

# U.S. Environmental Protection Agency

## Technical Assistance Plan

### Fact Sheet



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*The U.S. Environmental Protection Agency is committed to early, direct and meaningful public involvement in the Superfund process. U.S. EPA believes that early and meaningful community participation results in better solutions to the issues facing site cleanup. Technical Assistance Plan, or TAP, resources can provide communities with an opportunity for independent technical assistance. The success of a TAP is achieved when members of a Regional site team, such as a U.S. EPA attorney, the Regional Project Manager, the On-Scene Coordinator and the Community Involvement Coordinator, work closely with the Potentially Responsible Party and the community group. This fact sheet summarizes the main points in implementing a TAP.*

There are some contaminated sites that qualify to be Superfund sites but are not listed on the National Priorities List, or NPL, which is the list of the country's most hazardous waste sites eligible for federal funding. These sites are called Superfund Alternative Approach, or SAA, sites. SAA sites are cleaned up under U.S. EPA oversight, however the Potentially Responsible Parties, or PRPs, perform the investigation and cleanup. SAA sites are not eligible for community technical assistance offered by U.S. EPA, but are eligible for a Technical Assistance Plan, also known as a TAP. TAPs are funded by the PRPs at the request of U.S. EPA. This fact sheet provides information on TAPs and answers questions about receiving and using a TAP.

### What is a TAP?

A TAP provides a designated community advisory group, commonly referred to as a CAG, with opportunities to receive services from an independent technical advisor, or TA, who can help community members better understand the cleanup process at a site by interpreting technical documents and providing insight in the Superfund process. This service can better enable group members to share the information with other community members. *TAP assistance does not eliminate the need for the Agency to keep the community informed about plans and decisions throughout the Superfund process.*

### What is the Difference Between a TAP and a Technical Assistance Grant?

Like a TAP, a TAG provides funds for community groups to receive services from a TA who can help community members by explaining technical documents, site conditions and U.S. EPA's cleanup proposals and decisions. However, U.S. EPA provides funds for TAGs, while PRPs provide funds for TAPs. A group receiving a TAG must also contribute at least 20% of the total project costs, typically in the form of donating volunteer hours or "in-kind" services, whereas TAP assistance does not have the same cost matching requirements. Additionally, TAG assistance can only be used for sites listed on the NPL. Groups that receive TAP assistance are not eligible to apply for a TAG.

### Process for Determining TAP Assistance

The determination of receiving TAP assistance is dependent on U.S. EPA's settlement with the PRP for the site. U.S. EPA negotiates a settlement with the PRP using the SAA which allows for site cleanup equivalent to an NPL site cleanup. Sites that use the SAA are eligible for TAP assistance of up to \$50,000. In certain circumstances, additional assistance of more than \$50,000 may be available. Most of the assistance should be used to pay for the TA's services. No more than one community group will be selected for TAP assistance at a site at a time.

U.S. EPA also negotiates TAP assistance in the Statement of Work that details the PRP's, U.S. EPA's and the community group's responsibilities for a successful TAP. The Statement of Work also details the criteria for determining if a community group is eligible for TAP assistance. TAP assistance also depends on community interest. If there is no community interest in these services, then the PRP does not need to prepare or implement a TAP. A PRP does not have to prepare a TAP until an official Letter of Intent, or LoI has been submitted by an eligible community group requesting this assistance.

### Groups That Can Receive TAP Assistance

In order to be eligible for TAP assistance, a CAG must consist of members affected by the site and establish the ability to effectively manage TAP responsibilities. Groups looking to receive TAP assistance cannot be:

- A PRP for the site, represent a PRP or receive money or significant services from a PRP (other than through a TAP).
- An academic institution, such as a college, university or high school.
- Affiliated with a national organization.
- A tribal government.
- A political sector, such as a township or municipality.
- Established or maintained by any of the entities listed above or have members that represent any of the entities listed above.

### How Groups Can Apply for TAP Assistance

It is important that U.S. EPA and the PRP work together to educate the community about the availability of TAP services. If a Community Advisory Group has already been established for the site, the CAG can also assist in getting this information out to the community. U.S. EPA staff and the PRP can inform community members about TAP assistance through fact sheets and mailings, public meetings, initial site interviews and in the site's Community Involvement Plan. U.S. EPA staff, typically the CIC, will also work with the PRP to ensure that interested community groups receive information on the TAP process and how they can submit the LoI to the PRP. The LoI typically contains a statement of the group's interest in TAP services, as well as the group name, site name and contact information of the group's contact person. After the PRP receives the LoI, it will publish a written notice in the local newspaper to notify other interested groups that they will have an established period of time (typically 30 days) to contact the initial group that submitted the LoI to form a coalition and file for the TAP assistance jointly, or submit their own LoI. It is ideal for community groups to file jointly to ensure that there is diverse and community-wide representation in the group.

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Whether there is one community group or multiple groups applying for TAP assistance, each group that submits a LoI to the PRP will be given a specific amount of time (usually 30 days) to complete a TAP application with the group's information and plans to work with a TA and the community. The PRP will consult with U.S. EPA to evaluate each application based on criteria established in the Statement of Work associated with the settlement agreement. The criteria may include:

- Consideration of which group best represents the site's affected community(s).
- The group's plan to work with a TA to share information with the community.
- The group's plan for managing TAP-related records.

The PRP will give U.S. EPA the opportunity to review their evaluation process to ensure it is compliant with the settlement requirements. After U.S. EPA review and upon receiving U.S. EPA approval, the PRP will notify the selected group they have been selected and can submit an application.

### TAP Draft and Approval Process

Once a group has been selected, the PRP submits the draft TAP to U.S. EPA for review. The TAP includes the following:

- Outlines the PRP's responsibilities to U.S. EPA and the community group during the TAP process.
- Includes a summary of the settlement agreement, the TAP language in the agreement, the Statement of Work associated with the agreement and a proposed plan for how the PRP will negotiate an agreement with the community group.
- Lists the PRP's main TAP duties, such as arranging technical services for the community group and submitting progress reports to U.S. EPA quarterly.
- Includes a schedule of expected milestones.

U.S. EPA will review the draft TAP and provide any comments to the PRP. Once those comments are addressed, U.S. EPA will provide written approval of the final TAP.

### Initial Collaboration with the Selected Community Group

Once the PRP has notified the selected community group, it should establish a meeting with the group and U.S. EPA to discuss the TAP process and explain what services will or will not be provided, the group's solicitation and selection of a TA, and milestones in the Superfund process. A group cannot begin searching for a TA until they have been officially selected to receive TAP assistance and have met with the PRP and U.S. EPA.

### Agreement with the PRP and Community Group

The PRP and community group should have an agreement outlining each party's responsibilities during the TAP process. It should detail what activities are and are not acceptable under the TAP provision, what deliverables will be requested of the TA, the group's responsibility to share information with the TA and other community members and invoice and payment procedures. The agreement should also outline record retention procedures, TAP termination procedures and actions for dispute resolution. The group will also be responsible for managing the TA's activities and invoices, sharing community concerns and questions with U.S. EPA and the PRP and keeping the community up to date about the TA's work. U.S. EPA or the PRP may request periodic reports on the group's activities. Before the PRP and community group sign the agreement, it should be reviewed by the lead U.S. EPA attorney, especially agreements that use the SAA.

### Selection of a TA

After the group has met with the PRP and U.S. EPA to go over the TAP process, they can begin searching for potential TAs. The group should aim for evaluating at least three interested and potential candidates. Once the community group receives three candidates, they will need to provide their information to U.S. EPA and the PRP. U.S. EPA will determine if the candidates meet the requirements for qualifications and conflict of interest. Again, U.S. EPA cannot make recommendations on which advisor to select. After U.S. EPA's review, the group should notify the PRP of their ideal candidate. If the selected candidate meets the qualifications and does not have a conflict of interest, the PRP may select the group's preferred candidate.

### Things the TAP Cannot Be Used For

TAP assistance cannot be used for developing new information, such as testing or monitoring, or for reopening or challenging final U.S. EPA decisions. It also cannot be used for political activities or lobbying, or activities related to lawsuits or other legal issues, including legal fees. TAP assistance is not for use of group members' travel or training/tuition expenses, or group parties/celebrations. Additional activities not allowed may be identified during U.S. EPA's settlement process with the PRP. U.S. EPA will not reimburse the group for unallowed TAP assistance activities. Any requests by the PRP to cancel TAP assistance due to the community group's misuse can be approved by U.S. EPA

### Additional TAP Information Resources

Additional information about TAPs is available from Community Involvement Coordinator Ruth Muhtsun at 312-886-6595.