National Partnership for Environmental Education) information to once again be available on EPA Website and an updated booklet for tribal consumption?	Central CA Tribes	Grants Management Branch	Completed	The Grants Branch continues to work with the Office of Grants and Debarment (OGD) to provide training resources accessible on the EPA Website. There is currently an online course for EPA applicants and recipients available: https://www.epa.gov/grants/recipient-training-opportunities . Here you can find training for: Grants Management, Grants.gov, Subaward Policy, among others. In addition, the Grants Branch is currently updating its Grants Manual/Booklet. This will be accessible via hardcopy and electronically by Spring 2020.	Tribal Caucus.
17	Updated list of workgroups – which are active? Which are inactive? – not sure who this was assigned to	Mervin Wright	Mervin Wright	in progress	Mervin Wright and Ruben Mojica Hernandez are planning to discuss during Winter RTOC. Will share updates following that meeting.	Tribal Caucus.
18	Ruben will put ETEP Tribal Land Environmental Forum notes and presentations online.	Not identified	Tribal Branch	Completed	These are posted to the TLEF website. https://www7.nau.edu/itep/main/Conferences/confr_tlef	Tribal Caucus.

19	There was a recent request to the EPA Emergency Response Section from a So Cal Tribe regarding clean up from an illegal marijuana growing operation, and the Tribe was unsuccessful in obtaining EPA assistance. In short – illegal grow operations will continue to be a problem on tribal lands and we need reliable support, resources, and assistance to clean up these contaminated sites (in a timely manner) to protect tribal health and resources. The emergency response section made a lot of promises to assist with environmental emergencies on tribal lands at the annual meeting but it sounds like very few tribes have benefited from their assistance. How can Tribes receive this critical assistance? What types of assistance can the EPA Emergency Response Section provide, and what can they not provide?	Rob Roy, rob.roy@lajolla-nsn.gov Melody Sees, melodysees@gmail.com Teresa Romero tromero@santaynezchumash.org	Tribal Branch	in progress	EPA takes Emergency Response requests seriously. In the case described, the Agency mobilized an on-scene coordinator to visit the site. For the more general question of what can EPA Emergency Response Section provide, the Tribal Branch is coordinating with ERS and will provide additional follow-up information.	Tribal Caucus.
20	What tasks can be funded under GAP that related to Wildfire Incidents? Understand there is a factsheet available...please expand on it and provide a presentation.	Gregg Young, Potter Valley	Tribal Branch	in progress	GAP can cover a range of environmentally-focused activities, including climate change vulnerability assessments and climate change adaptation plans which may include; climate change planning efforts; identification of potential mitigation strategies; coordination and consultation with other federal, state, and local agencies; training; researching and pursuing funding opportunities; among other activities. Following or during wildfire incidents, grantees may, in some cases, request to revise GAP workplans to cover emergency costs to keep the environmental office running (not responding to the emergency in most cases). Grantees should communicate any re-budgeting with their GAP POs beforehand to ensure activities are GAP-eligible. See factsheet on wildfire smoke. https://www3.epa.gov/airnow/wildfire-smoke/wildfire-smoke-guide-revised-2019.pdf A one page summary of wildfires and GAP is under development. In the meantime, please reach out to your project officers if you have specific eligibility questions.	Tribal Caucus.
21	How do we move from recycling and separating into Reduction and Reuse? Is there Pilot Project funding? If not, where should funding come from? EPA R&D? BIA Roads/FHWA? CALEPA? Could this be an environmental justice issue to reuse/remove the amount of plastics on Tribal Lands?	Meyo Marrufo, Guidiville Rancheria	Tribal Waste Team	Completed	This general topic of mixed recycling was discussed at the January 21 Solid Waste Workgroup call, and Meyo later clarified with the Solid Waste Workgroup co-chairs that we shift our focus towards reduction and reuse. We will invite staff from CalRecycle to attend the Spring RTOC, where we expect to have further dialogue in both the Solid Waste Workgroup and California Issues group.	Tribal Caucus.
22	How do we move from recycling and separating into Reduction and Reuse? Is there Pilot Project funding? If not, where should funding come from? EPA R&D? BIA Roads/FHWA? CALEPA? Could this be an environmental justice issue to reuse/remove the amount of plastics on Tribal Lands?	Meyo Marrufo, Guidiville Rancheria	Tribal Waste Team	See above.	(see above)	Tribal Caucus.
23	While QAPP approval has improved, there are still examples of the QAPP approval process taking an inordinate amount of time. What can a Tribe do when EPA has taken over 5 years to review an air QAPP and still not given approval?	Rob Roy, rob.roy@lajolla-nsn.gov Melody Sees, melodysees@gmail.com Teresa Romero tromero@santaynezchumash.org	Quality Assurance Branch	More information needed. Suggest we discuss the specific issues during a meeting focused on this topic.	The Quality Assurance Branch (QAB) is currently working on a National E-Enterprise Project, in partnership with States and Tribes to identify ways to make quality assurance reviews and approvals consistent across our regional offices, transparent and timely in meeting our partner's goals. We have developed an EPA Lean Management System (ELMS) project to track the time from receipt of a QA document to approval. Our goal is to limit time to 60 days when the document is in the Agency's review queue. Our progress meeting this goal is tracked nationally and we continue to implement changes to our process to ensure communication regarding our reviews and comments with a grantee and their PO is transparent and timely. We can further describe our process and would like to invite those interested in seeing our ELMS board to contact Audrey L Johnson prior to the April RTOC so we can arrange time for a visit to the board and answer any additional questions.	Tribal Caucus.
24	In this age of increasing air pollution, regulations, and a changing climate, Tribal governments critically need funding and regulatory authority for air programs. What is the process and the requirements for EPA to approve a Tribal request for approval of regulatory air monitoring, or to fund a Tribe for an air program that the Tribe deems critical to their health and welfare? What are reasons that a Tribe would be denied a regulatory program?	Rob Roy, rob.roy@lajolla-nsn.gov Melody Sees, melodysees@gmail.com Teresa Romero tromero@santaynezchumash.org	Air Division	in progress	Air Division can provide further info at the RTOC meeting or follow up after the RTOC.	Tribal Caucus.
25	Tribal Branch will provide more information on gift acceptance rule. This issue came up at EPA site visit and the issue of accepting rides.	Not identified	Tribal Branch	Under Development	We have conferred with our Agency counsel and received additional guidance on what constitutes an allowable gift with respect to accepting rides during GAP project officer site visits. Project Officers will assess each case prior to travel, but we anticipate that in most cases, receiving a ride during a GAP project officer site visit to tour the reservation would be allowable due to the nature of the visit and the limited distance traveled.	Tribal Caucus.

26	clarification regarding changes to the workplan- does the PO need to sign off? The two regs (2 CFR 200.308 and 245) contradict themselves.	Not identified	Tribal Branch and Grants Management Branch	Completed	<p>Changes to budget were discussed during the Wednesday break-out session. Slides will be shared via RTOC website. For follow-up questions, please contact your grant Project Officer and Grants Specialist.</p> <p>Changes to the scope of a GAP workplan (e.g., swapping one activity for another or significantly changing deliverables) is a significant change. Significant changes require prior approval. Therefore, changes to workplan scope require prior approval from EPA project officer. For example, if a grantee originally committed to attending a training on GIS, but then the training was cancelled and the grantee wanted to instead use the same amount of money to update an integrated solid waste management plan, this would be a change of scope that would require prior approval.</p>	Tribal Caucus.
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