

OWSER Directive 9230.1-03

**THE CITIZENS' GUIDANCE MANUAL
FOR THE
TECHNICAL ASSISTANCE GRANT PROGRAM**

May 1988

**U.S. Environmental Protection Agency
Washington, D.C.**

AR500033

The Citizens' Guidance Manual for the Technical Assistance Grant Program

NOTICE

This document has been funded, wholly or in part, by the United States Environmental Protection Agency under Contract No. 63-01-7389 to ICF Incorporated. It has been subject to the Agency's peer and administrative review and has been approved for publication as an Agency document.

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The Citizens' Guidance Manual for the Technical Assistance Grant Program

PREFACE

Informed public involvement is integral to U.S. Environmental Protection Agency (EPA) and State actions at hazardous waste sites taken under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, commonly known as "Superfund." To facilitate this public involvement throughout the planning and implementation of remedial response at hazardous waste sites, EPA conducts community relations activities at such sites to encourage two-way communication between EPA and States on the one hand, and communities affected by Superfund sites on the other. EPA seeks to provide the public with accurate and timely information about cleanup plans and progress, and encourages citizen input throughout the government's decision-making process.

The Superfund Amendments and Reauthorization Act of 1986 (SARA), which amended CERCLA, provides under section 117(e) an important new component of EPA's community relations activities at Superfund sites -- technical assistance grants to affected groups. The purpose of these grants is to assist citizens' groups in understanding technical information that assesses potential hazards and the selection and design of appropriate response actions at Superfund sites.

This manual outlines Federal policies, procedures, and regulations related to the Technical Assistance Grant Program and provides instructions on how to complete Federal grant forms. If a State administers the Technical Assistance Grant Program, the State may have additional procedures and requirements that affect citizens' groups applying for grants within that State. In addition, a State may require groups to complete different forms. Groups, therefore, should contact the appropriate State representative for specific information if their State is administering the Technical Assistance Grant Program.

This manual is designed to help citizens' groups apply for and manage a technical assistance grant. It is written as a self-help guide in an easy-to-understand manner. Step-by-step instructions for completing various forms are included throughout the manual. In addition, copies of blank forms have been included for easy reference. Samples of material required of citizens' groups also have been provided as models. Finally, copies of relevant portions of the EPA grant and procurement regulations and Office of Management and Budget (OMB) Circulars have been provided in an appendix as a handy reference tool. If you have any comments on the usefulness and clarity of this manual, please send them to EPA at the following address:

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LIST OF ACRONYMS

The following list contains acronyms commonly used in conjunction with the Superfund program. These terms are used throughout the manual. This list is presented first and then is followed by a glossary so that you will be familiar with these acronyms and terms as you read this manual.

CERCLA

Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA)

ROD

Record of Decision

CR

Community Relations

RD

Remedial Design

FS

Feasibility Study

RFP

Request for Proposals

HRS

Hazard Ranking System

RI

Remedial Investigation

NCP

National Oil and Hazardous Substances Pollution Contingency Plan

RI/FS

Remedial Investigation/Feasibility Study

NPL

National Priorities List

RPM

Remedial Project Manager

O&M

Operation and Maintenance

SI

Site Inspection

PRP

Potentially Responsible Party

TAG

Technical Assistance Grant

GLOSSARY OF TERMS USED IN THIS MANUAL

This glossary defines terms describing activities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA, commonly called Superfund), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA). The definitions apply only to this manual and may have other meanings when used in different circumstances. In addition, terms used in EPA regulations governing grant and procurement processes (40 CFR Parts 30 and 33) are included. *Italicized* words are defined separately in the glossary.

Administrative Record:

All documents which EPA considered or relied on in selecting the *response action* at a *Superfund* site, culminating in the *record of decision* for *remedial action* or *action memorandum* for *removal actions*. The administrative record is available at EPA Regional Offices and individual site *information repositories*.

Allocable Costs:

A cost is allocable to a project if it is incurred specifically for one or more project objectives. An allocable cost also can be one that is necessary to the overall operation of the project, but does not directly benefit any specific project objective (e.g. administrative costs, salary of *technical advisor*).

Allowable Costs:

Costs that are eligible, reasonable, necessary, and *allocable* to a project. These costs must be permitted by appropriate Federal regulations and approved by EPA in the grant agreement.

Applicant:

Any group of individuals that files an application for a technical assistance grant.

Application:

A completed formal written request for a technical assistance grant that is submitted to the Agency on EPA Form 5700-33, "State and Local Nonconstruction Program," or to a State on its appropriate form.

Award:

The technical assistance grant agreement signed by both EPA and the *recipient*.

Award Official:

The official authorized to sign grant agreements.

Budget:

A financial plan for the spending of all Federal and *matching funds* (including *in-kind contributions*) for a technical assistance grant project as proposed by the *applicant*, and negotiated with and approved by the *Award Official*.

Budget Period:

The length of time specified in a *grant agreement* during which the *recipient* may spend or obligate Federal funds. The budget period may not exceed three years. A technical assistance grant project period may be comprised of several budget periods.

GLOSSARY OF TERMS (continued)

Cash Contribution:

Actual non-Federal dollars, or Federal dollars if expressly authorized by statute, that a recipient spends for goods and services and *real or personal property* used to satisfy the *matching funds requirement*. (Also see *in-kind contribution*.)

Closeout:

The final actions by EPA and the grant recipient to assure satisfactory completion of project work and to fulfill administrative requirements, including: (a) financial settlement; (b) submission of acceptable required final reports by the grant recipient; and (c) the resolution of any outstanding issues under a grant agreement.

Code of Federal Regulations (CFR):

An annually revised codification of the rules published in the *Federal Register* by the executive departments and agencies of the Federal government. The CFR is divided into 50 titles which represent broad areas subject to Federal regulation. Actions by EPA are governed by Title 40 of the CFR.

Community Relations (CR):

EPA's program to inform and involve the public in the *Superfund* process and to respond to community concerns.

Community Relations Coordinator (CRC):

The EPA, State, or Federal facility official in charge of public involvement programs at a *Superfund* site.

Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended:

A Federal law passed in 1980 and modified by the *Superfund Amendments and Reauthorization Act of 1986 (SARA)*. Commonly known as *Superfund*, CERCLA is intended to protect human health and the environment. The law also created the Hazardous Substance Superfund, which is financed by special taxes and general Federal revenues for the purpose of: (1) investigating and cleaning up abandoned or uncontrolled hazardous waste sites; and (2) taking short-term actions to deal immediately with spills and other emergency situations involving hazardous substances. Under the program, EPA can either: (1) pay for site cleanup when parties responsible for the contamination cannot be located or are unwilling or unable to perform the work; or (2) take legal action to force parties responsible for site contamination to clean up the site or pay back the Federal government for the cost of cleanup.

Continuation:

The extension of a grant agreement for an additional budget period beyond the date to which EPA agreed to fund a specific project. A continuation would be used at the end of each budget period, thus several may be necessary for one project.

Contractor:

Any party (i.e., *technical advisor*) to whom a recipient awards a *subagreement*.

GLOSSARY OF TERMS (continued)

Cost Analysis:

The review and evaluation of the cost of each subagreement item to determine if it is reasonable, allocable, and allowable.

Debarment:

An action taken by the Director, Grants Administration Division, U.S. EPA under 40 CFR Part 32 to deny an individual, organization or unit of government the opportunity to participate in EPA grant agreements or to receive subagreements.

Direct Costs:

Those costs that can be identified with and charged to a specific project objective. An example would be the time a *technical advisor* spends reviewing the *feasibility study* report. (Also see *indirect costs*.)

Eligible Costs:

Those costs that the Federal government is authorized by applicable laws and regulations to pay. (See *allowable costs*.)

Enforcement:

EPA's efforts, through legal action, if necessary, to force *potentially responsible parties* to perform or pay for a Superfund site project.

EPA:

The U.S. Environmental Protection Agency or the Agency. Where a State administers the Technical Assistance Grant Program, the term "EPA" may mean a State agency.

Expendable Personal Property:

Personal property with a useful life of less than two years and/or an acquisition cost of less than \$500. An example would be office supplies. (Also see *nonexpendable personal property*.)

Feasibility Study (FS):

See *remedial investigation/feasibility study*.

Federal Facility:

A facility that is owned or operated by any department, agency, or instrumentality of the United States.

Formal Amendment:

A written modification of a *grant agreement* signed by both the authorized representative of the *recipient* and the *Award Official*.

Grant Agreement:

A legal document that transfers money, or anything of value, to a *recipient* to accomplish the purpose of the *technical assistance grant project*. It specifies *budget* and *project periods*, the *Federal* and *matching* shares of eligible project costs, a description of the work to be accomplished, and any special conditions.

GLOSSARY OF TERMS (continued)

Hazardous Substance:

Any material that poses a threat to human health and/or the environment. Typical hazardous substances are materials that are toxic, corrosive, ignitable, explosive, or chemically reactive.

Health Assessment:

An evaluation of available data on existing or potential risks to human health posed by a *Superfund* site. The Agency for Toxic Substances and Disease Registry of the U.S. Department of Health and Human Services is required to perform a health assessment at every site on the *National Priorities List*.

Indirect Costs:

Any costs that are incurred for general administration of a project, that cannot be directly charged to a particular project objective. Indirect costs also are referred to as overhead or burden costs. For example, the office supplies (paper, pencils, etc.) purchased for the accounting of a technical assistance grant are indirect costs. (Also see *direct costs*.)

Information Repository:

A file containing current information, technical reports, and reference documents regarding a *Superfund* site. The information repository usually is located in a public building that is convenient for local residents -- such as a public school, city hall, or library.

In-Kind Contribution:

The value of a non-cash contribution used to meet a recipient's *matching funds* requirement in accordance with 40 CFR 30.307(b). An in-kind contribution may consist of charges for equipment or the value of goods and services necessary to and directly benefiting the EPA-funded project.

Matching Funds:

The portion of allowable project costs that a recipient contributes toward completing the technical assistance grant project using non-Federal funds or Federal funds if expressly authorized by statute. The match may include in-kind as well as cash contributions.

National Oil and Hazardous Substances Pollution Contingency Plan (NCP):

The Federal regulation that guides the *Superfund* program.

National Priorities List (NPL):

EPA's list of the most serious hazardous waste sites identified for possible long-term remedial response. EPA is required to update the NPL and publish it in the *Federal Register* at least once a year.

Nonexpendable Personal Property:

Personal property with a useful life of at least two years and an acquisition cost of \$500 or more (see 40 CFR 30.200), such as a word processor. (Also see *expendable personal property*.)

Nonprofit Organization:

Any corporation, trust, association, cooperative, or other organization which: (1) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest; (2) is not organized primarily for profit; and (3) uses its net proceeds to maintain, improve, and/or expand its operations.

GLOSSARY OF TERMS (continued)

Operable Unit:

A *response action* taken as one part of an overall site response. A number of operable units can be used in the course of a site response.

Operation and Maintenance (O&M):

Activities conducted at a site after a *remedial action* occurs to ensure that the cleanup or containment system continues to function properly.

Outlays:

The payment of obligations which involves issuing checks or spending cash. The terms "expenditures" and "net disbursements" are frequently used interchangeably with the term "outlays." An example of an outlay that might be made under a technical assistance grant would be paying a technical advisor for the time he/she spent reviewing the site *feasibility* study.

Personal Property:

Property other than *real property*. It may be tangible (having physical existence), such as equipment and supplies, or intangible (having no physical existence), such as patents, inventions, and copyrights.

Potentially Responsible Party (PRP):

Any individual(s) or company(ies) (such as owners, operators, transporters, or generators) potentially responsible under sections 106 or 107 of CERCLA for the contamination problems at a *Superfund* site.

Price Analysis:

The process of evaluating a prospective price without regard to the contractor's separate cost elements (e.g., labor, travel, other direct costs) and proposed profit. Price analysis determines the reasonableness of the proposed *subagreement* price based on such indicators as adequate competition or previous experience with similar work.

Profit:

The net proceeds obtained by subtracting all *allowable costs* (direct and indirect) from the price. (Because this definition of profit is based on applicable Federal cost principles, it may vary from many firms' definition of profit, and may correspond to their definition of "fee.")

Project Costs:

All costs the *recipient* incurs in carrying out the project. Under the Technical Assistance Grant Program, 35 percent of these costs will be paid by the *recipient* with the remaining percentage to be paid by the Federal government.

Project Period:

The period of time specified in the *grant agreement* for completion of all project work. It may be composed of more than one *budget period*.

Real Property:

Land, including buildings, fences, and other structures, but excluding movable machinery and equipment, which are classified as *personal property*.

GLOSSARY OF TERMS (continued)

Recipient:

Any group of individuals that has been awarded a technical assistance grant.

Recipient's Technical Assistance Grant (TAG) Project Manager:

The person legally authorized to obligate the organization to the terms and conditions of EPA's regulations and the grant agreement. This person or their designee will serve as the principal contact with EPA.

Record of Decision (ROD):

A public document that explains which cleanup alternative(s) will be used at a *National Priorities List* site. The record of decision is based on information and technical analysis generated during the *remedial investigation/feasibility study* and consideration of public comments and community concerns.

Remedial Action (RA):

The actual construction or implementation phase that follows the *remedial design* of the selected cleanup alternative at a site on the *National Priorities List*.

Remedial Design (RD):

An engineering phase that follows the *record of decision* when technical drawings and specifications are developed for the subsequent *remedial action* at a site on the *National Priorities List*.

Remedial Investigation/Feasibility Study (RI/FS):

Two distinct, but related studies, usually performed at the same time. The RI/FS is intended to: (1) gather the data necessary to determine the type and extent of contamination at a *Superfund* site; (2) identify and screen cleanup alternatives for *remedial action*; and (3) analyze in detail the technology and costs of the alternatives.

Remedial Project Manager (RPM):

The EPA official responsible for overseeing *remedial response* activities at *Superfund* sites.

Remedial Response:

A long-term action at a *National Priorities List* site that stops or substantially reduces a release or threatened release of hazardous substances that is serious, but that does not pose an immediate threat to human health or the environment.

Removal:

An immediate action taken over the short-term to address a release or threatened release of hazardous substances.

Response Action:

All activities undertaken to address the problems created by hazardous substances at a site, including both *removal* and *remedial responses*.

CHAPTER 1

OVERVIEW



The U.S. Environmental Protection Agency (EPA) is responsible for protecting and enhancing the quality of the environment. As part of this responsibility, EPA administers the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (hereafter referred to as CERCLA). Also known as *Superfund*, CERCLA authorizes EPA to clean up abandoned or uncontrolled hazardous waste sites across the United States that the Agency has placed on the National Priorities List (NPL).¹ An important aspect of the Superfund program is citizen involvement at the local level in decisions that relate to site-specific cleanup actions.

Decisions concerning cleanup activities at Superfund sites must take into account a spectrum of technical considerations. The process of clearing up a Superfund site requires detailed technical study of the nature and extent of contamination at the site, analysis of the methods and techniques available for performing cleanup actions, and design and implementation of the actual site cleanup. In planning and implementing these cleanup efforts, EPA and States seek to involve citizens living near these sites in activities and decisions made about the site-specific cleanup process.

Clearly, an understanding of the technical issues concerning a hazardous waste site in their community helps citizens provide thoughtful, informed comments to decision-makers considering proposed Superfund actions. Recognizing the need for citizens to be well informed of the conditions and activities at Superfund sites in their community and the importance of informed comment from citizens, Congress established the Technical Assistance Grant Program as part of the Superfund program. The Technical Assistance Grant Program provides grants of up to \$50,000 to citizens' groups to obtain assistance in interpreting information related to cleanups at Superfund sites on or proposed for the NPL. These grants are to be

¹The NPL is EPA's list of the most serious hazardous waste sites identified for possible long-term remedial response. EPA is required to update the NPL and publish it in the *Federal Register* at least once a year.

Chapter 1

used by citizens' groups to hire technical advisors to help them understand site-related technical information for the duration of site response activities.

This manual has been prepared to guide citizens' groups through the technical assistance grant process, from applying for the grant to hiring a technical advisor and managing the technical assistance grant project. Technical assistance grants are awarded through a process described in later chapters of this manual, according to criteria established by Federal regulations. A brief summary of the regulations governing this new grant program and the steps involved in applying for the grant and hiring a technical advisor is provided below.



EPA issued an Interim Final Rule (IFR) on March 24, 1988 establishing initial policies and procedures for accepting and evaluating applications, and for awarding and managing technical assistance grants. The IFR details the specific requirements for obtaining technical assistance grants, including eligibility and financial requirements. In addition, EPA has a set of comprehensive rules and regulations that apply to all of its grant programs, including the Technical Assistance Grant Program. The procedures contained in this manual are based on the IFR and on existing EPA grant and procurement regulations.

The parts of EPA regulations that affect technical assistance grants are contained in Volume 40 of the Code of Federal Regulations (CFR) Subchapter B -- "Grants and Other Federal Assistance." Under this Subchapter are 40 CFR Part 30, "General Regulation for Assistance Programs," and 40 CFR Part 33, "Procurement Under Assistance Agreements." In conjunction with the IFR (40 CFR Part 35, Subpart M, "Grants for Technical Assistance"), these regulations represent all the regulations that apply to the Technical Assistance Grant Program.

These grant and procurement regulations spell out the legal mechanisms by which EPA can award grants, and ensure that the grant recipient (i.e., any person or group that has been awarded an EPA grant) uses Federal funds in an appropriate manner. To aid the reader's understanding of these lengthy, complex regulations, Appendix D of this manual contains an annotated reprint of 40 CFR Parts 30 and 33 with highlights of key provisions. Not all relevant

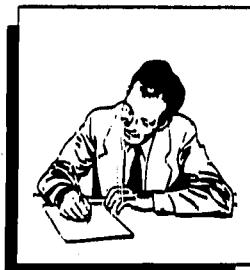
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regulatory provisions have been highlighted; therefore, grant applicants (i.e., any group or individual that files an application for EPA financial assistance) must read these regulations carefully.

While specific steps for obtaining and managing technical assistance grants are explained in later chapters of the manual, a summary of the steps involved in applying for a grant and hiring or procuring a technical advisor are provided below.

The Grant Application Process

1. **Submit Letter of Intent** — Groups must notify EPA of their interest to apply for a technical assistance grant by submitting a letter of intent.
2. **EPA Response** — EPA will undertake certain activities to formally notify the community that a grant for the site soon may be awarded depending on the schedule for work at the site.
3. **Begin Consolidation** — Other potential applicants then would have 30 days to contact the original applicant to form a coalition and submit a single application. If the groups cannot form a single coalition, applicants must notify EPA and will have an additional 30 days to file competing applications.
4. **Complete the Grant Application** — Applicants must complete the grant application, EPA Form 5700-33, including Part IV of the application which describes applicant qualifications, the projected tasks, and the schedule and budget for technical assistance activities.
5. **Complete the Procurement System Certification Form** — Applicants must complete a procurement system certification form, EPA Form 5700-48, agreeing to comply with relevant EPA requirements.
6. **Begin Intergovernmental Review** — Applicants must contact the appropriate State office to determine what steps are needed to comply with their State's intergovernmental review process, if applicable.
7. **Submit Application Package** — Applicants must submit a completed grant application (EPA Form 5700-33) and the procurement system certification (EPA Form 5700-48) to the appropriate EPA Regional Office.
8. **EPA Response** — EPA will notify each applicant group in writing as to whether its grant request has been approved or rejected.



Chapter 1

The Procurement Process

1. **Select a Procurement Method** — For subagreements of \$25,000 or less, grant recipients may use the small purchase procurement method. For subagreements over \$25,000, the competitive negotiation procurement method is recommended to ensure maximum free and open competition.
2. **Prepare a Request for Proposal (RFP)** — Under the competitive negotiation method, an RFP provides the principal services required by the recipient. Prospective technical advisors then must submit proposals, or technical approaches, for providing those services.
3. **Publish a Public Notice** — For procurements greater than \$25,000, recipients must publish a public notice soliciting proposals. This notice must be published in a publication of general circulation at least 30 days before the deadline for the receipt of the proposals.
4. **Send Out RFP** — Recipients then must make copies of the RFP available to prospective technical advisors.
5. **Evaluate the Proposals** — Recipients must evaluate proposals using the criteria stated in the RFP to determine if the applicants have the ability and resources to provide the necessary services.
6. **Select a Technical Advisor** — First recipients narrow down the proposals, then recipients may negotiate with the applicants to obtain best and final offers or award the subagreement based on the initial offers. Finally, the recipient selects the proposal that best meets the objectives of the RFP and notifies all unsuccessful candidates in writing that their proposals were rejected.
7. **Develop a Subagreement** — The grant recipient must develop a subagreement with the technical advisor that includes the following elements:
 - ◆ nature, scope, and extent of work to be performed;
 - ◆ time-frames for performance;
 - ◆ total cost of the subagreement; and
 - ◆ payment provisions.

Groups must inform EPA of any proposed subagreement between the recipient and the technical advisor, and must provide the Agency with the opportunity to review the subagreement before it is awarded.



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Exhibit 1-1 illustrates the application process for the Technical Assistance Grant Program and Exhibit 1-2 illustrates the process of hiring a technical advisor. The length of the technical assistance grant application process will differ from one site to another, as will the procurement process during which a subagreement between the grant recipient and the technical advisor is awarded.* The application process may take as long as 17 weeks, while hiring a technical advisor may take 14 weeks.

If your group is applying for a technical assistance grant, you should anticipate that some steps in the process will be more time-consuming than others. We recommend that your group identify and initiate these activities well in advance of required deadlines; for example, forming coalitions with other groups, identifying and securing in-kind services, identifying matching funds, identifying potential technical advisors, developing budget tracking procedures, and setting up recordkeeping systems. Careful advance planning can help minimize delays in obtaining a grant and hiring a technical advisor.

If your group is interested in applying for a technical assistance grant, you should be aware that if a State chooses to administer the program, the State may have additional requirements and forms to be completed by applicants. Before your group begins the application process outlined in this manual, you should check with the appropriate State contact if your State is administering the program. (See Appendix C for a list of State Superfund contacts.)

This manual has been prepared to guide you through the EPA grant application and procurement process. Specifically, this manual is organized as follows:

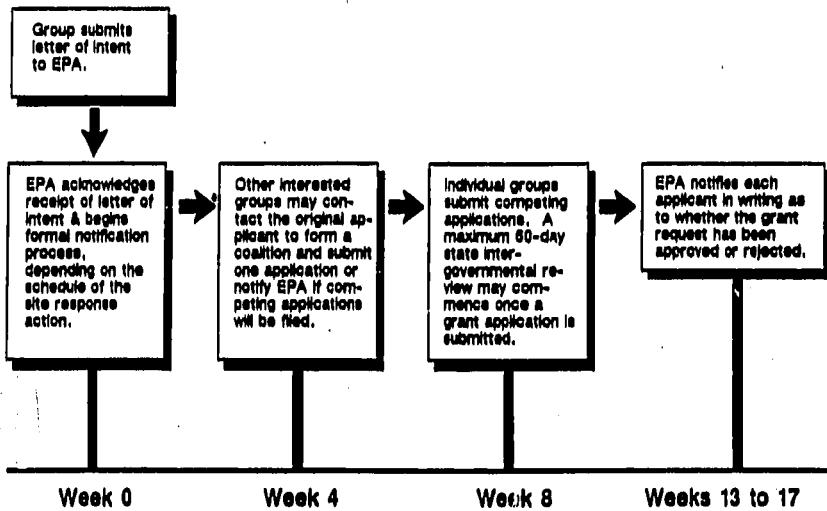
Chapter 2, "Using Technical Assistance in the Superfund Remedial Process," outlines the role of a technical advisor within the Superfund program. Also included is a list of documents prepared during the remedial process that a technical advisor might review.

Chapter 3, "Requirements of the Technical Assistance Grant Program," outlines the requirements of the technical assistance program. Topics discussed in detail include applicant qualifications, activities suited for technical assistance, and the financial requirements of a grant.

*Groups may choose to hire one individual, several individuals, or an organization—such as a consulting firm—to perform technical assistance activities. Throughout this manual, therefore, the term "technical advisor" is used generally to refer to an individual or individuals under contract to the grant recipient to provide technical assistance services.

Chapter 1

Exhibit 1-1

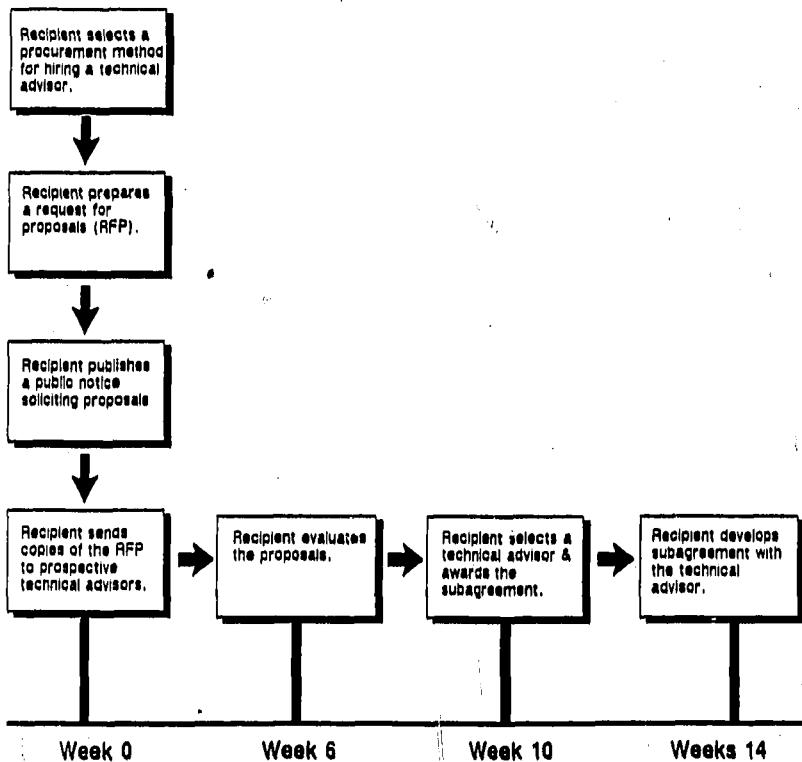


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Exhibit 1-2
Hiring a Technical Advisor



* The process illustrated in this exhibit is based on the competitive negotiation procurement process.
(Note: for amounts over \$25,000.)

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Chapter 1

Chapter 4, "Grant Application and Award Process," outlines the procedures for completing a technical assistance grant application. A major part of this application process is the applicant's development of a Scope of Services specifying tasks to be completed by the technical advisor.

Chapter 5, "How to Hire Technical Advisors," describes how to hire a technical advisor according to EPA regulations. Examples of criteria that can be used to evaluate potential advisors are included.

Chapter 6, "Managing Technical Assistance Grants," discusses how to properly manage a technical assistance grant. Recipients of technical assistance grants, like recipients of other EPA grants, must be able to administer the financial, reporting, and recordkeeping requirements that accompany the award of an EPA grant.



This manual also includes several appendices. Appendix A contains samples of materials to be prepared by grant applicants and recipients. These materials include a sample Scope of Services, public notice, and a subagreement with a technical advisor. Appendix B provides copies of blank forms that must be completed by grant applicants or recipients and technical advisors. Appendix C provides lists of key contacts for the Technical Assistance Grant Program. Next, Appendix D contains copies of EPA grant and procurement regulations (40 CFR Parts 30 and 33) and selected portions of Office of Management and Budget Circular A-122. Finally, Appendix E contains a checklist of required activities to assist citizens' groups in the grant application and procurement process.

With this manual and a copy of the IFR, you have all the information you need to apply for and manage a technical assistance grant. Copies of blank forms, step-by-step instructions for completing forms, and samples of required materials are provided to assist you in preparing your application, hiring a technical advisor, and managing the grant project. This program is being implemented to help you understand the issues concerning the Superfund site in your community. In turn, you and your technical advisor can provide thoughtful, informed comment to government decision-makers considering proposed Superfund actions.

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CHAPTER 2

USING TECHNICAL ASSISTANCE IN THE SUPERFUND REMEDIAL PROCESS*

The availability of technical assistance grants will provide communities with the resources necessary to hire technical advisors. Obtaining the resources to hire a technical advisor, however, is only the first step. Each citizens' group will have to define the role of the technical advisor so as to meet their project's unique objectives for understanding complex site issues and contributing effectively to the Superfund process. This chapter provides an overview of the Superfund remedial process. Rather than give a comprehensive presentation about the Superfund program, this discussion highlights the types of technical documents produced during the Superfund response process and identifies opportunities for public involvement. This information will help you define an effective role for your technical advisor in the Superfund process. Because site conditions vary widely, however, you should not hesitate to consider site-specific circumstances in determining how best to use a technical advisor.

The Superfund Program



CERCLA is the nation's principal means of addressing the public health and environmental threats posed by abandoned or uncontrolled hazardous waste sites. This law emphasizes the selection of remedies that permanently treat or destroy wastes rather than disposing of waste in landfills without such treatment. The law also

⁴Sections of this chapter have been taken directly from: (a) "Interim Guidance on Superfund Selection of Remedy," Office of Solid Waste and Emergency Response, U.S. Environmental Protection Agency, December 1986; (b) "Guidance on Remedial Investigations under CERCLA," Office of Research and Development and Office of Solid Waste and Emergency Response, U.S. Environmental Protection Agency, April 1985; (c) "Superfund Remedial Design and Remedial Action Guidance," Office of Emergency and Remedial Response, U.S. Environmental Protection Agency, February 1985; (d) *Community Relations in Superfund: A Handbook* (Interim Version), Office of Emergency and Remedial Response, U.S. Environmental Protection Agency, March 1986; and (e) "Final Guidance for Coordinating ATSDR Health Assessment Activities with the Superfund Remedial Process," Office of Solid Waste and Emergency Response, U.S. Environmental Protection Agency, March 11, 1987.

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increases State involvement in the cleanup process and strengthens EPA's commitment to research and development, training, and public participation.

Under CERCLA, an \$8.5 billion trust fund known as the Hazardous Substance Superfund was established that is funded principally through Federal taxes imposed upon petroleum products, chemical feedstocks, and imported chemical derivatives; a broad-based corporate tax; and general Federal revenues. The trust fund is designed to pay for cleanup operations, enforcement actions, and the recovery of costs from the parties responsible for the contamination. At the end of 1987, EPA's updated NPL included 951 sites distributed among 48 States (two States do not have any sites) and seven other jurisdictions.

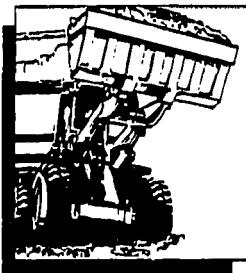
Under Superfund, there are two basic courses of action we may take to address site contamination that poses a threat to human health and the environment: removal and remedial. Removals are emergency or short-term cleanups undertaken in response to immediate threats to human health and the environment (e.g., the threat of explosion or rapid migration of pollutants). A remedial response addresses a chronic, long-term problem. Once a site has been identified, evaluated, and placed on the NPL, it is eligible for remedial response. Remedial responses are oriented toward providing long-term solutions to on-site risks and tend to be both expensive (averaging \$8-\$12 million per site) and lengthy (averaging 3-5 years to complete).

A second important distinction among Superfund actions is that we may designate a response action as either "enforcement-lead" or "Fund-lead." CERCLA provides EPA with the authority to compel potentially responsible parties (PRPs), whenever possible, to clean up or pay for the costs of cleaning up these sites. These actions are commonly referred to as the Superfund enforcement process, and include: (1) negotiated settlements; (2) direct administrative orders; or (3) legal actions.

Payment for Fund-lead action and for cleanups when PRPs cannot be found or are unwilling or unable to clean up or pay for the cleanup themselves is drawn directly from the Hazardous Substance Superfund. Fund-financed sites may be either "Federal-lead" or "State-lead" (i.e., either EPA or a State agency has the primary responsibility for planning, managing, and completing the cleanup).

¹Throughout the remainder of this chapter, the term "lead agency" refers to the responsible agency -- either EPA or the State -- that has the primary responsibility for planning, managing, and completing the cleanup.

EPA, in consultation with States, decides which agency will be in charge of managing the site cleanup. Regardless of who carries out the response action at a Superfund site, the procedures governing that action are outlined in the National Contingency Plan (NCP). The NCP is the Federal regulation that specifies the requirements for planning and implementing response actions at Superfund sites and carries the force of law.



Hazardous waste sites currently or previously owned by other Federal agencies (e.g., U.S. Department of Defense, U.S. Department of Interior) also are included on the NPL. At these sites, the Federal agency pays the cleanup costs. CERCLA provides that EPA make the final selection of a remedy at a Federal facility on the NPL if the Federal agency involved and EPA disagree.

CERCLA also authorizes technical assistance grants for sites on or proposed for the NPL where a response action has begun. Therefore, the role of the technical advisor at NPL sites is examined in the remainder of this chapter. This discussion also addresses those situations in which a significant removal action occurs at an NPL site, and the special considerations for using an advisor presented by enforcement-managed responses and Federally-owned sites. Because the primary role of the technical advisor is to interpret site-related information and documents, Exhibit 2-1 (at the end of this chapter) provides a summary of documents prepared during the remedial process.

The Remedial Process

The remedial process, as outlined below, is divided into four phases:

- ◆ preliminary assessment & site inspection (PA/SI);
- ◆ remedial investigation/feasibility study (RI/FS);
- ◆ remedial design (RD); and
- ◆ remedial action (RA).

Preliminary Assessment and Site Inspection

We learn about potential sites for remedial action through a variety of sources, including:

- ◆ Reports from concerned citizens;
- ◆ Reports required by law;

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- ◆ Routine inspections of facilities that treat, store, or dispose hazardous wastes; and
- ◆ Visible evidence of contamination.

Once a site has been identified, EPA or State officials conduct a preliminary assessment to determine if the site poses a potential hazard requiring further study. If the site does not present a potential hazard, no further action is taken. However, if the site presents an immediate threat to human health or welfare or the environment, we may use Fund money to take removal action. (See the removal section at the end of this chapter for further information on removal actions.)



If the preliminary assessment shows that a contamination problem may exist but does not pose an immediate health threat (e.g., there is no evidence that an acute exposure is presently occurring), EPA or the State conducts a more extensive study called a site inspection. This inspection involves collection of information about the site, including information on soil composition, rivers or streams on or near the site, the number and location of area residents, local weather conditions, and the owners or operators of the site. Samples can be collected both on and near the site to determine what hazardous substances are on site and whether contamination has migrated (travelled) from the site.

Based on information obtained from the site inspection, EPA uses its Hazard Ranking System (HRS) to determine the potential risks to human health, welfare, and the environment posed by the contaminants found at the site. Using the HRS, we calculate a score for the site that measures the possibility of hazardous substances migrating off site through ground water (subsurface water), surface water, or air, and reaching populated areas. Sites that receive a score of 28.5 or higher (the score increases as the hazards identified at the site increase) are placed on the NPL and become eligible for long-term remedial response under the Superfund program.

The relative ranking of sites on the NPL does not determine the order in which these sites will be cleaned up. Rather, the NPL identifies sites that are eligible for Superfund remedial actions from sites that are not. Priorities are set yearly based on EPA and State priorities and available funds.

Opportunities for Using a Technical Advisor

A site becomes eligible for a technical assistance grant after it is on the NPL; proposed sites are eligible only if a response action is underway. Grants for technical assistance will be awarded with the start

of the response action. A technical advisor could be asked to review the PA/SI data that led to the site's listing. Given limited funding and the limited scope of the PA/SI, however, your group may want to consider the usefulness of an advisor's retroactive analysis of the preliminary data produced during the PA/SI. Furthermore, while a technical advisor may review activities and documents undertaken or developed before the RI/FS, this retroactive analysis cannot be used to revive issues and decisions previously made by the Agency regarding the listing of the site.

Remedial Investigation/ Feasibility Study

The Scoping Process and Development of Planning Documents

After a site is proposed for or added to the NPL, a study may be conducted, known as a remedial investigation/feasibility study (RI/FS). The purpose of the RI is to determine the nature and extent of site contamination by conducting field work at the site. This work may include taking air, water, and soil samples. Information collected during the RI then is used in the FS to develop and evaluate remedial alternatives based on effectiveness, implementability, and cost factors.

The RI/FS process is interactive. The process of identifying alternatives and site-specific cleanup standards based on "applicable or relevant and appropriate requirements" (ARARs) of Federal and State laws and regulations may indicate the need for additional remedial investigations. As more information about site characteristics and remedial alternatives becomes available, ARARs can be identified with certainty.

Several planning documents (see Exhibit 2-1) are prepared in conjunction with the RI/FS:

- ◆ The sampling and analysis plan defines the level of effort and specific field activities for an RI, and ensures that RI data are accurate and scientifically and legally defensible. A system of procedures, checks, audits, and corrective actions are used to ensure that field work and laboratory analysis performed during the investigation and cleanup of Superfund sites meet established standards.
- ◆ The health and safety plan (HASP) assesses site hazards and specific procedures to protect workers from these hazards.



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- ◆ The community relations plan (CRP) is prepared and put into action for every Superfund response action before RI work at the site begins, regardless of whether the response is being conducted by EPA, another Federal agency, State agency staff, or the responsible parties. A CRP is based on interviews with community residents and officials and describes how EPA, a Federal agency, or the State will:
 - inform the affected community about the site (e.g., through progress reports, site fact sheets); and
 - solicit citizen input into response decisions (e.g., during public meetings or informal workshops).

Data Collection and Analysis

Once we have approved the related planning documents, the party conducting the work (e.g., EPA, State, Federal facility, or PRP) begins the data collection and analysis phase of the RI known as site characterization. The primary objectives of this phase are to:

- ◆ Define the nature and extent of contamination, through field sampling and laboratory analysis, for the purposes of determining initial cleanup goals and characterizing waste types, concentrations, and distributions; and
- ◆ Characterize and assess the risks and routes of exposure associated with the contaminants under investigation.

Risk Assessment

A baseline risk assessment is initiated during the RI and consists of an evaluation of the nature and extent of contamination, the potential pathways of human exposure, and a comparison of the contamination levels found at the site that individuals may encounter against the recommended exposure levels for humans. Risk assessments are prepared by scientists from a variety of fields (e.g., toxicology, hydrology, chemistry). The complexity of an assessment depends upon site-specific factors such as the number and type of chemicals present, the number and complexity of exposure pathways, and the availability of appropriate standards and/or toxicity information for the various hazardous substances present.

Remedial Investigation (RI) Report

Following the site characterization studies, an RI report is produced. This summarizes the data collected and conclusions drawn from all investigative sources (e.g., studies of site features, hazardous substances, hydrogeology, surface water, air, wildlife, and public health and environmental impacts).

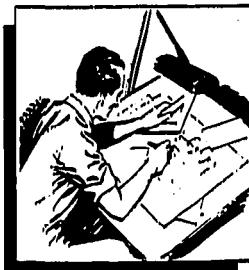
Health Assessment

CERCLA requires the Agency for Toxic Substances and Disease Registry (ATSDR), which is part of the U.S. Department of Health and Human Services, to perform a health assessment for each site on or proposed for the NPL. To the extent possible, this assessment should be completed prior to the completion of the RI/FS at the particular site.

An ATSDR health assessment is a preliminary evaluation of the potential risks to human health posed by an individual site. A multidisciplinary team including physicians, toxicologists, and public health specialists reviews existing environmental sampling data and other site-related information such as the RI report and the risk assessment that are available from EPA. ATSDR conducts a health assessment to assist EPA in determining human health concerns related to a particular site.

The ATSDR health assessment assists EPA or State officials in determining whether immediate action such as provision of an alternate water supply or relocation of residents is necessary to reduce human exposure. We consider the final results or preliminary findings of the ATSDR health assessment when selecting a cleanup remedy to ensure that public health will be protected adequately.

Development of Remedial Alternatives



The feasibility study (FS) process usually begins at the same time as the RI or site characterization. The purpose of the FS process is to develop and assess remedial alternatives. Potential remedies are identified and technologies that are inappropriate for the site are eliminated from further consideration. Combinations of effective technologies make up the various remedial alternatives.

Remedial alternatives then are evaluated on the basis of effectiveness, implementability, and cost. This process reduces the number of alternatives that will be analyzed in detail, while ensuring that a range of options are evaluated. The alternatives that pass this initial screening then are compared against the evaluation criteria listed below to see how well each alternative satisfies the cleanup standards outlined in Section 121 of CERCLA:

- ◆ Overall protection of human health and the environment;
- ◆ Compliance with ARARs;
- ◆ Long-term effectiveness and permanence;

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- ◆ Reduction of the persistence, toxicity, mobility, or volume;
- ◆ Short-term effectiveness;
- ◆ Implementability;
- ◆ Long-term maintenance costs;
- ◆ Potential for future remedial action costs;
- ◆ State acceptance; and
- ◆ Community acceptance.

According to this section of CERCLA, the selected remedy also must meet or exceed the requirements established by ARARs unless one of the following conditions exists:

- ◆ The selected remedy is only part of a total remedial action that will meet the requirements;
- ◆ Compliance with these requirements will result in greater risk to human health and the environment than alternative actions;
- ◆ Compliance with these requirements is technically impracticable from an engineering perspective;
- ◆ The selected remedial action will attain a standard of performance equivalent to these requirements through use of another method or approach;
- ◆ The State has not consistently applied a State standard, requirement, criterion, or limitation at other remedial actions within the State; or
- ◆ Selection of a remedy that attains such levels will not provide a balance between the need for protection of public health and welfare and the environment, and the availability of funds to respond to other sites that present a threat to the public's health or welfare or the environment (this is known as a "fund balancing" waiver).

Feasibility Study (FS) Report and Proposed Plan

With information from the RI/FS, the lead agency or responsible parties under government supervision prepare a draft RI/FS report documenting the development and detailed analysis of remedial action alternatives. The draft RI/FS report, along with the proposed plan, is released for public comment. The proposed plan outlines the alternative that we recommend for addressing site contamination and provides our justification for the choice. The lead agency must notify the public of the availability of the draft RI/FS report and proposed plan. For all remedial actions at NPL sites, the lead agency must provide a minimum 21-day public comment period on the dra

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RI/FS report and proposed plan, and an opportunity for a public meeting.

The Record of Decision

After the public comment period, we select the remedy for the site, taking into account relevant public comments. We then prepare a record of decision (ROD), which summarizes the recommended alternative and the rationale for its selection. The ROD is signed by either the appropriate Regional or Assistant Administrator.

Also after the public comment period, the NCP requires that a responsiveness summary be prepared and submitted as part of the ROD. Through the responsiveness summary, the lead agency summarizes public comments received on the remedial alternatives and responds to significant comments. Under certain circumstances, the ROD may be reopened for public comment.

The public must be informed through a public notice when the lead agency finalizes the ROD for the site. A fact sheet also may be prepared at this time. The final plan must be made available to the public. Documentation supporting all significant administrative decisions is compiled as the administrative record for the site. Members of the public, including technical advisors, may examine the administrative record by visiting the appropriate EPA Regional Office.

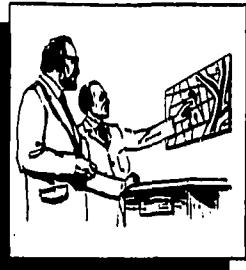
Prior to the design stage in which engineering aspects of the remedial action are resolved, the lead agency must revise the community relations plan to reflect any changes in the concerns or anticipated information needs of the community during design and construction of the site remedy.

Opportunities for Using a Technical Advisor

During the RI/FS phase, a significant number of detailed technical documents are produced. As a consequence, your group may want to focus the technical advisor's efforts on reviewing the documents it considers most critical during this phase. These documents will probably include the RI/FS report.*

*Consistent with a memorandum from the EPA Administrator on the release of draft data and reports (dated October 4, 1984), you should be aware that data from the RI/FS cannot be discussed or released until it has undergone Agency quality assurance and quality control procedures.

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Your group may want its technical advisor to participate in informal meetings with group members prior to the RI/FS to explain to them what is known about the nature of the problems at the site. Your group may ask a technical advisor to participate in public meetings held by the lead agency during the RI/FS to help clarify information about site conditions and how the RI/FS will address these conditions.

Once the RI/FS report is available for public review, your group may ask an advisor to help you interpret the results. If the RI/FS report discusses possible remedial alternatives, the technical advisor may begin reviewing the range of alternatives under consideration.

When the final RI/FS report and proposed plan are released, your group may want your technical advisor to review the report during the public comment period to identify the differences among the remedial alternatives with respect to the groups' preferences. You should be aware that the RI/FS report represents an important point for the lead agency and supporting agency(ies) in the remedial decision-making process and, as a consequence, you may want the technical advisor to focus a major portion of his or her time on this report. The advisor also may be asked to review or assist in preparing your group's public comments on the RI/FS report. In addition, the advisor can aid your group's understanding of the lead and supporting agencies' remedial action decision presented in the record of decision and proposed plan for the site.

Remedial Design

Initiating Design Activities

Following selection of a remedial alternative (unless a no action alternative is selected) and approval of the ROD by EPA, a specific plan or remedial design (RD) must be developed. The purpose of this plan is to explain in technical detail how the remedy will be implemented. As the first step, the lead design party (i.e., EPA, other Federal agency, the State, or a responsible party or parties) issues a statement of work to the design contractor requiring the preparation of final construction plans and specifications to accomplish the remedial action, as defined in the ROD.

The design of the final remedy often involves multiple reviews by one or more of the government agencies, States, or EPA responsible for overseeing the design contractor's work.

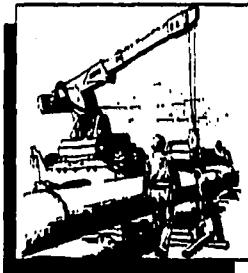
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**Opportunities for Using a
Technical Advisor**

Because the planning and implementation tasks developed during the RD phase are highly technical and specific, you may want to ask the technical advisor to review the remedial design. Your group could have the advisor review the design to ensure that community concerns are addressed.

Remedial Action

Following completion of the design, remedial action (RA) begins. As with other aspects of the remedial process, responsible parties and government agencies other than EPA may be involved in carrying out remedial construction and inspection activities. For example, a responsible party may be given the opportunity to construct the remedial alternative; a State could be responsible for inspecting construction performed by a contractor; or the U.S. Army Corps of Engineers might be involved in both construction and inspection activities at Federal Fund-lead sites or Federal facilities. Regardless of who performs these activities, however, EPA retains final oversight responsibility for the remedial action. To fulfill this responsibility, we require that detailed progress reports be prepared and submitted.



When construction has been completed, a final inspection is conducted. Upon satisfactory completion of the final inspection, the responsible agency prepares a final inspection/certification report. This report should certify that the project is complete and consistent with the contract documents and the EPA-approved remedial action. For a remedial action implemented by a responsible party, the settlement document may specify final inspection or certification conditions that are different from what is discussed here.

Operation and Maintenance

Operation and maintenance (O&M) activities are conducted at a site after a response action is completed to ensure that the cleanup or containment system continues to function properly and continues to protect human health and the environment. The O&M period begins on the date certified in the final inspection/certification report that the project is complete and in accordance with contract documents. At this time, the State or the responsible party assumes O&M responsibility.

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Site Closeout

Upon completion of a remedial action, a final technical report must be prepared for State-lead sites and is recommended for Federal-lead and responsible party-lead sites. This report is used to judge the effectiveness of the remedy and to assess whether criteria for deleting a site from the NPL have been met. The final technical report should document that the remedy is performing adequately.

An EPA Regional Office can recommend delisting of a site from the NPL after completion of a remedial action if one of three criteria specified in the NCP has been met:

- ◆ EPA, in consultation with the State, has determined that responsible parties have completed all appropriate response actions;
- ◆ EPA, in consultation with the State, has determined that all appropriate Fund-financed response actions have been completed and that no further cleanup by responsible parties is appropriate; or
- ◆ Based on the RI, EPA, in consultation with the State, has determined the release poses no significant threat to public health or the environment, and therefore, remedial measures are not appropriate.

A notice of intent to delete is published in the Federal Register describing EPA's deletion criteria. Following a minimum 30-day public comment period, a responsiveness summary that documents comments received on the notice and our responses to the comments must be prepared to support a deletion recommendation. Finally, we publish the notice of deletion (which includes a summary of comments received and our responses) in the Federal Register. The remedial process concludes with the deletion of the site from the NPL.

Opportunities for Using a Technical Advisor

During remedial action, your group may want the technical advisor to visit the site vicinity periodically to observe the progress of construction activities and to provide a technical update to community members. Your group also may want to focus on reviewing the final inspection/certification report and final technical report because any concerns over construction activities must be raised prior to our acceptance of the completed project.

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Removal Actions at Remedial Sites

Removal actions are emergency or short-term responses to threats to public health or welfare or the environment for actual or potential releases of hazardous substances. These actions include a wide variety of activities that range from merely fencing the site to prevent public access to completely removing hazardous substances from the surface. Removal actions may occur at both NPL and non-NPL sites.



Because section 117 of CERCLA provides for technical assistance only for those significant removal actions that occur at NPL sites or proposed NPL sites where technical work is underway, discussion of removal actions is limited to when these actions take place at NPL sites. While removals are underway, there are likely to be few opportunities for public involvement because of the emergency nature of most removal actions. There are, however, some occasions where a technical advisor may be useful to groups.

Opportunities for Using a Technical Advisor

Your group may want the technical advisor to review public documents generated during the removal process. These documents include the site assessment sampling data, engineering evaluation/cost analysis (EE/CA) for non-time critical removals, an action memorandum, and an On-Scene Coordinator's after action report. An EE/CA is a summary of detailed analyses of possible removal action alternatives and is used to prepare the action memo in those cases where the site response is non-time critical. There is a minimum 21-day public comment period for the EE/CA. The action memorandum is the decision document in which the time and cost of a removal action are estimated for a specific site and the proposed response activities are described. Upon completing the removal action, the On-Scene Coordinator prepares an after action report detailing the removal action.

¹The On-Scene Coordinator is the official who coordinates and directs Superfund removal actions.

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Summary

For each task indicated in Part IV, Section II (Scope of Services) of the grant application, you will need to estimate the amount of review time to be allotted to the technical advisor. This chapter was prepared to assist you in determining appropriate tasks for the technical advisor by providing you with a general understanding of the Superfund process. We encourage you, however, to discuss with your TAG Project Officer projected tasks and how they may be affected by site-specific circumstances.

Exhibit 2-1

Summary of Public Documents Prepared During the Remedial Process

Technical Phase: Site Activity	Document	Purpose of Document
REMEDIAL INVESTIGATION/FEASIBILITY STUDY (RI/FS):		
• Beginning of RI	RI/FS Work Plan	Describes the projected scope, schedule, and budget for the RI/FS. This plan is usually developed within five months from the time money is obligated.
	Sampling and Analysis Plan	Defines level of effort and specific field activities for the RI, and ensures accuracy of RI data, particularly with respect to scientific and legal defensibility.
	Health and Safety Plan	Assesses site hazards and procedures for worker protection from these hazards.
	Community Relations Plan (CRP)	Details how the lead agency will elicit citizen input into response decisions and inform the affected community of site activities.
• Completion of RI	RI Report	Summarizes data collected and conclusions drawn from all investigative sources. Includes information gathered during site characterization regarding contamination and public health and environmental impacts.
• During RI/FS	Health Assessment	Presents results of Agency of Toxic Substances and Disease Registry (ATSDR) health assessment, along with the Administrator of ATSDR's recommendations for further action.
• FS	Summary Report	Summarizes information gathered during detailed analysis of remedial alternatives. Highlights differences among alternatives to assist the decision-maker's selection of a recommended remedial alternative.

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Exhibit 2-1 (continued)

Summary of Public Documents Prepared During the Remedial Process

Technical Phase: Site Activity	Document	Purpose of Document
• Completion of FS	FS Report	Documents the remedial process from screening of remedial action technologies to selection of a recommended alternative. Includes a risk assessment, or equivalent. Final report includes responsiveness summary (see below).
• Conclusion of RI/FS	Proposed Plan	Identifies the lead and support agency and the preferred alternative. Provides a rationale for that initial decision. Proposed Plan and FS draft reports are submitted for public comment.
	Record of Decision (ROD)	Summarizes the recommended remedial alternative and the rationale for its selection. Identifies and discusses all significant changes, includes a responsiveness summary which addresses public comments on the remedial alternatives as outlined in the draft FS report.
REMEDIAL DESIGN:		
• Initiating Design Activities	Explanation of Significant Differences*	Identifies and provides the reasons for a remedial action, enforcement action, or consent decree which differs significantly from the ROD.
• Design Development	Final Design	Includes final design plans and specifications, final construction cost estimate, final operation and maintenance plan, site safety plan specifications, and final quality assurance program plan (QAPP).
	Statement of Work	Outlines submission requirements for design contractor to provide the final document package, which shall include all the required plans and specifications to accomplish the remedial alternative as defined in the ROD.

* The Explanation of Significant Differences can be issued any time after final adoption of the ROD.

Exhibit 2-1 (continued)

Summary of Public Documents Prepared During the Remedial Process

Technical Phase: Site Activity	Document	Purpose of Document
REMEDIAL DESIGN (continued):		
	Revised Community Relations Plan	Reflects changes in level of concern or information needs of the community since development of the original CRP.
REMEDIAL ACTION:		
• Monitoring and Oversight Construction	Progress Reports	Submitted by the lead party for remedial action on a monthly or quarterly basis, reports are used by EPA to monitor remedial construction activities. Provide chronological record of activities including work accomplishment, status of fund, or changes in contract.
• Final Inspection	Final Inspection/Certification Report	Prepared upon satisfactory completion of final inspection, report certifies project is complete and consistent with both contract documents and the EPA-approved remedial action.
• Site Closeout	Final Technical Report	Required for State-lead sites and recommended for Federal-lead and responsible party sites. Documents: (1) project completion consistent with contract documents, and (2) adequate performance of remedy.
REMOVAL (DURING REMEDIAL PROCESS):		
• Removal Action	Preliminary Assessment Data	Includes sampling results from preliminary studies of the site.
	Engineering Evaluation/Cost Analysis	Provides analyses of removal alternatives and used to prepare the Action Memo at sites where the site response is non-time critical.
	Action Memo	Estimates the cost and time for the removal.

CHAPTER 3

REQUIREMENTS OF THE TECHNICAL ASSISTANCE GRANT PROGRAM*

35.4010

EPA is authorized by CERCLA, to make technical assistance grants available "... to any group of individuals which may be affected by a release or threatened release at any facility which is listed on the National Priorities List ..." "Affected groups" are those groups of individuals who can demonstrate direct ties to the site (e.g., individuals who are directly threatened by the site from a health, economic, or environmental standpoint). In addition to eligibility criteria, we will use pre-established criteria to evaluate your group's financial and management capabilities and the degree of responsibility in making a grant award. Financial and eligibility requirements are specified in the IFR. This chapter describes these requirements by explaining:

- ◆ Qualifications your group must have to be eligible to receive a grant;
- ◆ Activities that are suited for technical assistance; and
- ◆ Financial requirements applicable to the grant.

Applicant Qualifications

This section reviews the criteria by which we will evaluate the qualifications of your group if you decide to apply for a technical assistance grant. The categories used to determine your qualifications are:

- ◆ Group eligibility;
- ◆ Responsibility requirements; and
- ◆ Evaluation criteria.

*Numbers that appear in bold in the left margin throughout this manual give the citation of relevant regulatory provisions. These regulatory provisions include EPA grant regulations (40 CFR Part 30) EPA procurement regulations (40 CFR Part 33), and the Interim Final Rule for the Technical Assistance Grant Program (40 CFR Part 35). For example, the citation §30.308 refers to 40 CFR Part 30, section 308, "General Regulations for Assistance Programs." Not all relevant regulatory provisions have been highlighted in this manner; therefore, you must refer to actual regulatory language. Reprints of 40 CFR Parts 30 and 33 appear in Appendix D of this manual.

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You will provide this information in Part IV, Section I of the grant application form. Instructions for completing Part IV are contained in Chapter 4 of this manual. In addition, Appendix A presents a hypothetical example of a completed Part IV.

Group Eligibility

35.4025 As an applicant, you are eligible to receive a technical assistance grant if you are a group of individuals that may be affected by a release or a threatened release of a hazardous substance at any facility that is (1) listed on the National Priorities List (NPL) under the National Contingency Plan or (2) proposed for listing and a response action has begun.

35.4030 You are *ineligible* for a technical assistance grant if you are among the groups or organizations listed below:

- ◆ Individuals or companies (such as owners, operators, transporters, or generators) potentially responsible for the contamination problems at a site (known as potentially responsible parties or PRPs);
- ◆ Corporations that are not incorporated for the specific purpose of representing affected individuals at the site;
- ◆ Academic institutions;
- ◆ Political subdivisions (e.g., townships and municipalities); and
- ◆ Groups established and/or sustained by governmental entities (including emergency planning committees and some citizen advisory groups).



Some groups, such as citizens' groups that have been chartered by a government entity, are *ineligible* to receive a grant. However, a citizen advisory committee established initially by citizens and later recognized as an official community group by a government entity may be eligible. Your group may use funds from State or other political subdivisions provided that these funds are not used by such a political entity to control your group's activities. In such instances, we will determine eligibility on a *case-by-case* basis. Finally, while individuals functioning as representatives of *ineligible* groups cannot be members of *eligible* groups, individuals who act solely in the capacity of an "affected" individual can.

After reading your narrative statement in Part IV of the grant application (see Exhibit 4-1 and Appendix A), we will use the above guidelines to determine whether you are *eligible* to receive a technical assistance grant. If we determine that you are *eligible*, your application will proceed to the next level of review. If not, your application will be rejected.

Responsibility Requirements

35.4020 If you are eligible to receive a technical assistance grant, you must demonstrate your ability to adequately manage the grant by detailing your administrative and management capabilities in a narrative statement under Part IV of the grant application (see Exhibit 4-1 and Appendix A). We will evaluate this statement, in addition to other relevant parts of your application, to determine how well you meet the responsibility requirements. These requirements include financial resources, ability to meet project deadlines, accounting and auditing procedures, and willingness to comply with the civil rights and equal employment acts. In general, you must demonstrate that your group has established, or has plans for establishing, reliable procedures for recordkeeping and financial accountability related to the management of the grant (e.g., that you have established a separate bank account for the management of the grant funds, have sound plans for fulfilling the reporting requirements, and have provided any other pertinent information showing your group's commitment to establishing effective accounting procedures for managing the grant). (See Chapter 6 for a discussion of management of grant funds.) While it is unnecessary to submit documentation of the steps your group has taken to meet these responsibility requirements at the time you submit your completed application, you must be able to provide such documentation in the event of an audit.

30.301

As the last step in assessing your group's administrative and management capabilities, we will consider the organizational structure of your group. According to the IFR, in order to receive a grant you must be incorporated as a non-profit organization for the purpose of addressing the Superfund site for which the grant is provided. This non-profit corporation must include all the individuals and groups that joined in applying for the grant.

In some situations, the pre-existing incorporated status of a citizens' group will fulfill the eligibility requirements of the Technical Assistance Grant Program. For example, a local environmental group specifically formed for the purpose of overseeing the site cleanup whose membership includes all the "affected" individuals in the community would not need to re-incorporate. Another situation might exist where such an incorporated non-profit organization consolidates with other citizens who are not members of its organization. As long as all the non-member citizens who are interested in applying for a grant join the non-profit organization, the group is not required to re-incorporate for the purposes of the Technical Assistance Grant Program. On the other hand, such a group may decide that it is in its best interest to incorporate specifically for the purposes of obtaining and managing a technical assistance grant.



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In most cases, you will find it necessary or practical to incorporate specifically for the Technical Assistance Grant Program. The obvious case includes a situation where individual citizens have consolidated recently as an applicant group. In this case, as well as in cases where several pre-existing, incorporated non-profit groups consolidate to form one applicant group, it is practical and necessary for the applicant groups to incorporate as a coalition seeking a technical assistance grant.

Incorporation protects the individual members of your group from potentially serious personal liability problems that could result if the grant were awarded to a group or organization that was not incorporated. The structure created by incorporation also reduces or eliminates problems that might otherwise arise from the departure of an individual from your group.

You may meet the incorporation requirement by stating that your group, if not incorporated, has plans for incorporating if it is awarded a grant. Once your group is awarded a grant, you must affirm that your group has filed the necessary papers for incorporation with the State. We encourage you to complete the incorporation process between the time that the grant is awarded and when you sign the grant agreement. However, on or before the first request for reimbursement, you must submit to us documentation, such as a letter from the State that your group has been incorporated officially by the State. Without such documentation, your grant could be annulled. (General information concerning a State's laws of incorporation may be obtained from a State governor's office, a private lawyer, or a local legal services agency. Specific questions concerning the effect of incorporation on taxes can be answered by the U.S. Internal Revenue Service or State tax offices. The local public library often is an excellent source of information on this subject.)

After assessing your administrative and management capabilities, we will evaluate the balance of your application. Your group cannot receive a grant if we determine that the group does not satisfy the minimum responsibility requirements. However, we will review and score all applications using the evaluation criteria discussed below.

Evaluation Criteria

35.4035 To ensure that grants are awarded to applicants most directly affected by the site, we have developed a process to evaluate the strengths and weaknesses of each application. Because only one grant may be awarded for any eligible site, we also must be able to rank each application relative to other applications. We will use five criteria in evaluating applications. Each criterion is assigned a weight that reflects its relative importance. The extent to which your

application satisfies each criterion will be assigned a score ranging from zero (not addressed or totally deficient) to four (excellent). After evaluating the individual criteria, the scores will be multiplied by the assigned weight and the subtotals will be added to determine the total score for your application. The maximum score that your application can receive is 400 points (5 criteria which total 100 points x a perfect score of 4 on each criterion = 400 total points).

In general, each criterion will be evaluated according to the scoring plan outlined below:

Value	Description
0	Not addressed or totally deficient
1	Poor
2	Fair
3	Good
4	Excellent

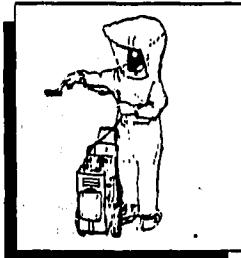
We will review applications based on the following criteria:

(1) The presence of an actual or potential health threat posed to group members by the site. (30 points) To help ensure that groups receiving grants are those most directly affected by a site, you must include a narrative statement of no more than one page describing:

- ◆ The actual or potential health threats posed to group members by the site;
- ◆ The number of group members facing such threats; and
- ◆ Where appropriate, any past actions taken by group members to resolve or to make known their health concerns (e.g., letters to local, State, or Federal officials, petitions for health assessments, etc.).

You will not be required to submit documentation for our review (although you may be required to supply it later if an audit is initiated); a discussion of these activities as part of the narrative will be sufficient.

You may meet this criterion by establishing that group members are subject to demonstrable health threats, whether actual or potential, or to a threat that group members reasonably believe to be substantial. Ordinarily, an applicant claiming the presence of a demonstrable health threat will score higher than one whose claims are based solely on a potential threat. However, your inability to provide documentation of health problems related to the site will not necessarily



prevent you from receiving a grant, provided the other criteria are met.

(2) The applicant best represents groups and individuals affected by the site. (20 points) You must document in no more than one page the extent to which your group represents affected groups and/or individuals in the community and explain how you plan to involve other affected community groups or individuals who express an interest in joining the coalition after the award of the grant. This information will ensure that the group receiving the grant best represents the greatest number and diversity of affected organizations and individuals within a community (e.g., site neighborhood groups, community groups, local chapters of national or State public interest groups, local health awareness groups, nearby property owners, etc.).

Additionally, where appropriate, you may discuss, as part of the narrative, past activities (e.g., letters, attendance at meetings, conferences, hearings, etc.) conducted by your group, or by individual group members, directly related to the site for which you are applying for a grant. Broad representation, the intent and the ability to involve other affected groups and/or individuals in the community, and a history of involvement may be awarded a high score, while very narrow representation, the inability or unwillingness to involve others, and/or no history of involvement may receive a low score.

(3) The identification of how the group plans to use the services of a technical advisor throughout the Superfund response action, which includes all activities from preliminary planning and investigation through operation and maintenance. (20 points) You must identify in no more than one page how your group intends to use grant funds. You also must submit the schedule for having the technical advisor complete certain tasks. This information will ensure that a technical assistance grant goes to the community group that is in greatest need of the services of a technical advisor and will use grant funds most effectively to assist citizens in understanding the Superfund cleanup process.

If you establish that technical assistance is needed to interpret information throughout the Superfund cleanup process, and your group has plans to use the funds effectively and efficiently to accomplish the intent of the technical assistance grant, your application would be awarded a high score. Conversely, if you are unable to identify a significant or substantial need, or show that your group will use grant funds effectively and efficiently, you would receive a low score.

(4) ... maximized intention and ability of the applicant to inform others in the community of the information provided by the technical



Technical Assistance Program

advisor. (20 points) You must describe or outline the activities your group plans to use to inform other interested community groups and individuals of the technical advisor's findings or interpretations of technical documents. This information will ensure that a technical assistance grant goes to the community group that will disseminate the information most effectively to the broader community.

We will evaluate your group according to your ability and willingness to disseminate information provided by the technical advisor to the broader community. A plan which indicates an inadequate method for disseminating the information would be given a low score, while one indicating a clear plan for disseminating information to the broader community would be awarded a high score.

(5) The presence of an actual or potential economic threat, or threat of impaired use or enjoyment of the environment to group members that is caused by the site. (10 points) You must include a statement of no more than one page describing the presence of an actual or potential economic threat posed to group members by the site (e.g., decrease in property value or diminished economic use of the property, such as farming, or recreational use). If appropriate, you also should include a discussion of how conditions at the site have adversely affected their use or enjoyment of the surrounding environment (e.g., aesthetic or recreational value). In addition, you must include the number of group members affected and a discussion of the actions taken by group members to resolve or to make known their economic and/or environmental concerns (e.g., through letters to local, State, or Federal officials, meetings with real estate agents, etc.). This information will ensure that the group receiving a grant is most directly affected by a site.



You may meet this criterion by establishing that group members are subject to:

- ◆ A demonstrable economic threat;
- ◆ Impairment of the group's use and enjoyment of the environment, whether actual or potential; or
- ◆ A threat that is reasonably believed to be substantial.

Not all economic or environmental concerns will be assigned equal value. Thus, for example, an applicant claiming the presence of a demonstrable economic or environmental threat ordinarily will receive a higher score than one whose claims are based solely on a potential threat. Your inability to provide documentation of economic or environmental problems related to the site will not necessarily prevent you from receiving a grant, provided other criteria are met.

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Activities Suited for Technical Assistance

The intent of the Technical Assistance Grant Program is to enhance citizen understanding of and involvement in overall site activities and decision-making during the Superfund cleanup process. This section describes both eligible and ineligible activities. Questions concerning activities suitable for technical assistance should be directed to the appropriate EPA Regional contact for the site.

Eligible Activities

35.4060

Technical assistance grant funds may be used for a variety of activities. The purpose of the grant is to assist citizens' groups in obtaining technical assistance in interpreting site-related documents and other activities that would contribute to the public's understanding of overall site conditions and activities. Grants are not intended to fund ancillary activities by the grant recipient, such as travel and administrative costs, which detract from or limit the grant recipient's ability to pay for skilled technical advisors. Examples of activities suitable for technical advisors include:

- ◆ Reviewing and interpreting site-related documents, whether produced by EPA or others;
- ◆ Meeting with the recipient group to explain technical information;
- ◆ Providing assistance to the recipient group in communicating the group's site-related concerns;
- ◆ Disseminating interpretations of technical information to the community;
- ◆ Participating in site visits, when possible, to gain a better understanding of cleanup activities; and
- ◆ Traveling to meetings, hearings, etc., directly related to the situation at the site.

Because the IFR requires that all grant recipients be incorporated, EPA has determined that when a recipient group has incorporated for the sole purpose of receiving a technical assistance grant, necessary and reasonable costs of incorporation will be considered an eligible pre-award cost and may be charged to the grant or counted toward the matching funds requirement which is discussed later in this chapter.



Ineligible Activities

35.4055 The legislative history of CERCLA section 117(e) provides that technical assistance grants "are not intended to be used to underwrite legal actions. However, any information developed through grant assistance may be used in any legal action affecting the facility, including any legal action in a court of law." (H. Rpt. No. 99-962, 99th Cong., 2d Sess. (1986), p.231). Thus, grant funds may not be used to pay for attorney's fees or to pay for the time that the technical advisor may spend assisting an attorney in preparing a legal action (e.g., citizen suit) or for serving or preparing to serve as an expert witness at any legal proceeding (public meetings held by EPA or a State are not considered legal proceedings). Moreover, grant funds may not be used to prepare for, or participate in, any legal proceeding. For example, an attorney's costs for locating, interviewing, or preparing a witness to testify, or the time that any witness spends preparing for any such legal proceeding, may not be paid for with grant funds.

These prohibitions on the use of grant funds, however, do not preclude a technical advisor from participating in a legal proceeding so long as none of the costs of such participation are charged to the grant. A technical advisor may serve as an expert witness on behalf of the citizens' group, for example, or testify in an action brought by a potentially responsible party in challenging the record so long as he or she is not paid with grant funds. In essence, the costs of a technical advisor in these situations should be borne by the party who seeks such legal services.

Other ineligible activities include the following:

- ◆ Activities inconsistent with the cost principles stated in the Office of Management and Budget (OMB) Circular A-122 including lobbying and related activities;
- ◆ Tuition or other expenses for recipient group members or technical advisors to attend training, seminars, or courses;
- ◆ Any activities or expenditures for recipient group members' travel;
- ◆ Generation of new primary data such as well drilling and testing (including split sampling);
- ◆ Challenging final EPA decisions (e.g., records of decision); and
- ◆ Underwriting disputes with EPA.

As stated above, costs associated with political and lobbying activities are not allowable based on OMB Circular A-122. Briefly summarized, this means you cannot use grant funds to participate in, or to

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attempt to influence the outcome of, any election. Similarly, you may not use grant funds to influence the introduction, enactment, or modification of any legislation. These activities include participation of the general public in demonstrations. Lobbying also includes legislative liaison activities, such as attendance at legislative hearings or sessions, and gathering information regarding legislation. Similarly, grant funds may not be associated with any partisan or non-partisan political activity.

Selected portions of OMB Circular A-122, which discuss these prohibitions in greater detail, are provided in Appendix D and are summarized below:

- ◆ No part of any technical assistance grant can be used to finance, directly or indirectly, any activity to influence the outcome of any election, or any voter participation or registration activity or to associate the technical assistance grant with any partisan or non-partisan political activity;
- ◆ No technical assistance grant project may use grant funds, or employ a technical advisor, to support or identify the project with (a) any political activity associated with a candidate, or (b) any services related to voter registration or polling activity; and
- ◆ No technical advisor funded by a grant may take any action, when serving in such capacity, with respect to a political activity that could result in identification or apparent identification of the technical assistance grant with such political activity.

Financial Requirements

35.4080 After evaluating the applications of citizens' groups interested in receiving a technical assistance grant, EPA may choose to award a grant to the group that is most directly affected by the site and meets the minimum eligibility and responsibility requirements. Only one grant may be awarded at each Superfund site and all grants are subject to certain financial requirements. These requirements include:

- ◆ Recipient groups must contribute 35 percent of the total project costs;
- ◆ Administrative costs may not exceed 15 percent of the total cost of the technical assistance grant project; and
- ◆ Grant awards may not exceed \$50,000 for a single site.

These requirements are discussed in the sections below.

The Thirty-Five Percent Matching Funds Requirement

In order for your group to be awarded a technical assistance grant, you must provide 35 percent of the total costs of the technical assistance project. For example, if your total project costs are \$30,000, then your group must provide at least \$10,500 to "match" EPA's grant of \$19,500. Other Federal funds cannot be used to meet this requirement unless statutorily specified. However, you may use cash and/or in-kind contributions to meet the 35 percent matching funds requirement. The table below shows how the financial requirements break down for various levels of project funds:



Federal Grant Funding Level	35% of the Total Project	Total Project Funds
\$10,000	\$ 5,385	\$15,385
\$15,000	\$ 8,077	\$23,077
\$20,000	\$10,769	\$30,769
\$30,000	\$16,154	\$46,154
\$40,000	\$21,538	\$61,538
\$50,000 (maximum)	\$26,923	\$76,923

While you are not required to have the matching funds in hand at the time of application, you must, at a minimum, have a plan for raising the funds. Your group is required to maintain the minimum 35 percent "match" throughout each budget period and each time you file a reimbursement request. If your group provides more than a 35 percent "match" in any one period, the extra amount can be applied to the next reimbursement request.

In-Kind Contributions

35.4115 In-kind contributions represent your non-cash contributions to the grant. They reduce the need to raise money to meet the 35 percent matching funds requirement. In-kind contributions may be provided by you and non-Federal third parties including States, local governments, and private citizens. In-kind contributions include:

- ◆ Volunteer services (the volunteer must be qualified in the skill or profession and must actually perform the specified work);
- ◆ Non-expendable personal property, such as word processor, or copier, and use of office space;
- ◆ Expendable personal property, such as office supplies; and

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- ◆ Other costs that are allowable and related to the grant, such as telephone calls, postage, and xeroxing.

Exhibit 3-1 gives examples of allowable in-kind services.

Claiming In-Kind Services

All in-kind contributions must be a necessary and integral part of the project, and must be documented and verifiable from your records. All costs must be allowable under the grant and under the Federal cost principles. For example, you cannot claim costs to lobby or to develop primary data, since both of these costs are ineligible activities under this program.



Rates for volunteer services must be consistent with rates the group would have to pay to have the work done by a qualified contractor, and must be valued at the employee's regular rate of pay. Rates must not include fringe benefits, overhead, or profit. Volunteers may claim each hour of volunteer service that is necessary and integral to the project, but they must maintain timesheets in order to claim the costs.

The value of nonexpendable personal property (such as an adding machine or typewriter) may be counted as an in-kind contribution, but it must not exceed the fair market value of comparable equipment or property of the same age and condition. Only that portion of the property's use directly attributable to the technical assistance grant project counts as an in-kind contribution. For example, if the item's use is limited to one month during the year, its value as an in-kind contribution is calculated as 1/12 of its annual value. The calculated worth of donated space, such as an office for the technical advisor, may be considered an in-kind contribution, but it must not exceed the fair rental value of comparable space in a privately-owned building in the same locality. If the donated space is used for purposes other than the technical assistance grant project, only the portion associated with the technical assistance grant project may count as an in-kind contribution. For example, if one quarter of the office is assigned as work space for the technical advisor, then only one quarter of the rent can be counted as an in-kind contribution.

Administrative Costs

Costs of administering the technical assistance grant are allowable to the extent that they do not exceed 15 percent of the total project costs. Therefore, in-kind contributions that are administrative in nature may not exceed 15 percent of the total project costs. Administrative costs are costs, whether cash or in-kind, which do not directly contribute to the purpose of the grant. (The purpose of the

Exhibit 3-1

Examples of In-kind Contributions
(* indicates administrative activities)

Volunteer Services

- A bookkeeper's maintenance of the group's financial records and preparation of required financial reports.
- An auditor's review of the group's financial records.
- A lawyer's aid in drafting a subagreement for the technical advisor.
- A project manager's oversight of the technical advisor's subagreement.
- A newsletter editor's efforts to prepare and distribute information to the community.
- A university professor's review of site-related documents.

Non-Expendable Property

- Word processor.
- Typewriter.
- Copier.
- Office space.

Expendable Property

- Office supplies.

Other Costs

- Telephone calls.
- Publication of a public notice seeking qualified advisors.
- Incorporation filing fees.
- Postage and printing of newsletters.
- Copies of project documents.
- Fees for public meeting facilities.

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grant is to encourage informed public involvement in cleanup activities at NPL sites and further public participation in the Superfund process.) Administrative costs include:



- ◆ Telephone charges;
- ◆ Copying expenses;
- ◆ Preparation of Financial Status and Progress Reports;
- ◆ Audits;
- ◆ Preparation of incorporation documents;
- ◆ Procurement-related activities, such as publishing a request for proposals or overseeing the technical advisor; and
- ◆ Legal reviews of the technical advisor's subagreement.

Costs such as preparing and distributing a newsletter on site activities to the community, conducting public meetings to distribute the technical advisor's findings, and reviewing the technical advisor's reports as well as other site-related documents are costs that directly contribute to the purpose of the grant and are *not* administrative costs. Therefore, these types of costs are not subject to the 15 percent limitation and may make up the remaining 20 percent of your match.

Documentation

You must *carefully document* -- with receipts, timesheets, and memoranda -- the basis for the value you assign to in-kind contributions of personal services, equipment, and office space. This documentation must be kept in your group's project file and provided to us upon request or during an audit.

Waivers of the Matching Funds Requirement

35.4085

EPA may waive the matching funds requirement in certain instances. Because in-kind contributions can be counted toward the 35 percent "match," waivers will be granted only in exceptional cases. A waiver must be requested in writing and should be requested only if it becomes apparent that your group cannot meet the matching funds requirement. All or part of your 35 percent "match" may be waived only after we determine that: (1) your group needs a waiver because providing the full "match" would constitute an unusual financial hardship as demonstrated by such measures as below average per capita income, below average median household income, or a high unemployment rate in your area; (2) your group's good faith effort at raising the "match" or obtaining in-kind services has failed; and (3) the waiver is necessary to facilitate public participation in the selection of a remedial action at the facility.

If your group is awarded a grant and subsequently receives a waiver that reduces or eliminates your contribution, the total resources available for technical assistance will be less than the amount specified in the grant agreement. Because this constitutes a substantial change in the technical assistance grant project, the grant agreement must be amended as required by 40 CFR Part 30, Subpart G. If a waiver and the grant are awarded at the same time, the grant agreement would specify the actual amount of resources to be provided by us and by you; therefore, no amendment would be needed.

CERCLA section 117(e)(2) specifically provides that the President may waive the matching funds requirement if the grant recipient demonstrates financial need and such waiver is necessary to facilitate public participation in the selection of a remedial action at the facility. Congress has determined that no waivers can be granted after EPA has selected the remedial action at the facility (e.g., the issuance of the record of decision (ROD)). Therefore, no waiver will be approved if you request it once the ROD has been issued at the last operable unit at the site. (An "operable unit" is a term that refers to an action taken as one part of an overall site cleanup. A number of operable units may occur in the course of a site cleanup.) As a result, you will have to contribute 35 percent of the project costs for technical assistance services during the remedial design, construction, and operation and maintenance phases if you fail to request a waiver before the ROD has been issued at the last operable unit for the site.

The \$50,000 Grant Limit

35.4085

Grants for technical assistance are limited to a maximum of \$50,000 in Federal funds (\$50,000 of Federal funds represents 65 percent of the total project funds -- or \$76,923 -- which would require a 35 percent "match" of \$26,923 from the grant recipient in cash or in-kind contributions) for technical assistance support over the life of the Superfund response at the site. We believe that, with careful planning and reasonable management, at every NPL site \$76,923 will be sufficient to provide meaningful technical assistance.

Waivers of the \$50,000 Grant Limit

In view of the finite resources available for the Superfund program, we have determined that waivers of the \$50,000 limit at the time the awards are made are appropriate only where a single grant is addressing multiple NPL sites. Thus, where there are several NPL sites in close proximity to each other and an affected group desires to reduce its administrative burden by submitting one application and

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awarding one set of contracts to a technical advisor for all of these sites, we will consider awarding a single technical assistance grant for a sum not exceeding the maximum allowable amount for each of the individual sites involved (e.g., 3 sites x \$50,000= grant of \$150,000).*

In this case, we may waive the limitation that no grant recipient may receive more than \$50,000. The recipient, however, must provide the 35 percent "match" and is still limited to spending no more than \$50,000 of Federal grant funds at any one of the sites covered in the multi-site grant. In addition, a group applying for a multi-site grant must include in their application site-specific information for each site involved, which means Part IV of the application must include separate budgets and separate narratives pertaining to each site in their multi-site application.

There may be cases where we receive a competing application that pertains to only one of the multiple sites as well as a multi-site application. In such cases, we will review separately the portion of the multi-site application that pertains to the site for which the competing application is requesting a technical assistance grant. This is the same procedure we would use if there were two competing applications at the same site.

The Agency has determined that no other waivers to the \$50,000 grant limit will be granted during the period of the IFR. We believe we will need to develop some experience with the Technical Assistance Grant Program in order to determine whether there are circumstances in which it is appropriate to grant waivers. Grant recipients are required to plan and manage grant funds to last throughout the cleanup process so waivers will not be needed.



Close proximity can mean:

- The sites are geographically near one another;
- The sites impact the same aquifer or watershed; or
- The local citizens' groups that coalesce to obtain a grant have a history of involvement with all the sites.

CHAPTER 4

GRANT APPLICATION AND AWARD PROCESS

This chapter discusses the application process for a technical assistance grant, under EPA administration of the program, up to the point when a grant is awarded to a group. Chapters 5 and 6 of this manual describe how to hire and manage a technical advisor under a Federally-funded contract, or "subagreement." The discussion of the grant application and award process is organized under the following sections:

- ◆ The Grant Application Process;
- ◆ The Grant Award Process; and
- ◆ The Continuation Application.

The Grant Application Process

Award Timing and Prioritization

35.4085

Only one technical assistance grant will be awarded per Superfund site and an award of a grant will be made no earlier than the start of the response action. Grant awards will depend on the availability of funds within the Superfund program. When funds are limited, we will set priorities among sites where grants will be awarded. Factors we may use to rank the sites include, but are not limited to:

- ◆ The risk to citizens' health or welfare presented by the site;
- ◆ The site's stage in the Superfund cleanup process;
- ◆ The history of public involvement at the site; and
- ◆ The environmental threat presented by the site.



For example, we may give priority consideration to funding a grant at a site where a community already has been required to use bottled water or where residents have been relocated temporarily, the RI/FS is beginning, there is a history of community concern, and the site work is technically complex and is divided into numerous operable units.

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There are other criteria that could be considered in setting priorities among sites for a technical assistance grant award when funds are limited, such as the grant applicant's financial need. Elements that could be considered in calculating financial need include below average per capita income, a high unemployment rate in the area, and below average median household income.

Filing a Letter of Intent

EPA may receive multiple applications for grant awards at a single site, yet -- as stated above -- by law may award only one grant per Superfund site. To minimize the occasions for which we must choose among competing applications, groups are encouraged to consolidate and submit a single application. We have designed the application evaluation process to favor consolidated groups in order to provide technical assistance to the greatest possible number of affected individuals in a community.

35.4040 If you wish to apply for a technical assistance grant, you must first submit to us a letter of intent. A sample letter of intent appears in Exhibit 4-1. The purpose of the letter of intent is to advise us of your group's interest in applying for a technical assistance grant and to trigger a formal process for notifying other interested parties that an application soon will be filed. Normally, we will respond in writing to a letter of intent within 30 days. If a group has submitted a formal grant application but has not submitted a letter of intent, we will consider the application as a letter of intent.



After the first letter of intent is received, we will undertake certain activities depending on the schedule for the response action at the site. If the remedial investigation (RI) or a removal action is not underway or scheduled to begin for several years, we will advise your group in writing that, while your letter will be retained and you will be notified at the appropriate time, grant applications will not be accepted at this time. We may informally notify other groups interested in applying for a technical assistance grant that a letter of intent has been received.

If a response action is already underway or scheduled to begin, we will conduct one or more of the following activities -- mailings, meetings, or public notices -- to provide formal notice to other interested parties that a grant for the site soon may be awarded. While no scheduled or actual site work will be delayed or interrupted, we will make every effort to initiate these activities far enough in advance of the start of the response action to allow time for groups to consolidate, apply for and receive a grant award, and procure a technical advisor before work commences at the site.

Exhibit 4-1
Sample Letter Of Intent*

Woodtown Landfill Coalition
Main Street
Woodtown, CT 06898

May 3, 1989

TAG Project Officer
Waste Division
U.S. Environmental Protection Agency
Region 1
John F. Kennedy Federal Building
Boston, MA 02203

Dear Sir/Madam:

This letter has been prepared by the Woodtown Landfill Coalition to announce this group's intention to apply for a technical assistance grant. The coalition, which is comprised of the Woodtown Citizens Task Force and the Smithtown Outing Club, plans to use any awarded grant funds for obtaining assistance in interpreting technical information generated during the Superfund cleanup process at the Woodtown Landfill site in Litchfield County, Connecticut. Please send an application and other relevant materials to the Woodtown Landfill Coalition in care of Pat Jones at the address listed above. The group hopes to file its application in July 1989.

Sincerely,
Pat Jones, Executive Director
Woodtown Landfill Coalition

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Once EPA receives a letter of intent and begins the formal notification process described above, other potential applicants will have 30 days to contact the original applicant to form a coalition and submit one application. If you are unable to form a coalition, you must notify us within this 30-day period. Separate applications from all interested groups then will be accepted for an additional 30-day period.

We may consider written requests for an extension of this time. These written requests should contain an explanation of why your group needs additional time and how much time you believe is necessary for proper completion of the application. We will examine such requests and inform you in writing as to whether an extension will be granted and the length of the extension. In the event of delays in the technical assistance grant application process, however, response activities at a site will remain on schedule.

Applying for a Technical Assistance Grant

To obtain a grant, you must submit to us a completed application, which includes information necessary to determine whether your group meets the eligibility requirements for the Technical Assistance Grant Program. The application also serves as the basis for a "contract" under which your group agrees to abide by all relevant EPA regulations.

In brief, the technical assistance grant application process requires you to complete the grant application form, including the part of the application which describes applicant qualifications, the projected tasks, schedule, and the budget for technical assistance activities (known as Part IV). You also must complete a certification form agreeing to comply with relevant EPA requirements. A complete application package, then, consists of the following elements:

- ◆ EPA Form 5700-33, "State and Local Nonconstruction Programs," the grant application form; and
- ◆ EPA Form 5700-48, "Procurement System Certification."

Copies of these and other forms to be completed by grant applicants and recipients are included in Appendix B. These forms must be completed to satisfy EPA grant regulations under 40 CFR Part 30 and EPA procurement regulations under 40 CFR Part 33. You must have a clear understanding of these regulations and how they pertain to the Technical Assistance Grant Program. The submission of a grant application is your assurance that your group is able and willing to meet the requirements of these regulations and will be legally bound by them.

35.4080
30.306

The initial technical assistance grant award covers up to a three-year budget period. The length of the project period encompasses the expected duration of the response action taken at a hazardous waste site, which typically may range from three to seven years. (You should check with EPA Regional staff for information about the planned schedule for site activities.) Information contained in your grant application must cover the entire project period. The budget must not exceed the total project costs for the project period and we will obligate funds for up to three years at a time. When a project period extends beyond the budget period, you must submit a continuation application to us prior to the expiration of the initial budget period, requesting funds to continue the project for another budget period.

At least one copy of the completed application must have the original signature (i.e., not a photocopy of the signature) of your group's project manager -- the person authorized to obligate your group to the terms of EPA's regulations. Finally, in addition to the information required to fill out an application, you should be aware of two other considerations regarding applications:

- ◆ Confidentiality of Data - Generally, the information supplied by groups is not considered confidential. When we receive a grant application, the information you supply becomes part of the Agency's records and as such is subject to public release under the Freedom of Information Act (5 U.S.C. 552).
- ◆ Deviations - EPA can, on a case-by-case basis, consider exceptions to non-statutory requirements. Either groups or an EPA program office may request deviations from the regulatory requirements. While we may approve a deviation on a grant application, that approval does not guarantee approval of the grant. You may seek a deviation from established grant regulations, not just during the application process, but at any time during the life of the grant. Groups seeking a deviation must follow the procedures specified in 40 CFR 30.1001-30.1005. If you need to request a deviation, you should consult the appropriate EPA Regional contact listed in Appendix C for more detailed information.

Completing Part IV of the Grant Application

35.4035

The first portion of the grant application that should be completed by your group is Part IV. Part IV is a narrative statement that describes your group and the project your group is proposing for funding. In Part IV, you must specify in as much detail as possible your group's qualifications and the projected tasks, schedule, and budget for technical assistance activities at the site for which the grant is being requested. This information will help us determine whether or not

Chapter 4

your group is eligible to receive a grant (see Chapter 3). In this part, you should describe your group's needs for technical assistance and explain how the proposed program will enhance your group's ability to interpret site information.



Part IV consists of two sections. The first section, "Qualifications of the Applicant," is used by us to obtain information about your group's eligibility, characteristics, and plans for using grant funds. Exhibit 4-2 provides instructions for how to prepare this section.

The second section of Part IV is the "Scope of Services." In the Scope of Services, your group describes how a grant award would be used with respect to Superfund technical milestones (e.g., review of the RI Report). Exhibit 4-2 also provides instructions for preparing the Scope of Services. In addition, a sample Part IV for a hypothetical site is provided in Appendix A of this manual.

To help determine projected tasks for your advisor and a tentative schedule in preparing the Scope of Services, you are encouraged to review Chapter 2 of this manual for a discussion of the Superfund process and the role of technical advisors. For each task indicated in the Scope of Services, you will need to estimate the amount of review time to be allotted to your technical advisor. Exhibit 4-3 provides an example, based on Agency experience, of the amount of time a technical advisor might spend on various review activities during a remedial response. You may wish to use this chart as a guide in apportioning your technical advisor's time among activities. Specific activities, however, may require more or less time depending on site-specific circumstances.

35.4080

As discussed in the previous chapter, technical assistance grant recipients are required to contribute 35 percent of the total project costs or request a waiver based on financial need. In the Scope of Services, you must indicate the amount that your group will contribute in each budget period and the total contribution over the entire project period.

Prospective applicants should contact EPA Regional staff for information about the planned schedule for site activities, and for information that will help you organize the advisor's activities in the Scope of Services. You should be aware, however, that site activity schedules are subject to change.

Exhibit 4-2

**Instructions for Completing Part IV of the
Technical Assistance Grant Application**

Category	Instructions
PART IV, Section I: Qualifications of the Applicant	
A. Group Eligibility	<p>Prepare a brief statement, not to exceed one page, that describes the composition of the group and responds to the following questions:</p> <ul style="list-style-type: none">● Is the group part of any of the following organizations?<ul style="list-style-type: none">-- Potentially responsible parties;-- Corporations that are not incorporated for the specific purpose of representing affected individuals;-- Academic institutions;-- Political subdivisions (e.g., townships and municipalities); or-- Groups established and/or sustained by a State or local government.● How many members are in the group and what is its composition (e.g., is the group a coalition of several groups, how did they form)?
B. Responsibility Requirements	<p>Prepare brief statements that respond to each of the responsibility requirements outlined below.</p> <ul style="list-style-type: none">(i) Administrative and Management Capabilities: Describe the group's organizational structure including which officers or members will be responsible for financial oversight of the grant and directing the technical advisor.(ii) Resources for Project Completion: Describe the resources that are available to the group to complete the technical assistance grant project, including any plans the group has for fundraising, and obtaining cash and in-kind contributions.

Exhibit 4-2 (cont'd)

Instructions for Completing Part IV of the
Technical Assistance Grant Application

Category	Instructions
	<p>(iii) Performance Record: Describes the group's record for satisfactorily completing projects and subagreements. [The description, budget, and schedule provided in Part IV, Section II (Scope Of Services) of the application will be evaluated for groups having no previous experience completing projects and subagreements.]</p> <p>(iv) Accounting and Auditing Procedures: Describe the procedures the group will use for recordkeeping and financial accountability related to the grant, and specify which member will maintain the group's financial records.</p> <p>(v) Procurement Standards: [By submitting EPA Form 5700-48, "Procurement System Certification," the group is agreeing to comply with 40 CFR Part 33 and, by doing so, complies with this requirement.]</p> <p>(vi) Property Management: If the group plans to acquire property with grant funds, describe the group's property management system.</p> <p>(vii) Compliance with Civil Rights Requirements: State whether the group is willing to comply with the applicable civil rights, equal employment opportunity, labor law, and other statutory requirements outlined in 40 CFR Part 30, Subpart F.</p> <p>(viii) Incorporation: State whether the group is incorporated. If not, outline what activities are underway to ensure that the group will incorporate.</p>
C. Group Issues and Objectives	Prepare statements that pertain to the group's attributes and goals by responding to the questions/instructions presented under each subcategory. The statements for each of the following subcategories should be no more than one page in length. Each statement will be scored from 0 to 4 according to the scoring plan described in Chapter 3 of this manual.

Exhibit 4-2 (cont'd)

Instructions for Completing Part IV of the
Technical Assistance Grant Application

Category	Instructions
(i) <u>Health Considerations (30 points):</u>	Describe the actual or potential health threats posed to individual group members by the site. -- How many group members are/have been affected? -- What efforts have group members undertaken to resolve or make known these health concerns?
(ii) <u>Consolidation/Representation (20 points):</u>	Describe the number and diversity of affected community organizations and individuals represented by the applicant group. -- In what ways does the group represent affected citizens in the community in which the site is located? -- Groups may provide a chronology that describes the group's historical involvement in past ties at the site.*
(iii) <u>Tasks for Technical Advisors (20 points):</u>	Describe how the group intends to use grant funds with the assistance of a technical advisor to interpret Superfund technical materials.
(iv) <u>Information Sharing (20 points):</u>	How does the group intend to disseminate information collected as a result of the grant award to the larger, site community?
(v) <u>Economic/Environmental Considerations (10 points):</u>	Describe the actual or potential economic harm or loss of environmental amenities posed to individual group members by the site. -- How many group members are/have been affected? -- What efforts have group members undertaken to resolve or make known these concerns?

* Applicants should cite any available documents (such as letters, meeting agendas, news reports, etc.), but will not be required to submit documentation for review by EPA. Applicants may be required, however, to supply any cited documentation later if the Agency conducts a pre-award review or an audit.

Exhibit 4-2 (cont'd)

**Instructions for Completing Part IV of the
Technical Assistance Grant Application**

Category	Instructions
PART IV, Section II: Scope of Services for Technical Assistance	
A. Statement of Work	<p>Describe the technical advisor's tasks for each phase of the Superfund process, as appropriate, including:</p> <ul style="list-style-type: none">-- pre-remedial investigation;-- remedial investigation (RI);-- feasibility study (FS);-- remedial design (RD); and-- remedial action (RA). <p>For each of these milestones, respond to the following:</p> <ul style="list-style-type: none">-- What will the technical advisor do?-- How long will each task take to complete?-- What specific documents, reports, or other tangible work products (e.g., status reports, technical summaries) will the technical advisor be asked to produce?
B. Budget Estimate	<p>Prepare a budget for the technical assistance project.</p> <ul style="list-style-type: none">-- Indicate the tasks to be completed by the technical advisor and the cost (including the number of hours) for each task, as well as travel costs.-- Include explanations of the cost items and assumptions made in the form of footnotes to the budget (e.g., hourly rate of advisor, any adjustments for inflation).

Exhibit 4-2 (cont'd)

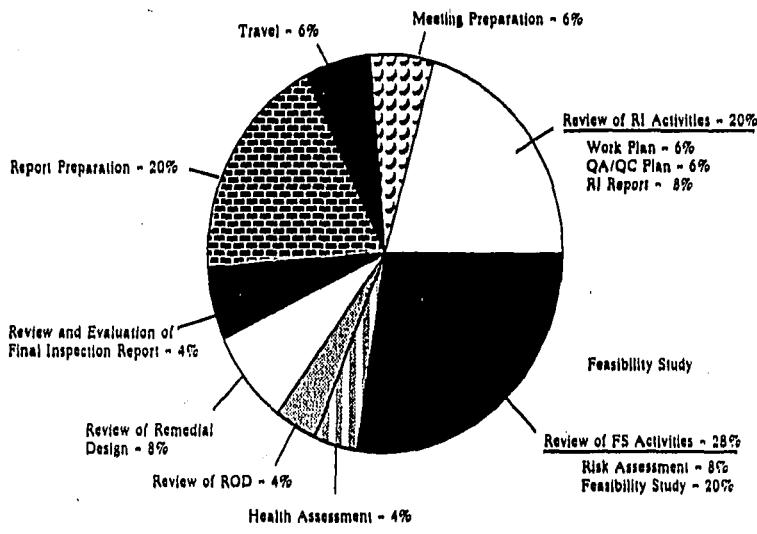
**Instructions for Completing Part IV of the
Technical Assistance Grant Application**

Category	Instructions
C. Matching Contribution Statement	<p>Prepare a statement that details the amount of the Federal grant and the group's matching contribution separately, organized by budget period. Note that grant funds (65%) plus group contribution (35%) must equal the total project costs; grant funds cannot exceed 65 percent of project costs for any budget period.</p> <ul style="list-style-type: none">-- Differentiate cash from in-kind (donated) contributions.-- Include explanations of the assumptions made in calculating the value of in-kind contributions.

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Exhibit 4-3

Example of Technical Assistance Hours Distributed by Activities*



Review Item	Hours	Percent of Total Hours
RI Activities		
Work Plan	40	6%
Quality Assurance/		
Quality Control (QA/QC) Plan	40	6%
RI Report	60	8%
FS Activities		
Risk Assessment	60	8%
Feasibility Study	140	20%
Health Assessment	26	4%
Review of ROD	26	4%
Remedial Design	60	8%
Review and Evaluation of		
Final Inspection Report	26	4%
Report Preparation	140	20%
Travel	40	6%
Meeting Preparation	40	6%
Total	698	100%

* This chart adapts EPA review experience to activities allowed by the Technical Assistance Grant Program. We encourage you to review Chapter 2 of this manual for an overview of the Superfund process.

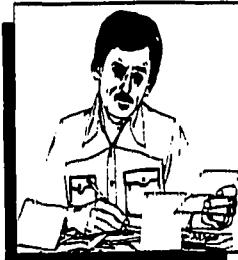
**Completing the Remainder of
the Grant Application Form**

Once Part IV of the grant application has been completed, you should have all the information necessary to complete the remainder of the application form. The twelve-page application form, "State and Local Nonconstruction Programs," EPA Form 5700-33, consists of five parts:

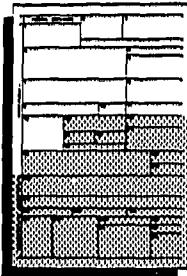
- I. General Information, Signature, and Certification;
- II. Project Approval Information;
- III. Budget Information;
- IV. Project Narrative Statement (Applicant Qualifications and the Scope of Services); and
- V. Assurances.

You must read all instructions contained in Form 5700-33 (see Appendix B for a copy of the blank form), but should note that some items on the application are not relevant to this grant program.

To aid you in completing the grant application, detailed step-by-step instructions -- specific to the Technical Assistance Grant Program -- have been included. These instructions are designed to guide you through all twelve pages of Form 5700-33. Representative pages of the application in miniature form illustrate the section of the form that the instructions refer to. Enlarged "completed" portions of the application also are included with numbered pointers that refer to the numbered instructions in the text. The information that appears in these "completed" portions represents data from a fictitious applicant group and is provided solely as an example of a properly completed form. You should note that the following instructions are provided only as guidance and do not replace the actual instructions on Form 5700-33.



Chapter 4



Instructions For Completing The Grant Application

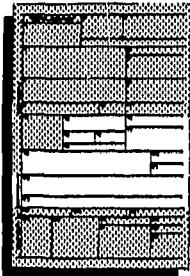
Part 1, Page 1, Section 1 - Applicant Procedures

Item	Response
1. Type of Submission	Check the box labelled "Application".
2. Applicant's Application Identifier	
a. Number	Leave blank.
b. Date	Write the current date.
3. State Application Identifier a, b.	Leave blank.
4. Legal Applicant/Recipient	List the name of the applicant's/recipient's Project Manager (i.e., the name of the officer of your incorporated group authorized to obligate the group to the conditions of the grant agreement/application), the name and address of your group, and the name and telephone number of a contact person who would be able to supply additional information if necessary.
5. Employer Identification Number	If your group has employees, you must provide your employer identification number. If your group has employees but does not have an employer identification number, you must file form SS-4 with the IRS to obtain one, otherwise, write "None."
6. Program	
a. Number	Enter the Catalog of Federal Domestic Assistance Number (#66.807) for the Technical Assistance Grant Program.
b. Title	Write in "Superfund Technical Assistance Grant."
7. Title of Applicant's Project	Write "Technical Assistance at _____ site." (insert the name of the Superfund site for which the grant will be used).

OMB Approval No. 2506-0002											
FEDERAL ASSISTANCE				1. APPLICANT INFORMATION				2. STATE AND LOCAL GOVERNMENT IDENTIFICATION			
<input type="checkbox"/> 1. TYPE OF SUBMISSION <input type="checkbox"/> 2. NOTICE OF INTENT (OPTIONAL) <input type="checkbox"/> 3. PREAPPLICATION <input checked="" type="checkbox"/> 4. APPLICATION		<input type="checkbox"/> 5. APPLICANT'S APPLICATION PERIOD <input type="checkbox"/> 6. DATE 10 08 97 7 10		<input type="checkbox"/> 7. STATE AND LOCAL GOVERNMENT IDENTIFICATION <input type="checkbox"/> 8. DATE ASSIGNED 10							
1. LEGAL APPLICANT/RECIPIENT a. Applicant Name: Pat Jones b. Organization Name: Hootown Landfill Coalition c. Street/Box/Unit: Main Street d. City: Hootown e. State: CT f. Contact Person/Name: Pat Jones f. Telephone No.: (203) 888-8888				2. EMPLOYER IDENTIFICATION NUMBER/ITEM None							
3. TITLE OF APPLICANT'S PROJECT (Use section 10 of this form to provide a summary description of the project)				4. PROJECT GRANT NUMBER 616181017				5. TITLE Superfund Tech. Asst.			
6. AREA OF PROJECT IMPACT (Name of state, county, town, etc.) Smithtown, Hootown, Litchfield, CT				7. ESTIMATED NUMBER OF PERSONS BENEFITTING 7,000				8. TYPE OF ASSISTANCE Non-profit Citizen Organization			
9. PROPOSED FUNDING				10. ESTIMATED NUMBER OF PERSONS BENEFITTING				11. TYPE OF ASSISTANCE			
a. PERIOD: 8/20/97 b. AMOUNT: \$11,010 c. STATE: d. LOCAL: e. OTHER: f. Total: \$11,447				a. PERIOD: b. AMOUNT: c. STATE: d. LOCAL: e. OTHER: f. Total:				a. PERIOD: b. AMOUNT: c. STATE: d. LOCAL: e. OTHER: f. Total:			
1 2 3 4 5 6 7 8 9 10 11 12											

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Chapter 4



Instructions For Completing The Grant Application

Part 1, Page 1, Section 1

Item	Response
13. Congressional Districts of:	
a. Applicant	Write the district number and State abbreviation of the member of Congress who represents the area where the offices of the incorporated group are located. (This information is available from your local library or League of Women Voters.)
b. Project	Write the district number and State abbreviation of the member of Congress who represents the area that encompasses the site. (This information is available from your local library or League of Women Voters.)
14. Type of Application	Write the appropriate letter in the box (such as "A" for new or "B" for a continuation application).
15. Project Start Date	Estimate the date of funding approval (usually this will occur 4 to 9 weeks after filing a completed application with EPA) or when you wish to begin receiving funds, whichever date is later.
16. Project Duration	Estimate (in months) the length of the project period -- the project duration based on the current site phase and EPA's estimate of the length of site response action.
17. Type of Change	Not applicable for the initial submission of an application; enter "E" for a continuation application.
18. Date Due to Federal Agency	Leave blank.
19. Federal Agency to Receive Request	List the address of the appropriate EPA Regional Office (see Appendix C of this manual for addresses).
20. Existing Federal Grant Identification Number	Write "NA" for initial application; for all continuation applications, enter the EPA Assistance Identification Number assigned to the grant.

**Instructions For Completing
The Grant Application**

Part 1, Page 1, Section 1 & Section 11

Item

Response

21. Remarks Added

If using Section IV (Remarks) to amplify any other information contained in the grant application, check yes. It is important not to confuse this section of the application with Part IV of the application which will be used to gather additional information on the applicant group.

22. The Applicant Certifies that:

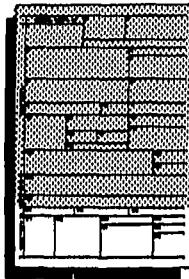
This program may be subject to intergovernmental review. If it is, write the date and that the application has been made available to the appropriate State contact (see Appendix C for a list of State intergovernmental review contacts). If not, check the second box under b.

23. Certifying Representative

The applicant's/recipient's Project Manager (the officer authorized to obligate your group to the conditions of the grant agreement/application) must sign this item. [Note: If violation of EPA regulations pertaining to grants or procurement occurs, the applicant group may be liable.]

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Chapter 4



**Instructions For Completing
The Grant Application**

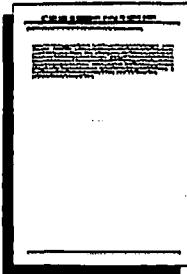
*Part 1, Page 1, Section III - Federal Agency Actions
(This section is processed by EPA.)*

Item	Response
24-33.	Leave blank. This section is filled out by EPA to notify the applicant of the action to be taken on the grant application.

24-33		24-34		24-35	
a. ACTION TAKEN		b. FUNDING		c. FEDERAL APPLICATION IDENTIFICATION NUMBER	
d. REASON		e. ACTION DATE		f. CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number)	
g. FEDERAL		h. 10		i. STARTING	
i. APPLICANT		j. 10		k. ENDING	
l. STATE		m. 10		n. DATE	
o. LOCAL		p. 10		q. REBATES ACCORD	
q. OTHER		r. 10		s. Yes <input type="checkbox"/> No <input type="checkbox"/>	
s. TOTAL		t. 10			

EPA Form 5700-33 (Rev. 11-68) Previous editions are obsolete.

STANDARD FORM 441, PAGE 1 (Rev. 6-64)
Prescribed by GSA Circular A-12



Instructions For Completing The Grant Application

Part I, Page 2, Section IV

Section IV, "Remarks," is used to provide a one or two sentence summary description of the project. Additionally, this section is used by the grant applicant to amplify information in Sections I and II. The grant applicant should reference the proper item number; for example, Section I, #7. It is important not to confuse this section of the application with Part IV of the application, which will be used to gather additional information about the applicant group.

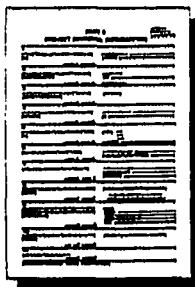
DETACH AND, AS NECESSARY, STAPLE TO ABOVE SHEET.

SECTION IV-REMARKS (Please reference the proper item number from Sections I, II or III, if applicable)

Part I, Section I, v7

The Hoodtown Landfill Coalition is seeking funds to obtain a technical advisor to provide assistance in the review and analysis of remedial activities at the Hoodtown Landfill Superfund site. The technical advisor will assist Coalition members in interpreting documents generated throughout the Superfund process at the Hoodtown Landfill site.

Chapter 4



Instructions For Completing The Grant Application

Part II, Page 5 - Project Approval Information

Item	Response
Items 1, 2, 4, 5	Check no to each item.
3. Does this assistance request require clearinghouse review in accordance with E.O. 12372?	Check yes. You will have to submit your grant application to the appropriate State contact person (see Appendix C) for intergovernmental review.
6. Will the assistance request serve a Federal installation?	Check yes if the NPL site is a federally-owned facility. This information can be provided by the appropriate EPA Regional contact listed in Appendix C.
7. Will the assistance requested be on Federal land or installation?	Site-specific; provide information on the site if it is a Federal facility.
8. Will the assistance requested have an impact or effect on the environment?	Check "Yes", and write "this assistance is intended to facilitate site response actions."
9. Has the project for which assistance is requested caused, since January 1, 1971, or will it cause, the displacement of any individual, family, business, or farm?	Check no. The technical assistance grant project will not displace an individual, family, business, or farm.
10. Is there other related assistance on this project previous, pending, or anticipated?	Fill in if you are receiving technical assistance funds from another Federal agency. (Generally, no citizens' group applicant will have received funds from another Federal agency for the purpose of technical assistance at the Superfund site in question.)
11. Is project in a Designated Flood Hazard Area?	Site-specific; consult the appropriate EPA Regional contact listed in Appendix C.

Form Approved
OMB No. 2020-CC20
Approved Expires 7-21-19

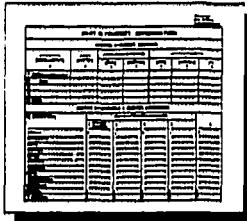
PART II
PROJECT APPROVAL INFORMATION

1	Item 1. Does this assistance request State, local, regional, or other agency review?	_____ Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Name of Government Body _____ FEDERAL ARMY _____
2	Item 2. Does this assistance request State or local military, environmental, or health clearances?	_____ Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Name of Agency or State _____ (ARMED COMPROMISE)
3	Item 3. Does the assistance request require a congressional review in accordance with Executive Order 13172?	_____ Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(ARMED COMPROMISE)
4	Item 4. Does the assistance request require State, local, regional or other planning committee?	_____ Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Name of Assisting Agency _____ DOD _____
5	Item 5. Is the proposed project covered by an approved comprehensive plan?	_____ Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Check one: State <input type="checkbox"/> Local <input type="checkbox"/> Regional <input type="checkbox"/> Location of Plan _____
6	Item 6. Will the assistance resources serve a Federal mission?	_____ Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Name of Federal Mission _____ Federal Population benefiting from Project _____
7	Item 7. Will the assistance resources be on Federal land or vegetation?	_____ Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Name of Federal Mission _____ Location of Federal Land _____ Percent of Project _____
8	Item 8. Will the assistance resources have an impact or effect on the environment?	_____ Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	See instructions for additional information to be provided. This assistance is intended to facilitate site response actions.
9	Item 9. Has the project for which assistance is requested started, since January 1, 1977, or will it start, the department of any individual, family, business, or firm?	_____ Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Number of: Individual _____ Family _____ Business _____ Organization _____ Firm _____
10	Item 10. Is there other related assistance on the project planned, pending, or approved?	_____ Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	See instructions for additional information to be provided.
11	Item 11. Is project in a Designated Flood Hazard Area?	_____ Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	

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Chapter 4



Instructions For Completing The Grant Application

*Part III - Budget Information
Part III, Page 7, Section A - Budget Summary*

All budget details presented in this part must be consistent with the information provided in Part IV, Section II, Scope of Services.

Item	Response
1. Grant Program, Function, or Activity	Enter "Technical Assistance Grant."
a. Function or Activity	Enter the Federal catalog number established for this assistance program (#66.807).
b. Federal Catalog No.	
c.-d. Estimated Unobligated Funds	Leave blank in the initial application. For a continuation application, enter the total amount of funds of the initial Federal share of the grant that remains to be spent in column (c), and the total remaining amount of non-Federal funds and the value of all in-kind contributions in column (d).
e. Federal Budget	Enter the amount of the request for Federal funding for the first budget period of the project. This number must correspond with the figure entered in Part I, item 12, line a.
f. Non-Federal Budget	Enter the amount of non-Federal funds and the value of all in-kind contributions that will be contributed by the applicant group during the first budget period of project funding. This figure must correspond to the total of the amounts entered in Part I, item 12, lines (b), (c), (d), and (e). All applicants are required to meet the 35 percent contribution level or obtain a waiver of this condition.
g. Total Budget	Add the sum of entries (e) and (f) and write in the total.
5. Totals	Enter the amounts corresponding to line (1) above.

Instructions For Completing The Grant Application

Part III, Page 7, Section B, Schedule A - Budget Categories

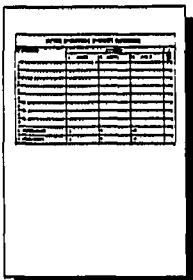
Item	Response
(Section B, Schedule A)	
6. Grant Program Function or Activity	In column (1) enter "Technical Assistance Grant."
a.-h.	If a group contracts for a package of services with technical advisors, all costs covered under the contract are reported in line (f), including wages, travel, etc. Other costs, including those covered by in-kind contributions, go into the appropriate categories.
i.	Add the amounts in lines (a) through (h) and enter the sum on line (i); this amount must equal the figure in section A, line (1), column (g).
j.	Not applicable (leave blank).
k.	Enter the amount from line (i) above.
7. Program Income	This line must be zero. Technical assistance grant applicants may not earn income from their assistance program funds.

Form Approved
OMB No. 1100-0002
Previous Editions are Obsolete

PART II-BUDGET INFORMATION					
		BUDGET BY ACTIVITY		BUDGET BY EXPENSES	
GRANT PROGRAM FUNCTION OR ACTIVITY	FEDERAL, STATE AND LOCAL	NONFEDERAL	FEDERAL	NONFEDERAL	TOTAL
1. Tech. Assistance	cu-807	0	0	20,437	11,010
a. Wages					
b. Materials					
c. Equipment					
d. Travel					
e. Rent					
f. Miscellaneous					
g. Other					
h. Total					
2. Project Income					
BUDGET BY EXPENSES					
GRANT PROGRAM FUNCTION OR ACTIVITY	GRANT PROGRAM, FUNCTION OR ACTIVITY			TOTAL	
GRANT PROGRAM, FUNCTION OR ACTIVITY	FEDERAL	NONFEDERAL	STATE		
3. Personnel	0	0	0	0	0
4. Project Income					
5. Total					
6. Total					
7. Project Income					
8. Total					

GRANT FORM 2700-02 (Rev. 11-69) Previous editions are obsolete

Chapter 4



Instructions For Completing The Grant Application

Part III, Page 8, Section B, Schedule B - Budget Categories

Item	Response
(Section B, Schedule B)	
6. Program Elements	Write "Technical Assistance at (insert the name of the Superfund site)" on line (a) under Program Elements. On line (a) columns (1)-(3), enter the figures entered in Section A columns (a), (e), (f), and (g), respectively. In column (4), estimate the number of person-years to be worked on this project during this budget period -- i.e., divide the number of hours the technical advisor is expected to work during the budget period by 2080 (the number of hours per year, paid or contributed).
i. Total Program Elements	Enter the figures from line (a) in their corresponding columns.
j. State Total	Leave blank, unless the State is contributing to the project.

6

SECTION B - SCHEDULE B - BUDGET CATEGORIES				
a. Program Elements	FUNDING			140 MAN- YEARS
	III FEDERAL	III NON-FEDERAL	III TOTAL	
a. Tech. Assistance at Hoodcreek Landfill site	\$ 20,437	\$ 11,010	\$ 31,447	1/6
b.				
c.				
d.				
e.				
f.				
g.				
Total Program Elements	\$ 20,437	\$ 11,010	\$ 31,447	1/6
STATE TOTAL	\$	\$	\$	

Instructions For Completing The Grant Application

*Part III, Page 9, Section C - Non-Federal Resources
and Section D - Forecasted Cash Needs*

Item

Response

8. Grant Program

Write "Technical Assistance Grant" and insert name of the site in column (a). The contributions made by the applicant are entered in column (b), State contributions in column (c), and contributions from other sources in column (d). In column (e), enter the sum of columns (b), (c), and (d). This figure must equal the figure in section B, line (a), column (2).

12. Totals

Enter the amounts corresponding to line 8 above

13. & 14. Federal/Non-Federal

Enter the estimated amounts for the stated periods based on the proposed schedule of tasks included in the Scope of Services (Part IV) below.

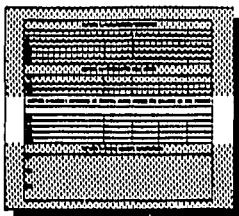
15. Totals

Total the amounts of lines 13 & 14 for each column.

13	14	15	16	17	18
Form Approved OMB No. 2010-0131 Approval Expires 7/31/11					
SECTION C-NON-FEDERAL RESOURCES					
NON-FEDERAL PROGRAM		DIAPPLICANT	DI STATE	DI OTHER SOURCES	DI TOTALS
8	Technical Assistance at the	8 11,010	0	8	8 11,010
8	Unbundled Land(11) \$150				
10					
11					
12	TOTALS	8 11,010	0	8	8 11,010
SECTION D-PERIODIC CASH PAYES					
TOTAL FOR 12 MONTHS		1ST QUARTER	2ND QUARTER	3RD QUARTER	4TH QUARTER
13	Federal	8 1,412	8 1,658	8 1,900	8 1,856
14	Non-Federal	8 1,310	8 1,059	8 664	8 673
15	TOTALS	8 6,722	8 2,715	8 3,764	8 2,529
16					

AR500113

Chapter 4

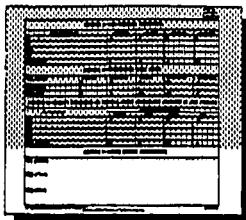


Instructions For Completing The Grant Application

Part III, Page 9, Section E -
Budget Estimates of Federal Funds Needed for
Balance of the Project

Item	Response
16. Grant Program Funding Periods	In line 16, write in column (a) "Technical Assistance Grant" and insert the name of the site. In columns (b), (c), (d), and (e), enter the amount of Federal funds needed for technical assistance for each subsequent budget period. The information on line (16) must correspond directly to the estimated work schedule detailed in the Scope of Services (Part IV). Remember to subtract the value of the non-Federal matching funds requirements (e.g., group contributions) from the total funding needs for these periods to calculate EPA's share of project costs.
20. Totals	Enter the amounts corresponding to line 16 above.

SECTION E-SUMMARY ESTIMATE OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
IN GRANT PROGRAM	FUTURE FUNDING PERIODS (YEARS) (0 3 years each)			
	IN FIRST	IN SECOND	IN THIRD	IN FOURTH
16. Technical Assistance at site	\$ 14,711	\$ 0	\$ 0	\$ 0
17. Woodlawn Landfill Site				
18.				
19.				
20. TOTALS	\$ 14,711	\$ 0	\$ 0	\$ 0
IN GRANT PROGRAM				
IN FUTURE FUNDING PERIODS (YEARS) (0 3 years each)				
IN FIRST IN SECOND IN THIRD IN FOURTH				
16. Technical Assistance at site				
17. Woodlawn Landfill Site				
18.				
19.				
20. TOTALS				



Instructions For Completing The Grant Application

Part III, Page 9, Section F - Other Budget Information

Item	Response
21. Direct Charges	Use if necessary (see p. 11 of the grant application instructions in Appendix B).
22. Indirect Charges	Not applicable (leave blank).

21. Direct Charge: **21**

22. Indirect Charge: **22**

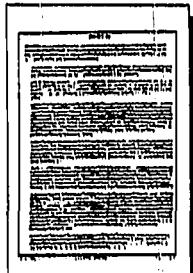
23. Allowances: **23**

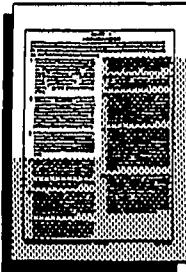
EPA Form 6700-33 (Rev. 11-88) Previous editions are obsolete.
PART IV - PROGRAM NARRATIVE (Leave Blank If Not Applicable)

PAGE 2 OF 10

Part IV, Page 9

For the purposes of the Technical Assistance Grant Program, applicants shall prepare a Scope of Services as Part IV, Section II of the grant application. The Scope of Services, labeled as Part IV, Section II, should be attached to the grant application.





**Instructions For Completing
The Grant Application**

Part V, Page 12

This part, "Assurances," contains the regulations, policies, guidelines, and requirements to which an applicant must adhere. Although summarized here, applicants must read the assurances itemized on page 12 of the application carefully, because by signing the grant application the applicant agrees and certifies, with respect to the grant, that:

1. He/she possesses legal authority to apply for the grant; that the group's governing body has authorized the filing of the application; and the signator has been identified as the governing body's official representative to act in connection with the application as may be required.
2. The group will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) whereby no person in the United States shall be subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance.
3. The group will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) prohibiting employment discrimination with respect to grant-aided activity.
4. The group will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-648), which provides for fair and equitable treatment of persons displaced as a result of Federal and Federally-assisted programs.



Instructions For Completing The Grant Application

Part V, Page 12

5. The group will comply with the provisions of the Hatch Act that limit the political activity of State and local government employees.²
6. The group will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, as they apply to employees of institutions of higher education, hospitals, and other not-for-profit organizations; and to employees of State and local governments who are not employed in integral operations in areas of traditional governmental functions.
7. The group will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others.
8. The group will give EPA and the U.S. Comptroller General through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the grant.
9. The group will comply with all requirements imposed by EPA concerning special requirements of law, program requirements, and other administrative requirements.

² The Hatch Act applies to State and local government recipients and requires State and local government employees to comply with restrictions on political activities imposed by the Act if their employment activities are funded wholly or in part by Federal assistance. Because recipients of technical assistance grants are unlikely to use grant monies to fund a government official in his or her official capacity, the provisions of the Hatch Act are not likely to apply to grant recipients or their hired advisors. The EPA contacts, listed in Appendix C for each Region, can assist applicants further with regard to interpretation of the Hatch Act's relevance for this grant program.

**Instructions For Completing
The Grant Application**

Part V, Page 12

10. The group will ensure that the facilities under its ownership, lease, or supervision that shall be utilized in the accomplishment of the project are not listed, or under consideration for listing, on the EPA List of Violating Facilities.
11. The group will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234), 87 Statute 975, approved December 31, 1976. (This clause will only apply to technical assistance grant recipients in rare circumstances.)
12. The group will comply with all applicable requirements of Section 13 of the Clean Water Act Amendments of 1972 (P.L. 92-500), if the grant is awarded under any grant authority of that Act, which prohibits discrimination on the basis of sex in any program or activity under such Amendments for which the applicant receives financial assistance. (This clause does not apply to the Technical Assistance Grant Program.)

The Procurement Certification Form



In addition to your completed application, you must submit to us a completed EPA Form 5700-48, "Procurement System Certification." "Procurement" is the term for purchases of supplies and services. Part 33 of 40 CFR, "Procurement Under Assistance Agreements," contains the requirements that recipients of technical assistance grants must fulfill when they purchase supplies and services. Chapters 5 and 6 of this manual present a detailed discussion of the procurement rules that you must follow to obtain a technical advisor. Because a procurement system certification form must be submitted with your grant application, however, a limited discussion of the procurement process is provided here.

The United States Government requires that recipients of grant funds have procedures for the purchase of supplies and services that ensure responsible use of Federal funds. This "procurement system" must comply with the requirements specified in 40 CFR Part 33. The procurement system certification form requires you either to certify that your group has a procurement system in place that complies with 40 CFR Part 33, or that you agree to follow the requirements of 40 CFR Part 33. Groups applying for technical assistance grants are not likely to do frequent business with government agencies and thus are not likely to have certifiable procurement systems in place; therefore most groups will have to agree to follow the requirements of 40 CFR Part 33. (See Exhibit 4-4 for a sample procurement system certification form completed by a group without a certified procurement system.)

33.110

Part 33,
App. A

Chapter 4

Exhibit 4-4

Instructions for Completing Procurement System Certification

Section 1

Enter your group's name and address, along with the name of the group's project manager, as it appears on the main application form. You may leave the section under "Assistance Application Number" blank.

Section II

A.

Most groups will not complete Section II.A because they will not have previously obtained an EPA assistance agreement. Because most groups will not have a certifiable procurement system (box #1), most groups will check box #2 of section II.B to indicate that they will use 40 CFR Part 33 as their procurement rule. Your group's project manager must sign and date the bottom of this

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY MANUFACTURER'S DISCOUNT PROGRAM		PROCUREMENT SYSTEM CERTIFICATION	FORM NUMBER EPA-9050 (2000-09-01)
APPLICANT'S NAME	FBI Jones Wasteville Landfill Coalition		ASSISTANCE APPLICATION NUMBER
APPLICANT'S ADDRESS	Main Street Wasteville, CT 06844		
SECTION I - INFORMATION			
The applicant must complete and submit a copy of this form with each application for EPA assistance. If the applicant has submitted its procurement system to EPA within the past 2 years and the system has not been substantially revised, complete Part A in Section I, then sign and date the form. If the system has not been certified within the past 2 years, complete Part B, then sign and date the form.			
SECTION II - CERTIFICATION			
A. I affirm that the information I have on file with the EPA is correct. I have submitted my procurement system, developed with 40 CFR Part 33 and filed the system under the IMA requirements in 40 CFR Part 33. The name of my procurement system is _____.			
B. I used my procurement or the applicant's procurement system, I, as authorized representative of the applicant, (check one of the following) _____			
1. CERTIFY that the applicant's procurement system can meet all of the requirements of 40 CFR Part 33 before undertaking any procurement action with EPA assistance.			
Any further statement is deemed information contained and required.			
I, the DO NOT "TRUST THE APPLICANT" - CERTIFY STATEMENT: The applicant agreed to honor the requirements in 40 CFR Part 33, including the structure in Assistance A, and honor EPA procurement system of procurement procedures outlined in the IMA EPA assistance.			
TYPE NAME		SIGNATURE	7/10/01
FBI Jones Wasteville Landfill Coalition		FBI Jones Wasteville Landfill Coalition	

1

2

Intergovernmental Review of Application

30.303 The Intergovernmental review process under Executive Order 12372 is designed to inform appropriate State agencies about all applications for Federal assistance funds that have been received from their jurisdiction. This policy applies to all Federal assistance programs. When EPA is administering the Technical Assistance Grant Program, you must contact the appropriate State contact person (see Appendix C) before filing the grant application package with us to find out what procedures to follow to comply with the State's official intergovernmental review process.*

Some States may elect not to include the Technical Assistance Grant Program in the intergovernmental review process. For States that do include the Technical Assistance Grant Program in the intergovernmental review process, however, the actual process may vary from State to State. For example, some States require applications to undergo intergovernmental review before being submitted to the Federal funding agency, while other States conduct the intergovernmental review concurrently with the Federal agency's review of an application. Regardless of when the State requires this review, grant applicants must accommodate the State requirements. States may require a maximum of 60 days for the intergovernmental review process. We will not process your application package without evidence of compliance with these requirements. (Be sure to respond "yes" on item 22, "Intergovernmental Review Certification," on page one, Section II, of the grant application.) A State's failure to review your application or respond in a timely fashion, however, will not prevent us from proceeding with our review.

Submission of Grant Application

Completed grant application packages must be submitted to the appropriate EPA Regional Office or, where the grant program is being administered by a State, to the appropriate State office (see Appendix C). You must submit the original application package and two copies. The primary application must have the original signature (i.e., not a photocopy of the signature) of your group's project manager.

*This process under Executive Order 12372 does not apply to technical assistance grants awarded by a State. You need to check with your State TAG Project Office before filling out your application because some States may have their own review process.



We then will review and score each application received. If there are qualified applicants, we may award a grant to the single most qualified applicant. We believe that this process is the only fair way to ensure that all eligible groups have an equal opportunity to compete for a grant if consolidation is not possible. If groups are unsuccessful in consolidating, and separate applications must be reviewed, the process will, by necessity, require more time and the award of a grant may be delayed. In the event of delays in the technical assistance grant application process, however, response activities at a site will remain on schedule. Consequently, groups have an incentive to reach agreement and form a coalition in a timely fashion.

The Grant Award Process

Notification of Grant Award

Once we have reviewed your completed application (usually within four to nine weeks after completion of the intergovernmental review process), we will notify you in writing as to whether we have approved your grant request. If the grant has been approved, EPA's Award Official will prepare and sign a grant agreement (EPA Form 5700-20A), which also must be signed by your group's project manager.⁴ Within three calendar weeks of the receipt of the grant agreement, you must either sign and return the agreement to us or request that we extend the time of acceptance. If neither action occurs, the grant agreement becomes null and void.

30.305

Accepting a Grant Agreement

Both you and the Award Official must sign the grant agreement before your group incurs any costs. The grant agreement specifies budget and project periods, the Federal share of project costs, the matching funds that your group will contribute, a description of the work to be accomplished, and any special conditions of the project.

30.308

When the Award Official signs the grant agreement, we will obligate Federal funds for the amount stated in the grant agreement. We are not obligated, however, to provide Federal funds for any costs incurred by your group in excess of the Federal share of your approved budget.

⁴The Award Official is the EPA official (usually the Regional Administrator) delegated the authority to sign grant agreements.

The award of a grant agreement constitutes a public trust. By signing and accepting a grant agreement, you become responsible for complying with all terms and conditions of the grant agreement, including any special conditions necessary to assure compliance with EPA or State policies and objectives and any other applicable law or regulation. You must efficiently and effectively manage the project, successfully complete the project according to the schedule, and meet all monitoring and reporting requirements. You may not delegate or transfer this responsibility without formally obtaining EPA approval and amending the agreement.

30.309

30.405

Your group can hire someone to prepare the grant application; however, it cannot reimburse with grant funds any person, corporation, partnership, agency, or other entity that solicits or obtains EPA or State assistance for the group in exchange for a commission, percentage fee, brokerage fee, or contingency fee. Neither EPA nor State employees may act as paid agents or attorneys to your group. As described in the IFR, necessary and reasonable costs incurred by your group to incorporate are the only pre-award costs eligible for reimbursement with grant funds. These costs should not exceed \$500.

30.611

30.612

35.4070

Disputes

If EPA administers the Technical Assistance Grant Program, we will review disputes between Agency officials and an applicant and/or recipient in accordance with EPA's existing dispute resolution procedures. Accordingly, if a disagreement occurs between your group and an EPA official regarding the terms of the grant, the disagreement should be resolved at the lowest level of EPA authority possible. If an agreement is impossible to achieve, you may file a written "dispute" with the EPA Award Official. The Award Official will forward the dispute to an EPA Disputes Decision Official (an individual designated by the Award Official to resolve the dispute).

40 CFR 30, Subpart L

30.1200-
30.1235

The Disputes Decision Official will provide you with a written decision. This decision is EPA's final decision unless you file a request for review of the decision with the appropriate EPA Regional Administrator by registered mail, return receipt requested, within 30 calendar days of the date of the dispute resolution decision. The Regional Administrator's decision will be the final Agency decision unless, within 30 days of the Regional Administrator's decision, you file a petition for discretionary review by the Assistant Administrator for Administration and Resources Management in Washington, D.C. The Assistant Administrator's decision is the final EPA decision.

Chapter 4

35.4100



If the State administers the Technical Assistance Grant Program, any applicant and/or recipient who has been adversely affected by a State's action or omission may request EPA review of such action or omission, although EPA can only review final State decisions. In such a case, however, the applicant or recipient first must submit a petition for review to the State agency that made the initial decision. You should check with State officials early in the application process to familiarize yourselves with the State's dispute resolution process. The State must provide in writing, normally within 45 days of the date it receives the petition, the basis for its decision regarding the disputed action or omission. If the final State decision adversely affects your group, the State must include notice of the right to request EPA review of the State decision. A State's failure to address the disputed action or omission in a timely fashion, or in writing, will not preclude EPA review.

Requests for EPA review must include:

- ◆ A copy of any written State decision;
- ◆ A statement of the amount in dispute;
- ◆ A description of the issues involved; and
- ◆ A concise statement describing the objections to the State decision.

The request for EPA review of a State decision must be filed by registered mail, return receipt requested, within 30 days of the date of the State decision, or within a reasonable time if the State fails to respond in writing to the request for review.

EPA will determine whether the State's review is comparable to EPA's review process. If the State's review is comparable, the EPA Regional Administrator will review the State's decision. If the State's review is not comparable, the EPA Disputes Decision Official will review the State's decision and issue a written decision. Any appeal above this level follows the process outlined in 40 CFR Part 30, Sub-part L, which is described previously. EPA or the State may delay an award pending resolution of disputes.

Changes in the Project

30.700

Once a technical assistance grant has been awarded, it is possible to make changes to the project. Formal amendments are not necessary for minor changes consistent with the project objectives and within the scope of the grant agreement, such as minor changes to the scope of a technical advisor's review tasks. Sometimes, however, situations warranting a significant project change

may arise (e.g., a group finds that despite efforts to raise funds to meet the matching funds requirement, it cannot meet the share of non-Federal funds committed in the Scope of Services). EPA regulations require formal amendments, negotiated with the EPA Award Official and signed by both parties, to make the following revisions:

- ◆ A transfer of an award to another recipient (e.g., another authorized group);
- ◆ Changes in the objective of the project;
- ◆ Major changes in the budget categories (e.g., major additions or deletions of budget and in-kind items established in the work plan and changing the balance of the match contributions between cash and in-kind);
- ◆ A rebudgeting of amounts allocated for indirect costs (e.g., administrative costs) to absorb increases in direct costs (e.g., the technical advisor's services and expenses);
- ◆ Making a change that will affect the assistance amount, including obtaining a post-award waiver of the matching funds requirement; or
- ◆ Carryover of unused funds from a prior budget period to the current budget period. (You may carry over unexpended funds when filling a continuation application, which is discussed later in this chapter.)

30.705 Minor changes to the project defined in the grant agreement do not require a formal amendment. Group members assigned to the project may be changed as long as the basic objectives of the project remain the same. You may adjust your project budgets, except as noted above, provided the funds are used in accordance with the approved grant agreement and with EPA as well as State regulations. Because EPA is not obligated to provide additional funds for any costs in excess of the approved budget, you should discuss both minor and major changes with your TAG Project Officer prior to implementation.

30.710 In addition, either your group or EPA may terminate all or part of a grant agreement if both parties agree that continuation of the project would not produce any beneficial results. Such a case could occur, for example, if there were insufficient group interest in further technical assistance or if duplicate technical assistance efforts were being provided by another source.

Chapter 4

Non-Compliance

30.900 If you do not comply with the terms (i.e., defined tasks, reporting, and conditions) of the grant agreement, the EPA Award Official may do any of the following:

- ◆ Issue a stop work order;
- ◆ Withhold payments;
- ◆ Suspend or terminate the grant agreement;
- ◆ Annul the grant agreement (e.g., you would be required to return all expended funds);
- ◆ Request the Director of the EPA Grants Administration Division to suspend or debar your group as an eligible recipient;
- ◆ Take other administrative action; and/or
- ◆ Institute judicial proceedings.

In the rare event that your group fails to meet the terms of the grant agreement, the EPA Award Official may terminate the grant in whole or in part at any time before the date of project completion whenever he or she determines that you have failed to comply with the conditions of the grant agreement. (See 40 CFR Part 30, Sub-part I for a further discussion of non-compliance measures.) "Program termination" requires the Award Official to give you written notification with an explanation and an effective date for the order. Upon receipt of the termination notice, you must stop work immediately. We will not reimburse your group for any financial commitments or obligations made after a termination notice is issued. Requests for reviews of any EPA actions discussed above must be submitted to the appropriate EPA Regional Administrator within 30 calendar days of the notice and must follow the dispute resolution process explained earlier in this chapter.

The Continuation Application

When we award a technical assistance grant, the project period in the award covers the total amount of funds needed over the life of the project (up to a maximum of \$50,000), but we obligate only enough funds to cover the budget period. If your technical assistance project extends beyond the first budget period, a continuation application (i.e., standard grant application, Form SF 5700-33) must be submitted to us for each additional budget period. The continuation application is subject to the intergovernmental review process explained earlier in this chapter. Following the intergovernmental review process, we will require two to four weeks to review this application.

The directions for filling out and submitting the standard grant application are the same for the continuation application as they are for the initial grant application, with the following exceptions:

- ◆ **Section I, p. 1, #14:** Enter "D" to indicate the application is a continuation;
- ◆ **Section I, p. 1, #20:** Enter the EPA identification number and title of the current grant; and
- ◆ **Part III, p. 7, Section A (Budget Summary):** Enter in columns (c) and (d) the estimated amounts of funds, which will remain unobligated at the end of the grant funding period only if the Award Official instructs you to do so. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts needed for the upcoming budget period. The amount in column (g) should be the sum of the amounts in columns (e) and (f).

The continuation application must include:

- ◆ A detailed progress report for the current budget period;
- ◆ A Financial Status Report (EPA Form SF 269) for the current budget period that includes the amount your group expects to spend by the end of the current budget period and the amount of any uncommitted funds that your group proposes to carry over beyond the term of the current budget period;
- ◆ A budget for the new budget period; and
- ◆ An updated Scope of Services (Part IV, Section II of the application) revised to account for your group's accomplishments during the previous budget period and to provide more detail about projected activities during the upcoming budget period.

This information, along with any other reports required by the grant agreement, provides the basis for evaluating your group's progress and approving funding for the next budget period.

If approved by the Award Official, you may carry over unexpended funds, either in lieu of new funds to complete work started in prior years or to supplement the new award. However, to carry over funds, you must meet all program requirements, including the matching funds requirement (unless it is waived), in each budget period.

If a continuation agreement is awarded after expiration of the current budget period, we will reimburse your group for any costs incurred between the end of the first budget period and the date of award for the next budget period provided the continuation application was filed before expiration of the prior budget period. You are advised, therefore, to begin completing the continuation application well in advance of the date that the initial budget period expires.



CHAPTER 5

HOW TO HIRE TECHNICAL ADVISORS

The process for hiring technical advisors involves identifying prospective candidates, reviewing candidate qualifications, selecting the most appropriate candidate, and developing a contract (called a "subagreement") between your group and the technical advisor selected by your group. The term "procurement" refers to the actual hiring process and spending of grant funds by your group. The hiring process is discussed in this chapter, according to the following topics:

- ◆ How to identify prospective technical advisors;
- ◆ Meeting EPA procurement requirements;
- ◆ Requirements for all procurements;
- ◆ Procurements of \$25,000 or less;
- ◆ Procurements over \$25,000;
- ◆ Recommended steps to take in hiring a technical advisor; and
- ◆ The subagreement with a technical advisor.



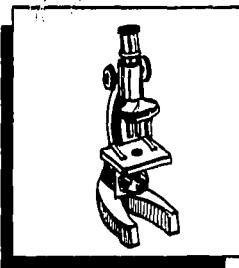
Under existing EPA regulations, procurements of \$10,000 or less may be conducted using small purchase procedures. These procedures are relatively simple and informal, and are discussed at length later in this chapter. In order to make it easier for citizens' groups to hire technical advisors, EPA has issued a special exception to its existing regulations, called a class deviation, which raises to \$25,000 the maximum amount that can be procured using the small purchase method. This deviation applies only to the Technical Assistance Grant Program. Consequently, this manual uses the \$25,000 technical assistance grant amount when it discusses small purchases, even though the regulations use the \$10,000 figure.

Identifying Prospective Technical Advisors

Before hiring a technical advisor, you must carefully determine the specialties you are likely to need to interpret information on the Superfund site in your community. Advisory needs will vary according

Chapter 5

to site characteristics and the specific concerns of your group. You should anticipate that different types of information will be generated at different points in the Superfund remedial response (see Chapter 2). Consequently, there may be several areas of expertise needed to evaluate site information over the life of the project. Technical disciplines most applicable to response actions at NPL sites include:



- ◆ **Chemistry (Analytic Chemistry, Biochemistry):** Analysis of the chemical constituents and properties of site wastes.
- ◆ **Engineering:** Analysis of construction and design of proposed remedial action.
- ◆ **Epidemiology (and Health/Risk Assessment):** Evaluation of the pattern of health effects potentially associated with site contamination.
- ◆ **Toxicology:** Evaluation of the potential effects of site contaminants upon public health and the environment.
- ◆ **Hydrology (Hydrogeology):** Evaluation of potential contamination of area surface water and ground water and the migration of contamination through an aquifer.
- ◆ **Limnology:** Evaluation of the impact of site runoff upon the plant and animal life of nearby streams, lakes, and other bodies of water.
- ◆ **Meteorology:** Assessment of background atmospheric conditions and the dispersion of site-generated air contamination.
- ◆ **Soil Science:** Evaluation of potential and existing soil contamination.

35,4065

The technical advisor also must possess specific qualifications as required by the IFR and other EPA regulations. The IFR requires that technical advisors possess the following credentials:

- ◆ Demonstrated knowledge of hazardous or toxic waste issues;
- ◆ Academic training in a relevant discipline (e.g., biochemistry, toxicology, environmental sciences, engineering); and
- ◆ Ability to translate technical information into terms understandable to the public.

The IFR further provides that a technical advisor should possess the following credentials:

- ◆ Experience working on hazardous or toxic waste problems;
- ◆ Experience in making technical presentations;
- ◆ Demonstrated writing skills; and
- ◆ Previous experience working with citizens' or community groups or other groups of individuals.

33.220 EPA procurement regulations require that technical advisors possess the following characteristics:

- ◆ The technical qualifications, financial resources, and experience to successfully carry out the required tasks;
- ◆ A satisfactory performance record for completing work;
- ◆ Adequate accounting or auditing procedures to control funds properly; and
- ◆ Demonstrated compliance or willingness to comply with civil rights, equal employment opportunity, and other statutory requirements outlined in 40 CFR Part 30.

In choosing a technical advisor, you must be alert to potential conflict of interest problems. All prospective technical advisors must provide information on their financial and business relationships.

35.4130 provides information on their financial and business relationships with any parties potentially responsible for site contamination (i.e., PRPs), and with their parent companies, subsidiaries, affiliates, sub-contractors, and current clients, attorneys, and/or agents. Contractors and subcontractors may not be technical advisors to groups at the same NPL site for which they are doing work for the Federal or State government or any other entity. A more detailed discussion of conflict of interest appears later in this chapter.

Bearing these considerations in mind, you may turn to a variety of sources for hiring technical advisors. Because identification of these sources may be time consuming, you should begin to identify possible sources for, and ways to obtain technical advisors as early as possible in the grant application process. Many of the organizations listed below may be good sources of low-cost, high-quality assistance and may be particularly useful in identifying other sources of technical advisors appropriate to the needs of individual groups:

- ◆ Organizations that specialize in scientific, environmental, and hazardous waste issues.
- ◆ College and university science, engineering, and public health faculties.
- ◆ Local research institutions.
- ◆ Local hospitals and medical facilities.
- ◆ Local or State health departments.
- ◆ Local chapters of professional or technical societies.
- ◆ Consulting firms that specialize in scientific, technical, engineering, and environmental services.

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Meeting EPA Procurement Requirements

Groups that receive technical assistance grants must comply with EPA procurement requirements in selecting and contracting with their technical advisors. These requirements are contained in 40 CFR Part 33, "Procurement Under Assistance Agreements." The basic purpose of this regulation is to ensure:



- ◆ Maximum free and open competition in the procurement process;
- ◆ The use of good administrative practices;
- ◆ The keeping of thorough, accurate records; and
- ◆ The most economical expenditure of Federal funds.

You are responsible for ensuring that your technical advisor fulfills all the terms of your subagreement and complies with EPA and applicable State regulations. Although we will provide advice and guidance on the procurement process, EPA is not a party to subagreements. It is not EPA, but grant recipients who are responsible for enforcing the provisions of subagreements negotiated with technical advisors.

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Since we may review or audit your use of Federal funds, you must have in a central file and make available, upon request, written records of all steps taken by your group in the procurement process. Specific requirements of different procurement methods are discussed in detail below.

Requirements for All Procurements

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You must conduct all procurement activities in a manner that encourages maximum open and free competition. Procurement practices that unduly restrict or eliminate competition must be avoided.

While you have the option of choosing among several different procurement methods, your group must undertake the following activities no matter which procurement method is chosen:

- ◆ Review conflict of interest requirements to ensure that no significant conflict of interest exists;
- ◆ Maintain records of the group's procurement activities;
- ◆ Determine reasonable costs;

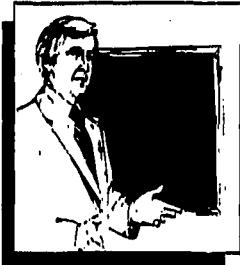
Guidelines for the Technical Assistance Grant Program

- ◆ Make positive efforts to use small and minority-owned businesses; and
- ◆ Verify that a technical advisor is not on EPA's master list of suspended or debarred contractors.

Conflict of Interest

EPA's policy is to prevent personal or organizational conflicts of interest or the appearance of such conflicts in the award of subagreements. Recipients of EPA financial assistance must be concerned with conflict of interest problems that may arise in evaluating proposals of prospective technical advisors as well as business relationships of the technical advisor.

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An official or employee of your group may not participate in any activity relating to awarding subagreements if any of the following persons or organizations (to the official's or employee's knowledge) has a financial interest in the activity:

- ◆ The official or employee;
- ◆ A member of the official or employee's immediate family;
- ◆ A partner of the official or employee;
- ◆ An organization (other than a public agency) in which the official or employee serves as an officer, director, trustee, partner, or employee; or
- ◆ Any person or organization with whom the official or employee is negotiating or has any arrangement concerning prospective employment.

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In addition, you must neither solicit nor accept gratuities, favors, or anything of monetary value from potential technical advisors. Individual group members must not have a financial or other interest in your technical advisor's firm.

Officials and employees of your group must avoid any action which might result in, or create the appearance of:

- ◆ Using their official position for private gain;
- ◆ Giving preferential treatment to any person;
- ◆ Making an official decision outside official channels; or
- ◆ Undermining public confidence in the integrity of EPA programs.

With respect to the technical advisor, groups must have the opportunity to assure themselves of the objectivity, as well as the expertise,

Chapter 5

35.4130 of their technical advisors. An organizational conflict of interest could exist if the subagreement is between your group and a technical advisor who is a PRP or works for any PRP at the same site. Therefore, you must require each prospective technical advisor on any subagreement to provide with his/her bid or proposal:



- ◆ Information on his/her financial and business relationships with PRPs at the site, their companies, subsidiaries, affiliates, subcontractors, current clients, and attorneys and agents of such parties as PRPs at the site (this disclosure requirement encompasses past and anticipated financial and business relationships, including services related to any proposed or pending litigation, with such parties);
- ◆ Certification that, to the best of his/her knowledge and belief, he/she has disclosed such information or no such information exists; and
- ◆ A statement that he/she shall disclose immediately any such information discovered after submission of his/her bid or proposal or after award.

Disclosure of such a relationship does not automatically preclude the technical advisor from being hired by your group. Once full disclosure occurs, you must determine if there is an actual conflict of interest. If you conclude that such a conflict exists, is significant, and cannot be resolved or otherwise avoided, you must reject the prospective advisor.

It is important to note that you must exclude from consideration as a prospective advisor, any contractor(s) that helps develop or draft your request for proposals or subagreement documents related to your technical assistance grant project.

Finally, in an effort to reduce further any conflict of interest problems, EPA has determined that its contractors and subcontractors may not apply for positions as technical advisors to the citizens' groups at the same NPL site for which they are doing work for the Federal or State government, or any other entity, since they otherwise would be reviewing their own work.

Records of Procurement Activities

Throughout the procurement process, you must keep a complete written record of your procurement activities in a central file available for inspection. These documents must include all correspondence with prospective technical advisors and dated memoranda that contain the following information:

◆ The basis for your screening and selecting the technical advisors;

◆ A written justification for the procurement method used by your group;

33.250 ◆ A written justification for any specification or requirement that does not encourage free and open competition;

◆ A written justification for the type of subagreement used (e.g., labor hour, cost plus fixed fee, etc.);

◆ Actual bids submitted by all prospective technical advisors;

◆ The basis of the award cost, including any cost analysis conducted and documentation of negotiations;

◆ The reasons for your rejection of any or all proposals; and

◆ The reasons for rejecting any and all bids and the justification for any noncompetitively negotiated procurements. (This information must be available for public inspection).

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For all negotiated subagreements, potential technical advisors must submit to you their cost information on EPA Form 5700-41, "Cost and Price Summary," or in a similar format and provide you with supportive documentation. You must keep this form in your files in the event that we ask you to supply documentation prior to awarding the subagreement. EPA Form 5700-41 provides technical advisor applicants with instructions on how to complete the form. (A blank copy of this form is included in Appendix B.)



EPA Form 5700-41 will aid your group, as well as EPA if an audit is conducted, in determining whether a potential technical advisor's costs for carrying out the technical assistance project are reasonable, and whether the potential technical advisor has the financial capability, accounting system, and management resources to manage Federal funds adequately. A technical advisor must have an adequate accounting system for providing records of financial transactions, accounting records (e.g., purchase requests, progress payment records, invoices and the like), and other data to enable an EPA auditor to trace all financial transactions related to the project.

Form 5700-41 requires potential technical advisors to present their costs for you in specific categories including:

- ◆ Personnel costs (estimated hours multiplied by hourly rate);
- ◆ Fringe benefits;
- ◆ Labor overhead costs;
- ◆ Travel (e.g., air fare and car rental) and "per diem" costs (e.g., hotel and meals);

- ◆ Equipment, materials, and supply costs; and
- ◆ General and administrative costs (e.g., accounting, legal, and other management costs).

Determining Reasonable Costs

For all procurements, you must determine that the proposed costs are allowable. (Allowable costs are governed by the criteria in OMB Circular A-122, "Cost Principles for Non-Profit Organizations.") For procurements of \$25,000 or less, you determine reasonable costs by obtaining at least three independent proposals and comparing them with your own estimate of what you think the work should cost.

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For all negotiated procurements over \$25,000 and all negotiated change orders (regardless of the cost), you must conduct a cost analysis to ensure that the proposed costs are reasonable. (A change order is a written modification to the subagreement. It is issued by you to your technical advisor authorizing significant changes within the general scope of the subagreement in the services or work to be performed under the subagreement. For example, if EPA decided to perform additional investigations at a site resulting in additional data and reports, a change order may be necessary to expand the technical advisor's services.) An example of this formal cost analysis is presented in Appendix A.

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In a cost analysis, the cost of each element of a subagreement is reviewed to determine reasonableness, allocability, and allowability. In performing a cost analysis, you use your own cost estimates and the cost information submitted by a potential technical advisor to review each cost element. This information will help you determine if the cost is reasonable, necessary, and directly related to the technical assistance project when negotiating the costs with the technical advisor. These costs then are placed into the following categories:

- ◆ Unallowable costs (costs EPA will not cover -- e.g., for bad debts, entertainment, interest, and other financial costs, fines or penalties);
- ◆ Reasonable costs (e.g., those that appear reasonable and may be included in the award); and
- ◆ Questioned costs (costs for which you question the reasonableness of the amount requested and decide to reduce or disallow the costs).

You must document your cost analysis and include this analysis and your cost negotiations in your procurement file. If you are in doubt about the reasonableness of any cost, you should contact your EPA TAG Project Officer.



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Small and Minority Business Utilization

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You must make positive efforts to use small and minority-owned businesses as sources of services and supplies whenever possible. To identify potential small and minority business enterprises, you should use resources such as your State's minority business office, the Small Business Administration, the Minority Business Development Agency, and EPA's Office of Small and Disadvantaged Business Utilization (EPA's Office of Small and Disadvantaged Business Utilization may be reached by calling (703) 557-7777). Minority Business Development Centers operated by the U.S. Department of Commerce also can help you identify minority firms. (See Appendix C for a list of these organizations.) Additionally, you could send a public notice soliciting proposals to small and minority business associations, professional societies, and media targeted to these groups. You are required to report to EPA on your use of minority businesses as discussed in Chapter 6.

Debarment

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You also must ensure that any individuals, organizations, or firms to be selected are not on EPA's master list of suspended or debarred or voluntarily excluded contractors (under 40 CFR Part 32). This list is available from any EPA Regional Office and is updated weekly. (See Appendix C for a list of EPA Regional contacts.) In addition, the list is published four times a year in the *Federal Register*. EPA will not pay for any subagreement awarded to a firm or person on this list.

Procurements of \$25,000 or Less (or Small Purchase Procurement)

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The small purchase procurement method is used when the total cost including overhead and profit for technical assistance services is \$25,000 or less. You must obtain price estimates for services from an adequate number -- at least three -- of qualified sources. You then should award the subagreement to the lowest-priced, qualified bidder. If you choose, however, to award a subagreement to a higher-priced bidder, you must provide a written justification for the selection in your files. You must determine that the proposed cost is reasonable. You may negotiate with prospective advisors if you wish.

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In cases where you require technical expertise in more than one discipline (such as engineering, hydrology, and epidemiology), you may elect to award separate subagreements to more than one unrelated individual or firm. (e.g., \$10,000 for engineering expertise; \$5,000 to a hydrologist; and \$5,000 for an epidemiologist). If you decide that procuring services from several sources better suits your needs than awarding one large subagreement, separate subagreements for less than \$25,000 could be awarded through the small purchase method. You should note, however, that you may not divide a procurement into smaller amounts solely to get under the \$25,000 limit. You must be able to demonstrate sound business reasons for using this method of procurement to avoid the appearance of trying to circumvent the use of a more competitive procurement process. For example, you may need a greater variety of expertise than a single firm or individual can provide.

Procurements Over \$25,000

Procurements over \$25,000 are subject to additional requirements beyond those for procurements of \$25,000 or less. As outlined earlier, you must conduct a cost analysis for certain procurements over \$25,000, and have procurement procedures that cover the issuance of requests for proposals, selection of contractors, and the award of subagreements.

EPA regulations do not prescribe specific procurement procedures that non-profits must use when awarding subagreements over \$25,000. To ensure that grant recipients comply with EPA's requirements for adequate competition and cost analysis, we strongly encourage the use of the competitive negotiation method.

Competitive negotiation allows prospective technical advisors to propose to a grant recipient both their approach for how the task might best be accomplished and their price for performing the work. After you receive proposals from prospective advisors, you must determine the "competitive range" by deciding which prospective advisors with acceptable proposals are best qualified to provide the necessary assistance. This screening process occurs through a uniform and objective evaluation of each proposal based on predetermined evaluation criteria outlined in your request for proposals (RFP).

After this screening process, you may select the best qualified prospective advisor based on the original proposal (provided your RFP indicated that further negotiations would not take place) or may negotiate with applicants in the competitive range (without disclosing competing offers and proposals) and allow them to revise their original proposals to come up with their "best and final" offers. You then select the technical advisor (based on price and other eval-

ation criteria outlined in the RFP) whose proposal best meets your group's needs. Exhibit 5-1 illustrates the competitive negotiation process.

We believe that a competitive negotiation model is more appropriate for technical assistance grant recipients than other procurement methods such as formal advertising or noncompetitive negotiation.

The formal advertising method of procurement should be used only when you can spell out exactly what services are needed and prospective technical advisors can reasonably be expected to develop a fixed price for the project. The fixed price encompasses all costs associated with a project, including labor costs, overhead expenses, and profit. Under formal advertising, the prospective technical advisors provide your group with "bids" for how much they would charge for performing the requested service. You must then make your selection, based principally on price.

Noncompetitive negotiation is allowed only when the small purchase, competitive negotiation, or formal advertising procurement methods cannot be used. All noncompetitive procurements must be approved by the EPA Award Official before the procurement takes place. As the phrase suggests, no competition is involved when selecting a technical advisor. Instead, selection is based on a justification of why no other firms or individuals are being considered by your group under that method. Even if you already have a technical advisor who is providing services on a volunteer basis, you still must follow EPA's procurement requirements and give other potential advisors the opportunity to compete for the subagreement to ensure that there is adequate competition and the costs are reasonable.

Steps in the Procurement Process

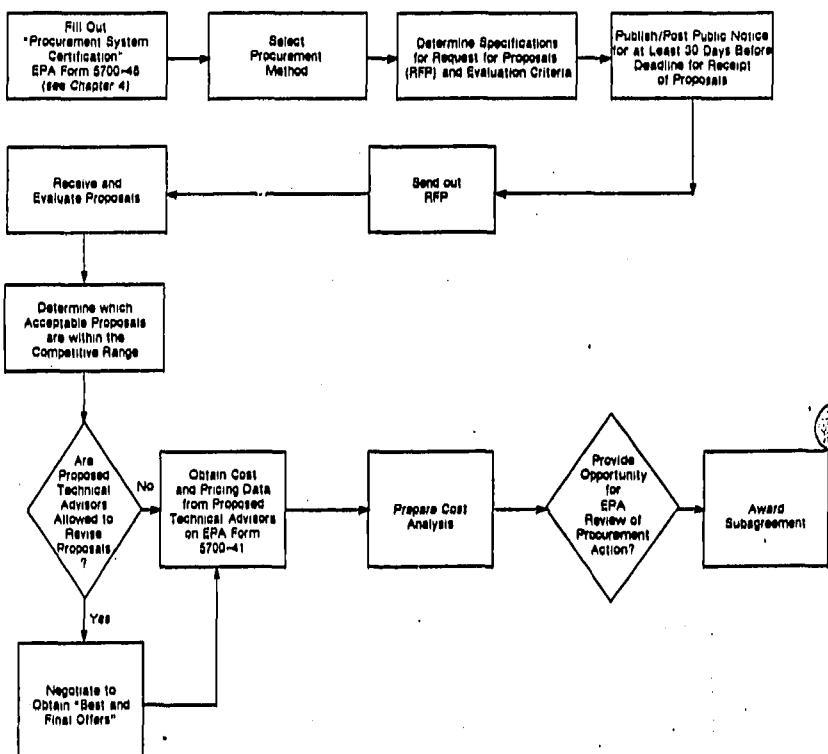
Regardless of which procurement method is used, there are six steps to follow, which are outlined in this section. Although you do not have to follow all of the specific steps listed here, you should to avoid audit or review problems later.

1. **Select a procurement method.** You should select the procurement method that best suits your needs. To ensure maximum open and free competition, EPA recommends that grant recipients with subagreements over \$25,000 use the competitive negotiation procurement method.

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Exhibit 5-1

Competitive Negotiation Procurement Process*



* Adapted from "State Participation in the Superfund Program, Volume II: State Procurement under Superfund Remedial Cooperative Agreements," Office of Emergency and Remedial Response, U.S. Environmental Protection Agency, March 1985, P.III-4.

2. Prepare a request for proposals. A request for proposals (RFP) is an announcement issued by your group to solicit proposals from prospective technical advisors when using the competitive negotiation method of procurement. (A sample RFP is included in Appendix A.) You will need to determine the kinds of services to be provided by the technical advisor prior to writing the RFP.

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An RFP provides the general parameters of the services required, and prospective technical advisors must submit technical approaches for accomplishing the various tasks. You then can negotiate with technical advisor applicants to determine the services to be provided, as explained in the previous section on procurements over \$25,000. The following specifications must be included in an RFP:

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- ◆ A complete description of the services required, including the purpose, objectives, and scope of work;
- ◆ A schedule for performing tasks that are time-sensitive;
- ◆ All evaluation criteria that you will use in selecting the contractor, and the relative importance attached to each;
- ◆ Total projected hours for the project; and
- ◆ The deadline and place to submit proposals.

Under EPA regulations, prospective technical advisors cannot be involved in drafting these specifications.



In the sample RFP provided in Appendix A, only one example of a scoring system for evaluating proposals is shown. You have many options available to you for developing appropriate scoring methods. Whatever method you use should reflect the type of technical assistance relevant to the site, and should be prioritized and weighted accordingly.

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You should develop your own estimates of what are reasonable costs for the services to be performed, and determine a total project budget. A price range for the subagreement may be included in the RFP at your discretion. Regardless of how advisors are selected, the selection method must be outlined in the RFP, and you must maintain in the project files complete records of the procurement process, including scoring sheets or other evaluation forms.

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3. Publish or post a public notice soliciting proposals. Public notice for procurements in excess of \$25,000 must be given to obtain the maximum number of qualified proposals. The public notice that solicits proposals and announces the availability of the RFP should be published in professional journals, newspapers, or publications of general circulation over a reasonable area at least 30

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days before the deadline for receipt of proposals. A sample public notice is provided in Appendix A.

Most public libraries have reference books such as Ulrich's International Periodicals Directory, which list the names and addresses of professional journals, trade magazines, and newspapers. In addition, you may use posted public notices or written notification disseminated to interested persons, firms, or professional organizations. Good reference sources for locating interested organizations and individuals include the Encyclopedia of Associations (i.e., for listings of trade and professional groups) and The Directory of Consultants and Consulting Organizations. Notices also may be sent to colleges, universities, and environmental groups.



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4. Send out RFP and other relevant information. After the public notice is published, groups must make copies of the RFP available to technical advisor applicants. An RFP must clearly state the deadline and place to submit proposals.

5. Evaluate the proposals. All proposals must be evaluated using the criteria stated in the RFP. In evaluating proposals, you must determine if the applicants have the ability and resources to provide the necessary assistance.

One approach to ensuring a fair review of proposals is to appoint a selection panel of three to five members of your group. Panel members independently evaluate the proposals according to the selection criteria outlined in the RFP. Then, the panel members discuss their ratings. If members' ratings are far apart, they discuss how they arrived at their rating and re-evaluate their ratings. These discussions continue until they can agree on a consensus ranking.

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6. Award the subagreement. Under competitive negotiation, you first narrow down the pool of proposals under consideration to those with the best proposals; these are referred to as "the competitive range." (A predetermined score should not be used to establish the competitive range.) You then can negotiate the details of costs and services to be delivered to obtain the "best and final" offer. The best proposal would be the one that best meets the criteria in the RFP, and the subagreement will be awarded to that technical advisor candidate.

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If negotiations occur, you must provide an equal opportunity for all proposals within the competitive range to be revised. Prospective contractors are likely to sense how their proposals need to be revised based on negotiations with you. While negotiations are taking place, the identity of other applicants and information from their proposals must be kept confidential. Once you select a technical advi-

Subagreements with Technical Advisors (33) Manual for the Management of Grants Programs

33.250

sor, you must promptly notify in writing all unsuccessful candidates that their proposals were rejected.

A written record summarizing the negotiations must be kept in your procurement file. This record can be in the form of either a dated log book or dated memoranda, but must describe both the issues negotiated and the result of these negotiations. You must keep in the files a written explanation of why the selected proposal is the most advantageous, taking into consideration price and the other evaluation criteria set forth in the request for proposals. You must carefully document for the file your reasons for rejecting a proposal, as well as the factors used to select the successful proposal.

The Subagreement with the Technical Advisor

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You must inform EPA of any proposed subagreement between you and a technical advisor and must provide us with the opportunity to review the subagreement before it is awarded. The purpose of this review is to ensure that the subagreement is in compliance with all the procurement regulations. However, you are responsible for complying with the procurement regulations even if we have reviewed the subagreement.

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All subagreements with technical advisors must include, at a minimum, the following elements:

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- ◆ Nature, scope, and extent of work to be performed;
- ◆ Time-frame for performance;
- ◆ Total cost of the subagreement; and
- ◆ Payment provisions.

A labor-hour subagreement will be used in virtually all cases for the procurement of services of a technical advisor. Under a labor-hour subagreement, payment is made on the basis of a specified fixed hourly labor rate. A discussion of an hourly rate structure, which includes wages, overhead (O/H), general and administrative (G&A) expenses, and profit is included in Appendix A. The technical advisor must employ an accounting system that will provide appropriate documentation, allocation, and segregation of costs to allow a clear understanding of the source and application of all project funds. You must oversee this labor-hour subagreement to ensure proper use of grant funds. A more thorough description of your recordkeeping requirements related to the subagreement is given in Chapter 6.



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The labor-hour subagreement will not allow you to know the exact amount of funds to be spent over the budget period at the time the subagreement is signed. Therefore, at the beginning of the budget period, you must establish a method of payment (e.g. quarterly or over \$600, monthly) and a maximum range for spending. The technical advisor will be reimbursed by you for services rendered and costs incurred according to the method established in the subagreement.

Although a fixed-price subagreement may provide you with a better sense of how grant funds will be used, a labor-hour subagreement provides you with more flexibility since specific tasks and the required level of effort may not be clearly defined at the time that the subagreement is awarded.

If costs are expected to exceed the ceiling for the budget period in the subagreement or the scope of the work changes, a change order must be negotiated between you and your advisor before the costs are incurred. If the change order would cause you to exceed your budget during the budget period (see Chapter 4), you must ask for and obtain an amendment to the grant before we will be obligated to cover the additional costs.

Every subagreement must contain the specific clauses specified in Subpart F of 40 CFR Part 33. The subagreement must include the appropriate model clauses contained in 40 CFR Part 33.1030 or equivalent language covering the following items:

- ◆ **Supersession.** This clause should state that the clauses required by 40 CFR Part 33.1030 supersede any conflicting provisions of the subagreement.
- ◆ **Privity of subagreement.** This clause means that no department, agency, or employee of the U.S. Federal Government may be a party to the subagreement.
- ◆ **Termination.** This clause should state that failure to fulfill the obligations of the subagreement may result in the termination of the subagreement and should specify the procedures for how the subagreement would be terminated. It also should state that the recipient group may terminate the contract for its convenience provided there is adequate notice and consultation.
- 33.1030 ◆ **Remedies (resolution of claims, disputes, etc.).** This clause means that all disputes will be settled by arbitration if the parties mutually agree or in a court with jurisdiction in the State where the recipient is located.
- ◆ **Audit, access to records.** This clause should outline the records that must be maintained and should state that they are subject to audit.

- ◆ **Covenant against contingent fees.** This clause prohibits a technical advisor from paying a contingency fee to an agency or individual to solicit or secure the subagreement.
- ◆ **Contractor gratuities.** This clause prohibits a technical advisor from providing gratuities in return for favorable consideration or award of the subagreement.
- ◆ **Final payment.** This clause should outline the conditions for final payment of the technical advisor.
- ◆ **Responsibilities of contractor (including a conflict of interest disclaimer).** This clause should specify the responsibilities of the technical advisor for conduct under the subagreement.

A sample contract is shown in Appendix A of this manual.

Renewing a Subagreement

As discussed in Chapter 4, once a technical assistance grant is awarded, we will obligate funds only for one budget period of up to three years at a time. When a project extends beyond three years, you must submit to EPA a continuation application requesting funds to continue the project for another budget period of up to three years. Depending upon the availability of funds for the Superfund program, grant funds could be delayed. Therefore, to ensure that you have funds available to pay for technical assistance, you should award subagreements only for the length of the budget period in your grant with an option to extend the subagreement for additional periods of time (e.g., for additional one- to three-year contract periods).



This method provides you with the assurance that you will not have to pay for the services of a technical advisor if you do not receive additional funds from EPA. In addition, you will be provided with the flexibility to extend or terminate the technical advisor's subagreement, as necessary. Under this scenario, the technical advisor need not recompete each time the subagreement is extended.

Terminating a Subagreement with the Technical Advisor

You must follow certain procedures specified in clause 6 of the model subagreement clauses in Subpart F of 40 CFR Part 33 if you have to terminate a subagreement with your technical advisor. All or part of the subagreement can be terminated by either party in the event of substantial failure by the other party to fulfill obligations under the subagreement, through no fault of the terminating party.

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You may also terminate a subagreement in whole or in part for your convenience.

Some examples of problems that are likely to be considered just cause for termination include:

- ◆ **Ability and Availability:** If it is determined the technical advisor is not:
 - competent to evaluate site information in the technical discipline for which he/she was hired;
 - able to perform adequately as an advisor to the group (e.g., an inability to translate technical information into terms that are understandable to non-experts); or
 - able to meet deadlines.
- ◆ **Objectivity and Credibility:** If a conflict of interest arises that compromises the objectivity of the technical advisor;
- ◆ **Fraud:** If the credentials of the technical advisor are determined to be fraudulent; and
- ◆ **Financial Accountability:** If the technical advisor is not maintaining an adequate accounting system as required in the subagreement. The technical advisor must maintain all records of financial transactions, accounting records, and other data related to the project in a manner that enables the grant recipient and EPA's auditor to trace all financial transactions.

Prior to taking any termination action, whether for just cause or convenience, you should consult with your TAG Project Officer. If you proceed, you must meet several notification requirements. These requirements include giving the technical advisor:

- ◆ Not less than ten calendar days written notice (delivered by certified mail, return receipt requested) of your intent to terminate the subagreement;
- ◆ An opportunity to consult with you regarding your cause to terminate the subagreement prior to termination of the subagreement; and
- ◆ A written explanation of the cause to terminate.

Once these notification requirements have been met, you must notify in writing both the technical advisor and the EPA TAG Project Officer of your decision to terminate the subagreement, as soon as practicable. Upon receipt of the termination notice, the technical advisor is required to:

- ◆ Promptly discontinue all affected work (unless the notice directs otherwise); and

The Contractor's Duties Under the Subagreement

- ◆ Provide to you all data, drawings, specifications, reports, estimates, notes, summaries, and other relevant information and materials accumulated in performing the subagreement, whether completed or in process.

If terminated, technical advisors may obtain an equitable adjustment in the price provided for in the subagreement. Termination for convenience results in a more favorable adjustment for the technical advisor than termination for cause. Upon termination of the subagreement with a technical advisor, you may hire another technical advisor. Your group, however, must begin again and follow EPA procurement procedures in hiring another technical advisor as discussed earlier in this chapter.

CHAPTER 6

MANAGING TECHNICAL ASSISTANCE GRANTS

Technical assistance grant projects must be managed carefully to ensure that your group receives the technical assistance it contracts for, and to avoid having costs disallowed by EPA or the project exceeding the budget because expenditures were not monitored adequately. The day-to-day management of these projects will vary among groups depending on group-specific characteristics such as size, organizational structure, and experience dealing with contractors. Issues that your group will need to address include defining the role of your project manager, specifying which group member should assign tasks to the technical advisor, and which group member should oversee the accounting and recordkeeping aspects of the project. This chapter discusses general aspects of administering a technical assistance project including financial management and reporting requirements.

Financial Management

This section outlines required financial management activities following a grant award that pertain to accessing grant funds. Also included is a summary of EPA's financial records requirements and audit procedures.

Accessing Grant Funds

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When your technical assistance grant application is approved, you will receive an award package describing the details of the grant agreement. Once the grant agreement has been signed by you, funds may not be reassigned to any other group or individual without our prior written approval. We will make payment only to the person identified in the grant agreement.

In the award package, we will specify the form of payment that we will use for the project and the steps your group must take to be eligible for that form of payment. Under the Technical Assistance Grant Program, we will reimburse you for legally incurred grant-related costs up to the amount of the grant.

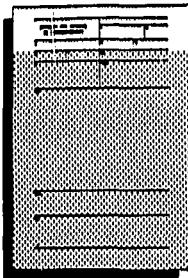
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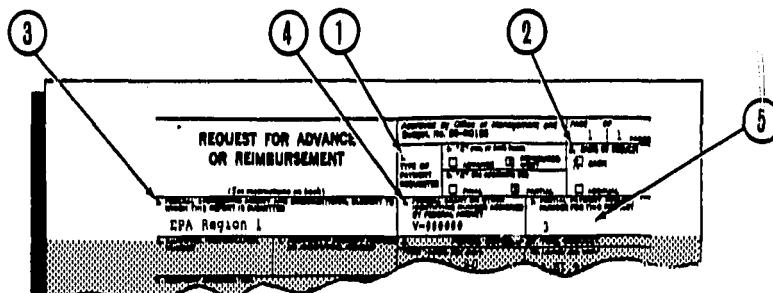
To be reimbursed, you must submit EPA Form SF 270 -- Request for Reimbursement -- to us at least quarterly. If your costs are greater than \$600 in any month, you may submit an SF 270 to cover that month. Normally, we will reimburse you within 10 to 20 days of receipt and approval of the eligible costs incurred. You are responsible for 35 percent of your costs for each reimbursement request in order to meet the matching funds requirement of the Technical Assistance Grant Program. For example, if your technical advisor bills you for \$1,000 in one quarter, you have two options. You can request reimbursement from EPA of \$650 and provide \$350 in cash for your match or you can request \$1,000 from EPA and provide \$539 in in-kind contributions. In both cases, you are contributing 35 percent of the "total program outlay" shown on your reimbursement request. Documentation for all costs incurred must be kept in your files.

The following are step-by-step instructions for completing the Form SF 270, and a completed Form SF 270.

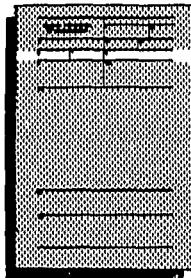


Instructions For Completing Form SF 270

Item	Response
1a.	Check "reimbursement."
b.	Check "partial" for the initial and interim payments. Check "final" only for the last request made for the project.
2.	Check "cash."
3.	Write the name of the EPA Regional Office designated in the assistance agreement.
4.	Enter the Federal grant number, assigned by EPA.
5.	Enter the number (in sequence) of this request.



Chapter 6



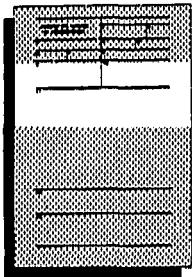
Instructions For Completing Form SF 270

Item	Response
6.	Enter the employer identification number assigned by the U.S. Internal Revenue Service, as entered in Part I, Section I, line 5 of the main application form (Form 5700-33).
7.	You may use this space to insert your own internal account number, if any. Otherwise, this space may be left blank.
8.	Enter the month, day, and year for the period of this request (i.e., the period that the reimbursement covers). This period may be at least one month (if costs incurred were greater than \$500) and no more than three months in length.

6

7

8



Instructions For Completing Form SF 270

Item	Response
9.	Enter the name of your group and the name and address of the individual authorized to obligate your group to the financial commitments of the assistance agreement.
10.	Complete this item only if the payment should be sent to an address other than that provided in Item 9. We will make payments only to the payee identified in the assistance agreement.
11.	Enter "Technical Assistance Grant" under column (a). a. Line (a) enter the total outlays for the period covered by this request and all previous reimbursement periods. b. Enter "0": program income is not allowed by the Technical Assistance Grant Program. c. Enter the sum in line (a).

9

10

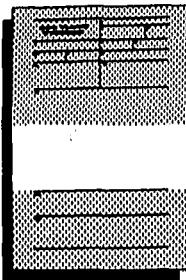
11

a

b

c

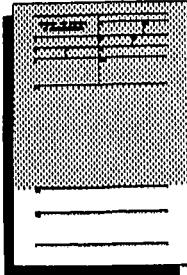
Pat Jones Woodtown Landfill Coalition Main Street Woodtown, CT 06890		11. COMPUTATION OF AMOUNT OF REIMBURSEMENT/OUTLAYS REQUESTED	
PROGRAMS/FUNCTIONS/ACTIVITIES		(a) (b) (c) TOTAL	
Total program outlays (Line 11a)	8,549	0	0
Less: Committed program outlays (Line 11b)	0		
Net program outlays (Line a minus Line b)	8,549		



**Instructions For Completing
Form SF 270**

Item	Response
11d.	Enter "0".
e.	Enter the sum in line (a).
f.	Enter the total value of your cash and in-kind contributions represented in the sum in line (e). This value must equal at least 35% of the total program outlay sum.
g.	Subtract the value in line (f) from the sum in line (e).
h.	Enter the total cumulative amount of previous Federal funds.
i.	Subtract line (h) from line (g).
j.	Enter "N/A" for all three months for this step.

d	Estimated net cash outlays for advance period	0						
e	Total sum of lines d and f	5,499						
f	Non-Federal share of amounts on line e	1,943						
g	Future share of present on line e	3,556						
h	Future amounts previously received	1,858						
i	Future share now received (line f minus line h)	1,900						
j	Advance received by other than Federal agencies for the same program or for other programs	<table><tr><td>1st month</td><td>N/A</td></tr><tr><td>2nd month</td><td>N/A</td></tr><tr><td>3rd month</td><td>N/A</td></tr></table>	1st month	N/A	2nd month	N/A	3rd month	N/A
1st month	N/A							
2nd month	N/A							
3rd month	N/A							



Instructions For Completing Form SF 270

12. Write "N/A".

13. The individual authorized by your group to obligate the group to the terms of this agreement must read the certification statement and verify that the information is accurate before signing and dating the form. The authorized individual's name, title, and telephone number also must be included.

STATEMENT OF CERTIFICATION FOR ADVANCED CARD		
12	a. Estimated / actual costs savings that can be made during second delivery by the supplier	\$ 100,000
	b. Loss / anticipated savings of Purchaser based on need of beginning of advanced delivery	
	c. Amount recovered (Less a normal loss)	\$ 100,000
13	CERTIFICATION DISBURSEMENT AUTHORITY FOR CERTIFYING OFFICIALS	
	DATE PAYMENT SUBMITTED	
	3/10/91	
	TYPED OR PRINTED NAME AND TITLE	
	Pat Jones EXECUTIVE DIRECTOR	
	TELEPHONE NUMBER CITY/STATE/ZIP CITY/STATE/ZIP	
	(201) 444-4444	
This space for signature		

Determining Allowable Costs

30.308

Before you incur any costs under a technical assistance grant, the grant agreement must be signed and returned to the Award Official as explained in Chapter 4. To be allowable, costs incurred under the grant agreement or any subagreement with a technical advisor must meet applicable statutory provisions and regulatory requirements. The primary cost incurred under the Technical Assistance Grant Program will be in paying technical advisors. The subagreement between you and your technical advisor, discussed in Chapter 5, must detail the costs of the advisor's services. Regardless of the process that you use to procure a technical advisor, the proposed costs must be reasonable and must be documented. Proposed costs may be obtained from any of the following methods:

- ◆ Cost estimates from firms or individuals qualified to do the work;
- ◆ Costs determined through competition on an open market; or
- ◆ Costs from published price lists.

You and your technical advisor must document all costs and make this documentation available to EPA or an authorized auditor upon request.

We will reimburse you for reasonable and necessary costs to carry out the work identified in the grant. To determine if the costs are reasonable and necessary, we use the cost principles in OMB Circular A-122 for non-profit organizations. We also use the cost principles in the Federal Acquisition Regulation (48 CFR Subparts 31.1 and 31.2) for profit-making organizations, which may apply to the technical advisor. You and your technical advisor must maintain records, documents, and other evidence of claimed costs.



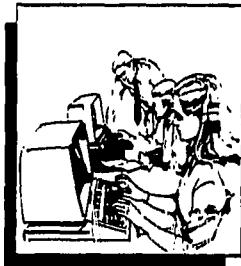
30.530

In addition to paying the technical advisor, other allowable costs include grant management activities for administering the recipient's grant to the extent that they do not exceed 15 percent of the total project costs. These costs might include telephone charges; copying expenses; general office support services for either you or your technical advisor; costs associated with notifying the public, such as publishing public notices; and costs associated with procurement-related activities, such as publishing the request for proposals (see Exhibit 3-1). You should consider, when possible, counting these costs as your in-kind contribution.

Citizens' groups are strongly discouraged from using the limited technical assistance grant monies available for the purchase of property such as an office and equipment. Because the purpose of this grant program is to acquire the services of a technical advisor, any request to use scarce technical assistance grant funds for

30.530

the purchase of property will be scrutinized closely by the EPA TAG Project Officer. The purchase of property is unlikely to be judged to be the most effective use of your technical assistance grant funds. No property purchases are permitted unless they are specifically authorized in your grant agreement. In addition, you may not use grant funds or make purchases of more than \$10,000 without obtaining prior written approval from the EPA Award Official. All property must be accounted for in your budget.



Rather than purchasing expensive equipment, you should consider alternatives such as:

- ◆ Asking a group member to donate the use of equipment or supplies as an in-kind contribution;
- ◆ Procuring a technical advisor who has the appropriate equipment to conduct the work (in general, technical assistance projects should not require any special equipment other than standard office machines); or
- ◆ Leasing equipment on a short-term basis, as needed (if leased equipment is used for work unrelated to the technical assistance project, that percentage of the leasing costs would not be reimbursable under the assistance agreement).

The purchase of equipment is an allowable cost only if you can:

- ◆ Demonstrate that the equipment is vital to the project;
- ◆ Show that purchase of the equipment is the most cost-effective method of obtaining that equipment and that it cannot be obtained through an in-kind contribution, by leasing, or through the technical advisor; and
- ◆ Provide justification for the purchase and supporting documentation in your grant application.

All equipment cost allocations must be documented carefully and costs must be allocated proportionally if the equipment is used for purposes other than the technical assistance project. The projected use of the equipment must account for the majority of the equipment's useful life. You must use a property management system that meets the following minimum standards:

30.531

- ◆ Maintenance of accurate records reflecting:
 - a description of the property;
 - manufacturer's serial number, model number, or other identification number;
 - source of the property, including assistance identification number;

- acquisition date and cost;
- the percentage of the Federal share of the cost;
- location, use, and condition of property and the date the information was recorded; and
- ultimate disposition data, including sales price or the method used to determine the price, or the method used to determine current fair market value where a recipient compensates EPA for its share.

- ◆ A physical inventory of property must be conducted, and reconciled with the property records, at least once every two years. Your inventory must verify the current use and continued need for the property;
- ◆ Maintenance of a control system to prevent loss, damage, or theft; and
- ◆ Maintenance of proper sales procedures which provide for competition resulting in the highest possible return on property sold.

30.538 Although a project is EPA-funded, you may not use General Service Administration (GSA) sources of supplies and services, or excess Government property.

At the end of a project period, EPA retains the right to take title to the equipment. If the equipment has value at the end of the project, we will direct you to take one of the following actions:

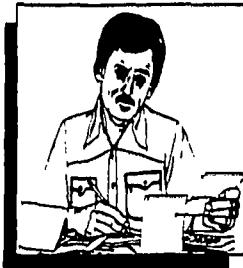
- ◆ Keep the equipment and pay EPA its proportionate share of the current fair market value;
- ◆ Sell the equipment and pay EPA its share of the proceeds; or
- ◆ Return the equipment to EPA and, if applicable, we will reimburse you for the proportionate share of the current fair market value.

Financial Records

30.526 Though not required, you may wish to establish a separate bank account to hold the funds awarded under the grant agreement for ease of accounting. While it is highly unlikely that groups will earn interest on grant funds, any interest earned on grant funds must be credited against the remaining Federal funds obligated to the group -- i.e., EPA will subtract the interest earned from the total amount of the award under the grant agreement.

Your financial management system also must meet, at a minimum, the following specific criteria:

30.510 ◆ A general ledger that includes an accurate, current, and



complete accounting of all financial transactions for the project. Supporting documentation should include canceled checks, invoices, timesheets, work orders, receipts, and correspondence indicating:

- the sources and amounts of funds received (Federal and other) as well as any transactions involving in-kind contributions;
- the application of all project funds, including grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income accrued from interest payments; and
- the total cost of the project;

- ◆ Records of any purchases made under the award, including receipts for all goods and services purchased over the life of the project;
- ◆ Control over and accountability for all project funds, property and other assets, and an assurance that you used these solely for authorized purposes;
- ◆ A comparison of actual costs versus budgeted amounts;
- ◆ Audits at least every other year on an organization-wide basis;
- ◆ Procedures for determining allowable, allocable, and reasonable costs; and
- ◆ A systematic method for responding to audit findings and recommendations.

You must carefully monitor the project budget and document all financial transactions throughout your technical assistance project. Exhibit 6-1 provides a suggested layout for design of your financial ledger. A possible format also is provided for you to track the balance of the matching contribution required to be met during the budget period. Accountants or computer software programs also may assist with the management of financial information.

The technical advisor has the responsibility of keeping detailed records related to his or her technical grant activities as well. These records must reflect acquisitions, work progress, reports, expenditures, and commitments and indicate their relationship to established costs and schedules.

Exhibit 6-1

Sample Ledger for Recording Cash Transactions for Budget Period

Total:

1) Cash contributions may be made to meet EPA fund matching requirements.
2) Use this space to indicate the existence and/or location of receipts, etc. and to make general transaction notes.

Exhibit 6-1 (continued)

Sample Format for Monthly Recording of a Group's Matching Contribution

3) When receipts, timesheets, and other documents are available for both in-kind and monetary contributions, their existence may be noted in this column.

4) Total monthly contribution = Total In-Kind + Total Cash

Reporting Requirements

Technical assistance grant recipients are subject to several reporting requirements under EPA's grant and procurement regulations. These reporting requirements are discussed below.

Progress Reports

35,4110

You must submit to us a quarterly progress report 45 days after the end of each calendar quarter. This requirement will be included in the grant agreement with EPA. In general, progress reports should describe in chart or narrative format the progress achieved in relationship to the approved schedule, budget, and project milestones. Any special problems encountered must be explained. Copies of any final written documents produced by the technical advisor should be attached. (See Exhibit 6-2 for a sample quarterly progress report.)

Publication of Documents

30,518



We have an established publication review process for documents produced under grant agreements for publication as EPA documents. Most materials likely to be published under the Technical Assistance Grant Program, such as newsletters or press releases, will not be subject to our formal review process or have to include the statement below as long as these items are published as part of your group's regular activities and not as EPA documents. However, all published material developed under a technical assistance grant must contain the following statement:

This project has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement (number) to (recipient). The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.

We also encourage independent publication of reports in professional journals at any time. You must submit a copy of the article to your TAG Project Officer when you send it for publication and three copies of the article following publication. The article must include the disclaimer listed in 40 CFR 30.518(d).

2007 Confidential - This document contains neither recommendations nor conclusions of the Agency for Toxic Substances and Disease Registry. It is the property of ATSDR and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Exhibit 6-2
Sample Quarterly Progress Report

[This report is based on the activities at an imaginary site, Woodtown Landfill, and is a hypothetical situation. Any similarity to actual people places or events is not intended.]

Date: 7/1/91
Report Number: 2
Report Period: 4/1/91 - 6/30/91
Site: Woodtown Landfill Site, Litchfield, Connecticut
Grant Recipient: Woodtown Landfill Coalition
Recipient Group Representative: Pat Jones (Executive Director)
Technical Advisor: Professor Jan Carter

Progress Report:

- The technical advisor completed review of the remedial investigation work plan (9 hours).
- The technical advisor issued an evaluation memo on the remedial investigation work plan (8 hours; total time spent on review of work plan in the first and second quarters equals 28 hours).
- The technical advisor and other Woodtown Landfill Coalition members attended the remedial investigation kick-off public meeting (8 hours; billed for technical advisor's preparation for and attendance at meeting).
- The Woodtown Landfill Coalition held four general membership meetings during this quarter to discuss the technical advisor's progress.
- The Coalition mailed the technical advisor's evaluation memo to interested individuals and to EPA to be included in the site information repositories.

Difficulties Encountered:

- None.

Project Status

- Estimated percentage of technical assistance project completed: 10%.

Chapter 6

Exhibit 6-2 (continued) **Sample Quarterly Progress Report**

Activity Anticipated in Next Quarter:

- Technical advisor will review risk assessment report completed by EPA as part of the Remedial Investigation.
- Coalition will attend a public meeting to inform community members about progress at the site.
- Coalition will prepare an edition of the Newsletter for distribution to interested community members and the information repositories.

Materials Produced This Quarter:^a

1. Document:	Evaluation memo on remedial investigation work plan
Date Produced:	6/11/91
Author:	Professor Jan Carter (technical advisor)

^a Normally a copy of all materials produced would be included with the quarterly progress report. These materials have not been attached here due to the hypothetical nature of this example.

In addition, we encourage you to publish the results of your technical assistance project. If you or your technical advisor choose to publish a report under your technical assistance grant, you must submit the document to your TAG Project Officer for review. The document must include the disclaimer listed in 40 CFR 30.518(c).

You are required to submit to the EPA TAG Project Officer all final, written documents published under your grant as evidence of the project's progress as related to the Scope of Services. The TAG Project Officer, in turn, will ensure that copies of all such documents will be placed in the local information repository for the site.

35.4115

Minority and Women's Business Enterprise Report

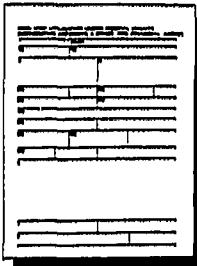
It is Agency policy to encourage the use of minority and women's businesses which are defined in the instructions section of EPA Form SF 334, "Minority Business Enterprise (MBE) and Women's Business Enterprise (WBE) Utilization Under Federal Grants, Cooperative Agreements, and Other Federal Financial Assistance," contained in Appendix B. The Superfund program requires that you submit this form for all procurements regardless of the dollar amount 30 days following the close of each Federal fiscal year quarter (e.g., the Federal fiscal year begins October 1 and ends September 30; therefore, fiscal year quarters would end December 31, March 31, June 30, and September 30). If you award all of your grant monies at one time, the Form SF 334 only needs to be completed once, during the fiscal quarter in which the subagreement(s) is awarded. However, if you only award, for example, \$5,000 of \$10,000 budgeted for subagreements, you must continue to file an SF 334 in every Federal fiscal quarter until all subagreements are awarded. Also, your technical advisors must comply with this reporting requirement if they intend to hire other personnel to assist them on this project. In the fiscal quarters when you or your technical advisors do not award subagreements but there are still grant monies outstanding, you merely inform us by using the Form SF 334 that no subagreements have been awarded during that fiscal quarter.



The following are step-by-step instructions on how to fill out an MBE/WBE form along with a completed Form SF 334.*

*For a complete discussion of EPA requirements regarding small and minority firms, see "EPA Guidance for Utilization of Small, Minority and Women's Business Enterprise in Procurement Under Assistance Agreements-6010," Office of Small and Disadvantaged Business Utilization, U.S. Environmental Protection Agency, 1986.

AR500164



**Instructions For Completing
Form SF 334**
Part I

Item	Response
1 A.	Enter the Federal fiscal year date. (The Federal fiscal year runs from October 1 through September 30, so December 1, 1989 is in fiscal year 1990).
B.	Check the box of the applicable Federal fiscal quarter.
2.	Write the name and address of the EPA Regional Office designated in the assistance agreement.
A.	Write the name and phone number of the EPA TAG Project Officer.
3.	Enter the name and address of your group. Enter the name and phone number of your Project Manager.
4 A.	Enter the Federal grant number assigned by EPA.
B.	Enter "Technical Assistance."
C.	Check "grant."
5 A.	Enter the dates during which subagreements under the grant were awarded or will be awarded.
B.	Enter the total project dollars that will be awarded to the technical advisor during the current fiscal year.
C.	Calculate the percentage of procurement dollars you plan to spend with MBEs during this fiscal year. You must consult with your EPA TAG Project Officer with regard to EPA fair share goals.
D.	Enter the dollar amount of any subagreements awarded to MBE firms during this quarter.
E.	Check only if one or more procurements were executed this reporting quarter but no MBE procurements occurred.
6.	Leave blank or fill in with any additional comments or explanations.
7.	Type or print name and title of your Project Manager.
8.	Your Project Manager should sign and date this form.

Chapter 6

Instructions For Completing Form SF 334

Part 2

NOTE: EPA grant recipients must report all subagreement awards, regardless of the dollar amount.

Item	Response
	Fill in Part II, only if a subagreement was awarded to an MBE during this fiscal quarter.
1.	Check "Recipient."
2.	Check "MBE" if a procurement was awarded to either category during this fiscal quarter.
3.	Enter the dollar amount of the procurement.
4.	Enter the date the subagreement was awarded to the MBE.
5.	Fill in, using codes at bottom of the form identifying the product or service procured. If an MBE is serving as the technical advisor, fill in 9b (Professional Services).
6.	Enter the name of the MBE firm to which the subagreement was awarded.

MBE/WBE PROCUREMENTS OVER \$10,000 MADE DURING REPORTING QUARTER

PART II

Procurement Item by Number	Office Name	Business Enterprise Name	Item Number of Procurement	Date of Award (MM/DD/YY)	Type of Product or Service (Enter Code)	Name/Address of MBE/WBE Contractor or Vendor
1						
2						
3						
4						
5						
6						

1. Type of Product or Service Awarded

2. Business Enterprise Name

3. Item Number of Procurement

4. Date of Award (MM/DD/YY)

5. Type of Product or Service (Enter Code)

6. Name/Address of MBE/WBE Contractor or Vendor

7. MBE/WBE Codes

8. Business Enterprise Name

9. Item Number of Procurement

10. Date of Award (MM/DD/YY)

11. Type of Product or Service (Enter Code)

12. Name/Address of MBE/WBE Contractor or Vendor

Financial Status Reports

35.4110



You must submit a Financial Status Report (SF 269) each year within 90 days of the anniversary date of the start of the project, and within 90 days of the end of the grant budget period. A final Financial Status Report also must be submitted within 90 days of the end of the project period or termination of your technical assistance project. These reports detail expenditures during the past year. At the time the final Financial Status Report is filed, all payments to the technical advisor must have been made.

The following are step-by-step instructions on how to fill out a Financial Status Report and a completed form that complies with these instructions.

**Instructions For Completing
Financial Status Report
(SF 269)**

Item	Response
1.	Enter the appropriate Financial Management or Grants Office (varies by Region) as specified in the assistance agreement.
2.	Enter the grant number assigned by EPA in the assistance agreement.
3.	Enter the name of your group and the name and address of the individual authorized to obligate the group to the terms of the assistance agreement.
4.	Enter the employer identification number assigned by the U.S. Internal Revenue Service as entered in Part I, Section I, line 5 of the main application form (Form 5700-33).
5.	For recipient groups that manage a variety of distinct financial projects, this space is reserved for an account number, if any, assigned by the recipient to the project.
6.	Check "Yes" if this is the final report, otherwise, check "No."
7.	Check "Cash."
8.	Enter the dates of the beginning and end of the total project period.
9.	Enter the dates covered by this report.

**Instructions For Completing
Financial Status Report
(SF 269)**

Item	Response																																				
10. Column (a) & (g)	Enter "Technical Assistance" in vertical column (a). Instructions for subparts a-m follow. All figures should be entered under column (a) and in column (g) "Total".																																				
a.	Show zero if this is the initial report. On subsequent reports show total outlays previously reported.																																				
b.	Enter total gross program outlays for the report period (outlays are the sum of actual cash payments for goods and services (plus the value of in-kind contributions)).																																				
c.	Enter the total amount of program income accrued (as interest) on program funds. For the Technical Assistance Grant Program, this amount should be 0.																																				
d.	Subtract line c from line b and enter the difference.																																				
e.	Add line a to line d and enter the total sum.																																				
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<p>FINANCIAL STATUS REPORT (If other information is on the back)</p> <table border="1"> <tr> <td>1. FEDERAL, STATE AND LOCAL GOVERNMENT, OTHER GOVERNMENT OR POLITICAL PARTIES None</td> <td>2. INDIVIDUALS AND ORGANIZATIONS None</td> <td>3. ASSOCIATIONS AND OTHER GROUPS OF INDIVIDUALS & FIRM, SOCIETY V-0000000</td> <td>4. BANKS AND OTHER FINANCIAL INSTITUTIONS None</td> <td>5. OTHER None</td> </tr> <tr> <td>6. FEDERAL, STATE AND LOCAL GOVERNMENT, OTHER GOVERNMENT OR POLITICAL PARTIES 9,01,90</td> <td>7. INDIVIDUALS AND ORGANIZATIONS 4,01,96</td> <td>8. ASSOCIATIONS AND OTHER GROUPS OF INDIVIDUALS & FIRM, SOCIETY 9,01,90</td> <td>9. BANKS AND OTHER FINANCIAL INSTITUTIONS 4,01,91</td> <td>10. OTHER 4,01,91</td> </tr> <tr> <td colspan="5" style="text-align: center;">STATE OF FUNDS</td> </tr> <tr> <td>11. FEDERAL, STATE AND LOCAL GOVERNMENT, OTHER GOVERNMENT OR POLITICAL PARTIES 0</td> <td>12. INDIVIDUALS AND ORGANIZATIONS 0</td> <td>13. ASSOCIATIONS AND OTHER GROUPS OF INDIVIDUALS & FIRM, SOCIETY 0</td> <td>14. BANKS AND OTHER FINANCIAL INSTITUTIONS 0</td> <td>15. OTHER 0</td> </tr> <tr> <td>16. FEDERAL, STATE AND LOCAL GOVERNMENT, OTHER GOVERNMENT OR POLITICAL PARTIES 0,722</td> <td>17. INDIVIDUALS AND ORGANIZATIONS 0,722</td> <td>18. ASSOCIATIONS AND OTHER GROUPS OF INDIVIDUALS & FIRM, SOCIETY 0,722</td> <td>19. BANKS AND OTHER FINANCIAL INSTITUTIONS 0,722</td> <td>20. OTHER 0,722</td> </tr> <tr> <td colspan="5" style="text-align: right;">TOTAL 0</td> </tr> </table>		1. FEDERAL, STATE AND LOCAL GOVERNMENT, OTHER GOVERNMENT OR POLITICAL PARTIES None	2. INDIVIDUALS AND ORGANIZATIONS None	3. ASSOCIATIONS AND OTHER GROUPS OF INDIVIDUALS & FIRM, SOCIETY V-0000000	4. BANKS AND OTHER FINANCIAL INSTITUTIONS None	5. OTHER None	6. FEDERAL, STATE AND LOCAL GOVERNMENT, OTHER GOVERNMENT OR POLITICAL PARTIES 9,01,90	7. INDIVIDUALS AND ORGANIZATIONS 4,01,96	8. ASSOCIATIONS AND OTHER GROUPS OF INDIVIDUALS & FIRM, SOCIETY 9,01,90	9. BANKS AND OTHER FINANCIAL INSTITUTIONS 4,01,91	10. OTHER 4,01,91	STATE OF FUNDS					11. FEDERAL, STATE AND LOCAL GOVERNMENT, OTHER GOVERNMENT OR POLITICAL PARTIES 0	12. INDIVIDUALS AND ORGANIZATIONS 0	13. ASSOCIATIONS AND OTHER GROUPS OF INDIVIDUALS & FIRM, SOCIETY 0	14. BANKS AND OTHER FINANCIAL INSTITUTIONS 0	15. OTHER 0	16. FEDERAL, STATE AND LOCAL GOVERNMENT, OTHER GOVERNMENT OR POLITICAL PARTIES 0,722	17. INDIVIDUALS AND ORGANIZATIONS 0,722	18. ASSOCIATIONS AND OTHER GROUPS OF INDIVIDUALS & FIRM, SOCIETY 0,722	19. BANKS AND OTHER FINANCIAL INSTITUTIONS 0,722	20. OTHER 0,722	TOTAL 0										
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Instructions For Completing
Financial Status Report
(SF 269)

Item
10f. (Column (a) & (g))

Response

Enter the total value of all in-kind and cash non-Federal contributions.

g.

Subtract line f from line e and enter the difference.

h-j.

All debts must be paid prior to submission of a final Financial Status Report; therefore, lines h, i, and j must be 0 if this is a final Financial Status Report. Otherwise, enter amount owed to the technical advisor for work completed.

k.

Enter the figure shown on line g.

l.

Enter the total amount of the grant as specified in the initial grant agreement.

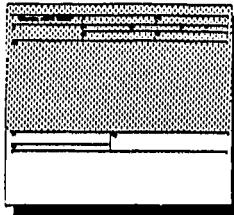
m.

Subtract line k from line l and enter the difference. This amount is the unspent portion of the grant. If this is a final report, this amount must be returned to EPA.

f g h i

1. Total share of costs	3,210						3,210
2. Total share of costs	5,412						5,412
3. Unallowable obligations	0						0
4. Non-Federal share of nonallowable obligations shown on line 3							
5. Total share of nonallowable obligations	0						0
6. Total share of costs and nonallowable obligations	5,412						5,412
7. Total amount of Federal funds	0						0

m l k i



**Instructions For Completing
Financial Status Report
(SF 269)**

Item	Response
11.	Not applicable.
12.	Optional. You may attach a separate sheet providing explanatory information if you believe such information is necessary to explain data entered on this report.
13.	Read, sign, and date this certification and submit this form to the EPA Award Official within 90 days of the anniversary date of the start of the project, of the end of the budget period, or of project completion.

Chapter 6

Final Project Report

You must submit to the EPA TAG Project Officer a draft of the Final Project Report for review no later than 90 days prior to the end of the approved project period and a final report within 90 days of the end of the project. This report must contain a narrative description of project activities over the entire period of grant support and must describe your group's achievements with respect to stated project purposes and objectives. The quarterly progress reports that you submit to us will be a good source of information for this final report.

Equipment Report

At the completion or termination of a project, you must submit a listing of all items of equipment acquired with grant funds.

Recordkeeping and Audit Procedures

35.4105



Both you and the technical advisor must keep and preserve full written financial records accurately disclosing the amount and disposition of any expenditures for three years following the submission of the final Financial Status Report. If litigation, a claim, a dispute, cost recovery, or an audit begins before the end of the three-year period, all records must be kept until three years following project completion or until the litigation, dispute, claim, or audit is completed and resolved. If you or your technical advisor intend to dispose of the records at the end of the recordkeeping period, you must notify us in writing and must keep the records until we notify you in writing that the records may be destroyed. If we terminate your award, all records still must be kept for three years from the date of termination.

30.502

You and your technical advisor must allow the EPA TAG Project Officer and any authorized representative of EPA, the Office of Inspector General, the Comptroller General of the United States, or the Department of Labor to inspect, copy, and audit records pertinent to the project. In addition, you and your technical advisor must allow access to records at any reasonable time for as long as the records are kept.

30.540

We may perform interim audits of your project costs and financial actions and transactions. The EPA TAG Project Officer may request an audit at any time after the submission of an application and may conduct a final audit of the project. If we, as a result of an audit,

30.802 determine that you owe funds to the Federal government, you will be required to reimburse us for that amount. We will take appropriate legal and administrative actions to collect the amount you owe the Federal government if reimbursement is not made in a timely manner.

APPENDICES

APPENDIX A: Sample Materials to be Prepared by Grant Applicants and Recipients

APPENDIX B: Blank Forms

APPENDIX C: Key Contacts List

APPENDIX D: Selected Regulatory Text

APPENDIX E: Checklists for Grant Applicants and Recipients

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APPENDIX A

SAMPLE MATERIALS TO BE PREPARED BY GRANT APPLICANTS AND RECIPIENTS

- ◆ Part IV of the EPA Grant Application
- ◆ Sample Request for Proposals
- ◆ Sample Public Notice
- ◆ Sample Technical Advisor Subagreement
- ◆ Sample Cost Analysis

Part IV of the EPA Grant Application Submitted by the Woodtown Landfill Coalition for a Technical Assistance Grant

[This appendix is based on an imaginary site, Woodtown Landfill, and is a hypothetical situation. Any similarity to actual people, places or events is not intended.]

INTRODUCTION

This application for a technical assistance grant at the Woodtown Landfill site in Litchfield County, Connecticut is being submitted by the Woodtown Landfill Coalition. The Coalition is composed of members from the Woodtown Citizen Task Force of Woodtown, Connecticut and the Smithtown Outing Club of Smithtown, Connecticut, both of which are located in Litchfield County in the north-western corner of the State. Since both groups require technical assistance, they have elected to form an incorporated Coalition for the purposes of this program. The grant and technical advisor will be managed by an executive committee comprised of two officers from each group.

The Woodtown Citizen Task Force, formed in 1982, has 30 members at present. All of the group's members live within one quarter mile of the Woodtown Landfill site, which was added to the National Priorities List (NPL) in 1982. The task force has been concerned primarily with health effects resulting from the contamination at the site.

The Smithtown Outing Club, founded in 1965, is composed of 75 members. All group members live within five miles of the site. The group organizes a variety of swimming, canoeing, fishing, and hiking trips in and around Litchfield County. The Club has focused on the effects of contamination from the Woodtown Landfill site on the surrounding environment.

SECTION 1: QUALIFICATIONS OF THE APPLICANT

This section describes the qualifications of the Woodtown Landfill Coalition. It is organized according to the instructions for completing Part IV of the grant application form:

- A. Group Eligibility;**
- B. Group Responsibility; and**
- C. Group Issues and Objectives.**

Questions concerning the group's qualifications should be directed to Pat Jones at the Woodtown Landfill Coalition, Main Street, Woodtown, Connecticut 06798, (203) 555-1234.

A. Group Eligibility

This application for a technical assistance grant at the Woodtown Landfill site in Litchfield County is being submitted by the Woodtown Landfill Coalition. This group is a non-profit organization with no direct affiliation to any State or local unit of government, or any other political subdivision. In addition, no member of the group is in any way associated with a potentially responsible party. Several members work for ineligible organizations but are members of the group in their capacity as concerned citizens. The group is composed of members who live in close proximity to the site (all members live within a five mile radius of the site) and who believe that they are directly affected by the contamination at the site. Given these circumstances, the group strongly believes that they should be considered as an eligible applicant for a technical assistance grant.

Appendix A

B. Group Responsibility

1. Administrative and Management Capabilities

The Woodtown Landfill Coalition was formed in June 1987 from two existing community groups -- the Woodtown Citizen Task Force and the Smithtown Outing Club. Both of these groups have operated as non-profit organizations for at least five years and possess working administrative structures that oversee and guide their activities. The new Coalition is also a non-profit organization and will be managed by a four-person executive committee composed of the two presidents and the two treasurers of the respective groups. One member of the executive committee has been designated as Executive Director of the Coalition. The Executive Director will be the group's designated representative for the purposes of signing all documents related to the grant. The Executive Committee will direct the technical advisor and oversee the entire project. The two treasurers will be responsible for all financial oversight. The attached bylaws provide additional details about the administrative structure of the Woodtown Landfill Coalition.*

2. Resources for Project Completion

To complete our technical assistance project we will require the services of a technical advisor for six years. The six-year project period is divisible into two, three-year budget periods which run consecutively. The Coalition, if approved for a technical assistance grant, anticipates submitting one continuation application so that grant funds can be applied to the entire six-year project. At this time, the total estimated budget for the entire six year project will be \$55,538. Of this amount, the Federal share will be \$35,148. A detailed breakdown of how the Federal share will be used and the tasks to be accomplished in each budget period is provided in Exhibit A-1.

The Federal share of \$35,148 will be matched by \$20,390, an amount slightly more than 35 percent of the total project cost. The 35 percent match will be met with both cash and in-kind contributions. The cash portion will come from annual dues and fund-raising activities such as the Smithtown Cancan Rally and the Woodtown Recycling Drive. In the past three years, we averaged \$1,500, collectively, from these fund-raising activities. We also have received about \$500 in donations in each of those years. In-kind contributions will come from donated meeting space, accounting services, and editing services. A local businessman (a member and an officer of the Woodtown Citizen Task Force) will donate meeting space for use by the Coalition (to be used for Coalition meetings on an as-needed basis throughout the life of the project). A certified public accountant will donate services to provide accounting assistance to the Coalition. A local freelance editor/writer initially will design and then edit a newsletter devoted solely to the site and the technical assistance project. Exhibit A-2 provides a detailed breakdown of the Federal and matching shares over the two budget periods. Our administrative costs do not exceed 15 percent of the total project costs. *

3. Satisfactory Performance Record

Although neither of the founding groups (Woodtown Citizen Task Force and the Smithtown Outing Group) nor the new Coalition previously have received Federal funds, we believe the group can

* Attachments referred to in this part of the sample application are referred to for the sake of instruction only, and have not actually been appended to this example because they will vary on a case-by-case basis. Your group should, however, include such attachments when submitting your application.

Exhibit A-J

**PROPOSED TECHNICAL ADVISORS' SCHEDULE OF TASKS AND COSTS
FOR USE OF FEDERAL GRANT FUNDS**

Three-Year Budget Period	Schedule/Tasks	Prepare Memo/Report	Attend Meeting	# of Hours	Cost at \$/hour*	Total Cost of Advisor	Total # of Hours
1st	Initial Investigation (RI) <ul style="list-style-type: none"> • Review work plan • Issue evaluation memo • Attend RI public meeting • Review various RI reports (e.g., risk assessment, CAA/OC plan, sampling plan) • Review RI report and prepare RI evaluation report 	x	x	28	\$2,128		
1st	Feasibility Study (FS) <ul style="list-style-type: none"> • Review health assessment and prepare report • Review draft FS and prepare FS evaluation 	x	x	39	\$2,984	\$ 10,184	134
2nd	Feasibility Study (FS) Continued <ul style="list-style-type: none"> • Brief Coalition on FS and attend FS meetings • Review Coalition comments on FS • Review ROD and prepare summary memo 	x	x	84	\$6,384	\$ 9,348	123
2nd	Remedial Design (RD) <ul style="list-style-type: none"> • Review pre-final and final design and prepare design evaluation memo 	x	x	56	\$4,704	\$ 4,704	56
2nd	Remedial Action (RA) <ul style="list-style-type: none"> • Review pre-final and final inspection reports and prepare cleanup evaluation report 	x	x	29	\$2,436	\$ 2,436	29
	Travel <ul style="list-style-type: none"> • Two trips (total of 4 days/3 nights) to attend two meetings <ul style="list-style-type: none"> - Airfare (\$150) - Rental Car (\$60 per day) - Lodging and Meals (\$100 per diem) 					Total Cost of Advisor	\$ 33,308
	Administrative Costs <ul style="list-style-type: none"> • Phone and Mail • Xeroxing 					Total	\$ 760
						Total	\$ 1,080
						Total (Federal Share)	\$ 35,148

* This example assumes that there is a 10 percent inflation cost every budget period (3 years). To account for this, the hourly rate in the first budget period is \$76, and in the second budget period is \$84.

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Appendix A

Exhibit A-2

Comparison of Federal and Matching Shares over Two Budget Periods¹

Budget Period 1 (Remedial Investigation):

1. Federal Share:

Labor (257 hours at \$76 per hour)	= \$ 19,532
Travel (one overnight to attend RI meeting)	= \$ 330
- Airfare (\$150)	
- Rental Car (2 days at \$40 per day)	
- Lodging and Meals (\$100 per diem)	
Other Direct Costs (ODCs)	= \$ 575 *
- Phone and Mail (\$350)	
- Xeroxing (\$225)	
Subtotal Federal Share	= \$ 20,436

2. Matching Share:

Cash	
- Incorporation	= \$ 422 *
- Newsletter (6 issues at \$200)	= \$ 1,200
- External Audit (20 hours of accounting @ \$24 per hour)	= \$ 480 *

In-Kind Contributions

- Meeting Space (\$180 per year)	= \$ 540
- Accountant (132 hours at \$24 per hour)	= \$ 3,168 *
- Editor (260 hours at \$20 per hour)	= \$ 5,200

Subtotal Matching Share = \$ 11,010²

TOTAL (Federal and Matching) = \$ 31,447

¹ A ten percent increase in costs is assumed to occur every budget period (3 years).

² Clients may sometimes find that their matching share costs exceed 35 percent

Indicates administrative costs. In Budget Period 1, administrative costs total \$4,645 (the maximum administrative costs allowed in this example would be \$4,717 = \$31,447 x .15).

Exhibit A-2 (Continued)

Comparison of Federal and Matching Shares over Two Budget Periods

Budget Period 2 (Feasibility Study Continued, Remedial Design and Remedial Action):

1. Federal Share:

Labor (164 hours at \$84 per hour)	= \$ 13,776
Travel (one trip (two nights) to attend FS meeting and briefing)	= \$ 430
- Airfare (\$150)	
- Rental Car (2 days at \$40 per day)	
- Lodging and Meals (2 nights at \$100 per diem)	
Other Direct Costs (ODCs)	= \$ 505 *
- Phone and Mail (\$350)	
- Xeroxing (\$225)	
Subtotal Federal Share	= \$ 14,711

2. Matching Share:

Cash	
- Newsletter (6 issues at \$200)	= \$ 1,220
- External Audit (20 hours of accounting @ \$24 per hour)	= \$ 520 *
- Newspaper ads announcing Community Forum	= \$ 156
In-Kind Contributions	
- Meeting Space (\$198 per year)	= \$ 594
- Accountant (75 hours at \$26 per hour)	= \$ 1,950 *
- Editor(220 hours at \$22 per hour)	= \$ 4,840
Subtotal Matching Share	= \$ 9,380
TOTAL (Federal and Matching)	= \$ 24,091

* Indicates administrative costs. In Budget Period 1, administrative costs total \$4,645 (the maximum administrative costs allowed in this example would be \$4,717 = \$31,447 x .15).

Appendix A

satisfactorily complete the proposed technical assistance grant project. The Scope of Services section of this application and Exhibit A-1 describe in detail our proposed plan for use of a technical advisor's services. Additionally, Exhibit A-3 provides a history of our involvement with the Woodtown Landfill site and shows our commitment to ensuring the eventual cleanup of this site.

4. Accounting and Auditing Procedures

A member of the Woodtown Landfill Coalition, originally from the Smithtown Outing Club, is a certified public accountant and has volunteered to assist in the financial oversight of grant funds. He will advise the group on completing financial reports required by EPA and the State. In addition, an outside accounting firm will be brought in to perform an independent audit every other year, as required by Federal regulations.

Our financial management system complies with generally accepted accounting procedures. We will establish and maintain a separate bank account and a general ledger solely for the management of the technical assistance grant. The two treasurers on the Executive Committee will maintain all financial records related to the grant. These records will be stored in a central file in the same office where Coalition meetings will be held. A phone log will be maintained by the Coalition's officers. In addition, the technical advisor will be expected to keep a phone log and other records of his/her activities and expenditures.

5. Procurement Standards

As part of this application and to comply with this requirement, we have submitted EPA Form 5700-48, "Procurement System Certification" stating that we agree to follow the requirements of 40 CFR Part 33 including the procedures in Appendix A.

6. Property Management

We do not plan to use technical assistance grant funds for the purchase of any property.

7. Compliance with Civil Rights Requirements

The Woodtown Landfill Coalition is willing to comply with the applicable civil rights, equal employment opportunity, labor laws, and other statutory requirements in 40 CFR Part 30, Subpart F.

8. Incorporation

The Woodtown Landfill Coalition filed for and received approval from the State of Connecticut for incorporation as a non-profit organization. Attached is a copy of the letter from the State approving the group for incorporation. In addition, a copy of the group's bylaws has been attached. This document provides a description of the administrative structure of the Woodtown Landfill Coalition. Detail is provided on the electoral process of the four person executive committee (two presidents, two treasurers), membership in the group, and general group goals. These bylaws have been adapted from the existing bylaws of the Woodtown Citizen Task Force and the Smithtown Outing Club to ensure that the interests of both founding groups are represented.

C. Issues and Objectives

1. Health Issues

Concern about contaminated private wells and possible health effects resulting from the contamination at the site led to the initial formation of the Task Force. As explained in a private sampling

Exhibit A-3

Chronology of Activities Conducted by Members of the Woodtown Citizen Task Force and the Smithtown Outing Club Regarding the Woodtown Landfill Site

A. Woodtown Citizen Task Force Activities

Date	Action
June 1, 1982	Woodtown Citizen Task Force forms in response to the listing of the Woodtown Landfill site on the National Priorities List
July 15, 1982	Task Force holds meeting to discuss actions needed at Woodtown Landfill site
September 9, 1982	Task Force members begin receiving bottled drinking water
September 23, 1982	Letters written by the Task Force to Connecticut Congressional delegation requesting help in evaluating health risks caused by contamination at the site
December 10, 1982	Held public meeting and press conference to publicize concerns of community members
March 3, 1983	Executive Council of Task Force attends a Town Board of Directors meeting to voice concerns about contaminated well water
May 18, 1983	Task Force began fund drive to raise money for water testing residential wells in the community
October 1983	Water testing performed at 60 residential wells in Woodtown
January 22, 1984	Letter to EPA seeking information on potential cleanup solutions at site
February 5, 1984	Held public meeting to discuss water testing results provided by EPA
April 9, 1985	Member of Task Force with environmental background begins trying to map out area of contamination
February 28, 1986	Task Force writes to EPA for information on the Technical Assistance Grant Program
July 1, 1986	Woodtown Citizen Task Force unites with Smithtown Outing Club to form Woodtown Landfill Coalition

Appendix A

Exhibit A-3 (Continued)

Chronology of Activities Conducted by Members of the Woodtown Citizen Task Force and the Smithtown Outing Club Regarding the Woodtown Landfill Site

B. Smithtown Outing Club Activities

Date	Action
May 1976	Members of the Outing Club notice contamination in the Rolling River (i.e., water smelled and slightly irritated the skin)
September 1979	Club members vote to stop using the Rolling River for club events due to the potential of contamination
March 28, 1980	The Outing Club sends a letter to local officials complaining about the situation in the Rolling River
July 7, 1980	Members of the Outing Club submit an editorial on the condition of the Rolling River to the local paper
February 10, 1981	Club submits an editorial to the local paper requesting public comment on the condition of the Rolling River
August 5, 1983	Club executive committee attends a Town Council meeting to voice opinions about the contamination of the Rolling River
September 14, 1983	Group members attend a meeting at which State officials announce a ban on all fishing in the Rolling River
November 11, 1984	Letters sent to Connecticut Congressional delegation outlining Club concerns over the river contamination and requesting action
June 30, 1985	Letter sent to EPA requesting help in initiating a speedy cleanup of the Rolling River in response to listing of the Woodtown Landfill site on the National Priorities List
April 13, 1986	Letter sent to EPA requesting information on the Technical Assistance Grant Program
July 1, 1986	Smithtown Outing Club unites with the Woodtown Citizen Task Force to form the Woodtown Landfill Coalition

report, residents' well water continues to be undrinkable due to its strong odor, brownish color, and unpleasant taste which the Task Force believes to be solely caused by contamination from the Woodtown Landfill site. Several residents have reported to the Task Force that they have experienced mysterious skin rashes after bathing in the well water and are concerned about their health. As a result, Task Force members have had to resort to using bottled water for nearly two years. EPA is considering members' request for an alternate water supply after the Agency has completed their sampling at the landfill. The Woodtown Citizen Task Force, as a member of the Woodtown Landfill Coalition, wants to ensure specifically that all potential health risks related to the site are investigated thoroughly and that the remedial action selected will restore the quality of their private well water supplies.

2. Broad Representation

The Woodtown Landfill Coalition, despite its recent formation, has a diverse membership which represents much of the community's interests and concerns about the Woodtown Landfill site. By combining the Woodtown Citizens Task Force and the Smithtown Outing Club, the Coalition is able to represent a wide range of interests and concerns about the Woodtown Landfill site. Coalition members believe that this organized effort will positively affect both members of the group and individuals in the community by providing a single contact from which community concerns can be addressed. The Coalition itself does not have a long history with the Woodtown Landfill site, but its composite organizations have been active in dealing with site issues since the site was listed on the National Priorities List in 1982. The primary areas of past involvement are health and environmental concerns. Attached as Exhibit A-3 are two chronologies, one from the Woodtown Citizen Task Force and one from the Smithtown Outing Club, detailing past involvements by Coalition members with the Woodtown Landfill site. As can be noted from these chronologies, the combined historical involvements of the two groups forming the Woodtown Landfill Coalition represent a wide range of community concerns and a significant commitment on the part of these groups to achieve a remedy for the Woodtown Landfill site.

3. Tasks for the Technical Advisor

The primary purpose of the tasks to be performed by the technical advisor is to help the members of the Woodtown Landfill Coalition better understand the technical information, data, reports, designs, and oral presentations provided by EPA and the State in the course of studying and conducting remedial activities at the Woodtown Landfill site. By interpreting, analyzing, and evaluating the information, the technical advisor will aid our group in commenting more productively and effectively on remedial activities at the site. The ultimate goal of the technical assistance project is to help us help EPA clean up our drinking water and restore the Rolling River to its previous recreational uses. A more detailed description of the tasks to be performed by the technical advisor is given in the Scope of Services (Section 2 of this Appendix).

The technical advisor will be hired for a three-year contractual period beginning at the start of the remedial investigation (RI). This contract will be eligible for renewal for additional periods of three years or less, as needed, until the completion of the remedial action.

4. Informing Others in the Community

As a means of keeping community members informed of activities at the Woodtown Landfill site, the Woodtown Landfill Coalition will produce 12 issues of a newsletter containing information generated by the technical advisors. Five hundred copies of this newsletter will be printed for each issue: 400 copies will be distributed by hand to interested community members and 100 copies will

Appendix A

be mailed directly to Coalition members and the local press. In addition, all final documents produced by technical advisors will be sent to EPA to be placed in the information repositories established for the site at locations accessible to interested community members (i.e., Woodtown Public Library).

To encourage community involvement in activities related to the site, the Coalition will make all of its general, monthly meetings open to the public and will not require membership in either of the pre-existing groups (Woodtown Citizen Task Force and Smithtown Outing Club) to become a member of the Woodtown Landfill Coalition. Additionally, prior to EPA's public meeting on the feasibility study, the Coalition will hold a community forum to brief the public on the technical advisor's findings. The Coalition will advertise the meeting by putting an ad in the local newspaper.

5. Economic and Environmental Issues

Members of the Smithtown Outing Club have, since the Club's inception in 1965, actively organized a variety of swimming, canoeing, fishing, and hiking trips within Connecticut. Many of these club-sponsored activities have taken place on or near the Rolling River. During the last decade, however, contamination from the Woodtown Landfill site has polluted the river, causing club members to fear swimming or canoeing in the river. Additionally, the State has banned fishing in the river. As a result, this pollution has eliminated most of the river's recreational uses. The Smithtown Outing Club, as a member of the Woodtown Landfill Coalition, wants the Woodtown Landfill site cleaned up so that the pollution caused by it will no longer damage the Rolling River.

A number of economic concerns face many of the members of the Woodtown Landfill Coalition. The main worry among Coalition members is that publicity about the contamination from the landfill may cause the property values of homes with contaminated water or with riverfront exposure to the Rolling River to decrease significantly. As a result, Coalition members support a timely cleanup of the Woodtown Landfill site before the effects of site contamination scare away potential buyers and significantly lower property values in the region. Coalition members also have experienced significant financial burdens from not being able to use their well water. For example, members must purchase bottled water for drinking and cooking, and laundry cannot be washed in residential washing machines because the clothes become stained after washing them in the contaminated water.

SECTION 2: SCOPE OF SERVICES

This section provides a detailed description of individual technical advisor tasks and their purpose. Technical assistance tasks presented in this Scope of Services are based on conversations with the EPA Remedial Project Manager and the Community Relations Coordinator for the site.

Remedial Investigation (134 hours including one trip)

The advisor's first task will be to review the RI work plan, sampling plan, and quality assurance and quality control (QA/QC) plan. The Coalition wants to ensure that adequate sampling is carried out and gauge the need for testing in areas not included in the RI work plan. Special attention will be given to how EPA plans to investigate the migration of contamination from the Woodtown Landfill site into the Rolling River. From EPA's evaluation, the advisor will be expected to prepare a memo for the Coalition's leadership so that this information can be relayed to the membership via the newsletter. The memo and newsletter also will be sent to EPA to be placed in the information repository for the site.

Role of the Advisor for the Technical Assistance Grant Program

The advisor will be expected to attend a proposed meeting between EPA staff and residents scheduled for the start of the RI. The advisor will prepare questions to be asked of EPA regarding sampling plans, particularly in regard to the Rolling River. The Coalition also will take the opportunity during the meeting to discuss EPA's plans for evaluating the site's potential health risks.

Upon completion of the RI report, the advisor will be expected to help the Coalition evaluate the results. Another key document to be reviewed by the advisors will be the risk assessment (if available). The advisor will prepare memos on both these documents and the information will be made available to the Coalition membership via the newsletter and the information repository.

Feasibility Study (288 hours including one trip)

The advisor will complete a detailed analysis of the proposed remedies in the draft feasibility study and then brief the Coalition on its contents. Additionally, the advisor will prepare a written report to aid the Coalition's preparation of public comments. This report will provide the advisor's recommendations regarding the proposed cleanup measures. The advisor will make a presentation on his findings at a special community forum held by the Coalition prior to EPA's public meeting. The advisor will attend EPA's public meeting to be held in Woodtown during the public comment period. The advisor's primary responsibility will be to serve as a resource to the Coalition spokespeople at the meeting, interpreting technical information and asking clarifying questions. The advisor may make comments at the meeting if asked by the Coalition. The single, two-day trip during this period will combine both the Coalition briefing and the public meeting.

The Coalition is particularly concerned about the potential risks to human health posed by the Woodtown Landfill site. Consequently, we consider the health assessment to be prepared for the site to be a particularly important document. The advisor will be expected to analyze the health assessment thoroughly to ensure that public health is being adequately considered. The advisor will prepare a summary report on the potential health risks posed by the site and how EPA proposes to address these risks. This report will be included in the newsletter and sent to EPA to be placed in the information repository.

The advisor also will examine the ROD and prepare a memorandum on the chosen method of cleanup. Additionally, this report will describe how major comments submitted by the Coalition and the general community were addressed by EPA in the responsiveness summary. This memorandum will be published in the Coalition's newsletter and sent to EPA to be placed in the information repository.

Remedial Design (80 hours)

The technical advisor will be expected to carry out oversight functions during this stage. The advisor will review the final design to ensure that the design is consistent with the record of decision (ROD). The advisor will be expected to report his/her findings in memoranda submitted to the Coalition's Executive Committee. Excerpts about the progress at the site will be published in the Coalition newsletter. The memoranda will be available in the information repository.

Remedial Action (42 hours)

During the remedial action phase, the advisor will be expected to review the final inspection report. Within 30 days of the completion of the cleanup, the advisor will prepare a final report summarizing his/her findings. This report will be published in the Coalition's newsletter.

Sample Request for Proposals

The Woodtown Landfill Coalition is soliciting proposals under competitive negotiation for a technical advisor to provide assistance in the review and analysis of remedial activities undertaken by the U.S. Environmental Protection Agency (EPA) at the Woodtown Landfill Superfund site. Members of the Coalition include approximately 105 citizens in the Smithtown-Woodtown areas of Litchfield County, Connecticut. The technical advisor will assist Coalition members in interpreting documents generated throughout the Superfund process at the Woodtown Landfill site. The advisor also will help members review site data and data-gathering techniques. Technical assistance will ensure that Coalition members are thoroughly informed about all aspects of site cleanup activities, which will enable them to participate more effectively in EPA's decision-making process.

The scope of work will require the technical advisor to perform the following tasks during an initial three-year contractual period (with options for additional years), beginning just prior to the start of the Remedial Investigation (RI):

- (1) Review of technical documents generated during the remedial investigation/feasibility study (RI/FS), remedial design (RD), and remedial action (RA). These documents will include the RI work plan, sampling plan, quality assurance/quality control plan, RI report, risk assessment, health assessment, draft FS, record of decision, pre-final and final engineering design, and final inspection report;
- (2) Attendance at RI/FS meetings;
- (3) Preparation of summary memos and reports;
- (4) Review of the Coalition's written comments to be submitted during the public comment period on the draft FS; and
- (5) Presentations to Coalition members and others.

The advisor will work with Coalition members to develop a scope of services that will define Coalition expectations further. The scope of services will be included in the subagreement and will specify the timing and scope of the advisor's responsibilities based on the contractual agreement.

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Sample Request for Proposals (continued)

The technical advisor must have verifiable credentials and must provide the Coalition with a list of previous clients and information on any past, current, or anticipated business or financial relationships with any potentially responsible party at the site, their parent companies, subsidiaries, affiliates, subcontractors, and current clients, or attorneys and agents. The successful offeror will have:

- Technical qualifications in the area of health/risk assessment;
- Expertise to perform the scope of work, including expertise in the health sciences, toxicology, hydrogeology, and engineering, or explain how they will obtain the expertise;
- Experience working with governmental agency procedures and with clients who do not possess extensive technical backgrounds;
- Financial resources and adequate accounting procedures in place to successfully manage the services required and account for expenditures; and
- Demonstrated knowledge of CERCLA, RCRA, and other relevant statutes.

Each proposal received will be evaluated on the following criteria, which are weighted equally based on the Coalition's priorities:

20% Past relevant experience;

20% Knowledge of EPA procedures and reporting requirements;

20% Price;

20% Relevant expertise (i.e., health sciences, engineering), both academic and demonstrated;

20% Ability to provide written and oral translations of technical documents and data in terms understandable to lay persons.

Coalition members will evaluate proposals by assigning a score of 0-5 to each of these criteria. The scores then will be added for a total score. The highest possible total score is 25. The goal of these selection criteria is to obtain the best proposal at a reasonable cost.

Sample Request for Proposals (continued)

The group has the option to renew the subagreement after the initial three-year period for additional one to three-year contract periods as long as the cleanup continues. Contract renewal will be based on satisfaction with the technical advisor's previous performance. A total of approximately 421 hours of work is estimated for the technical advisor during the entire cleanup; the distribution of these hours is dependent upon the pace at which site cleanup proceeds.

This contract will be awarded under a competitive negotiation procurement method to the best qualified applicant within a competitive price range. The Coalition will negotiate to obtain the best final offer. Candidates will be informed of the Coalition's decision to reject or accept a proposal.

The deadline for submitting proposals to the Coalition is 5 p.m., July 10, 1990. Qualified firms or individuals are encouraged to respond to this request for proposal. All proposals should be sent to:

Ms. Pat Jones, Executive Director
Woodtown Landfill Coalition
Main Street
Woodtown, Connecticut 06798

Sample Public Notice

PUBLIC NOTICE

**Technical Assistance Services
Solicited by Woodtown Landfill Coalition**

Community group concerned with local Superfund site in Litchfield County, CT seeks technical assistance services for a three to five year period. Support to include review and analysis of U.S. EPA remedial activities at hazardous waste sites required under CERCLA. Technical advisor to review sampling data, reports, and studies during Superfund response. Written and oral presentation must be appropriate for non-technical audiences. Interested individuals or firms should have experience in working with government agencies; knowledge of hazardous waste and expertise in the following areas: health sciences, biochemistry, toxicology, engineering, and hydrogeology. Effective immediately, applicants may obtain an RFP by sending a large, self-addressed envelope to:

*Ms. Pat Jones, Executive Director
Woodtown Landfill Coalition
Main Street
Woodtown, CT 06798*

Proposals must be received at the above address by close of business (date must be at least 30 days from the publication of this notice).

Sample Technical Advisor Subagreement

This subagreement is entered into this _____ day of _____, 19____, by and between the Woodtown Landfill Coalition and Contractor of (Business Address).

I. SCOPE OF SUBAGREEMENT

The contractor agrees to perform the following services:

A. Purpose:

The Woodtown Landfill Coalition is entering into this subagreement for the services of a technical advisor with (the contractor) to provide assistance in the review and analysis of remedial activities at the Woodtown Landfill Superfund site. Members of the Coalition include approximately 105 citizens in the Smithtown-Woodtown areas of Litchfield County, Connecticut. The technical advisor will assist Coalition members in interpreting documents generated throughout the Superfund process at the Woodtown Landfill site. The advisor also will help members review site data and data-gathering techniques. Through this technical assistance, the contractor will ensure that Coalition members are thoroughly informed about all aspects of site cleanup activities, which will enable them to participate more effectively in EPA's decision-making process.

B. Contractual Period and General Statement of Duties:

This subagreement will cover an initial three-year period. This subagreement may be renewed, at the option of the Woodtown Landfill Coalition, after the initial contract period for additional one- to three-year contract periods as long as the cleanup continues, but is not to exceed ten years.

The contractor will perform the following tasks during the initial contractual period, beginning just prior to the start of the remedial investigation (RI) at the Woodtown Landfill Superfund site:

- (1) Review of technical documents generated during the RI. These documents will include the RI work plan, sampling plan, quality assurance/quality control plan, RI report, and risk assessment;
- (2) Attendance at RI kickoff meeting;
- (3) Preparation of summary memoranda and reports;
- (4) Preparation of questions and review of Coalition comments/questions for the public meeting on the RI kickoff; and
- (5) Presentations to Coalition members and others.

C. Specific Contractor Tasks:

1. Remedial Investigation

Time allocation: 134 hours, including one trip

- (a) The contractor's first task will be to review the RI work plan, sampling plan, and quality assurance and quality control plan. The Coalition wants to ensure that adequate sampling is carried out and gauge the need for testing in areas not included in the RI work plan. Special attention shall be

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given to how EPA plans to investigate the migration of contamination from the Woodtown Landfill site into the Rolling River. From the evaluation, the contractor shall prepare a memorandum for the Coalition's leadership so that this information can be relayed to the membership via the newsletter. EPA will place the memorandum and newsletter in the information repository for the site.

- (b) The contractor shall attend a proposed meeting scheduled for the start of the RI in Woodtown, Connecticut between EPA staff and residents. The contractor shall prepare questions and review Coalition questions to be asked of EPA regarding sampling plans, particularly in regard to the Rolling River.
- (c) Upon completion of the RI report, the contractor shall help the Coalition review the results. The contractor also shall review the risk assessment (when available). The contractor shall prepare memoranda on both these documents as well as an overall RI evaluation report. The contractor shall make the information available to the Coalition membership via the newsletter, and to EPA which may place memoranda, reports, and newsletters in the information repository.
- (d) The contractor will analyze the health assessment thoroughly to ensure that public health is being considered adequately and will prepare a summary report on the potential health risks posed by the site and how EPA proposes to address these risks. The contractor shall make the information available to the Coalition membership via the newsletter.

(e) The contractor will complete a detailed analysis of the proposed remedies in the draft feasibility study and then brief the Coalition on its contents. Additionally, the contractor will prepare a written report to aid the Coalition's preparation of public comments. This report will provide the contractor's recommendations regarding the proposed cleanup measures. The contractor will attend the public meeting to be held in Woodtown during the public comment period. The contractor's primary responsibility will be to serve as a resource to the Coalition's spokespersons at the meeting, interpreting technical information, and asking clarifying questions.

D. Progress Reports:

The contractor shall submit the following reports:

- 1. Progress Reports:** The contractor shall submit monthly progress reports to the Woodtown Landfill Coalition. These reports shall be submitted within fifteen (15) days of the end of each calendar month. These reports shall, at a minimum, contain the following information summarizing the activities undertaken to date by the contractor:
 - (a) hours worked, categorized by the Scope of Work tasks;
 - (b) dollars spent by task and total dollars spent for the reporting period;
 - (c) a description of activities;
 - (d) a copy of any written materials prepared during the reporting period; and
 - (e) an identification of any outstanding Coalition concerns about the site that have not been addressed.
- 2. Final Report:** Within 60 days of the end of the subagreement, the contractor shall prepare and submit to the Woodtown Landfill Coalition, for its review and approval, a final report that shall detail all activities undertaken under the subagreement and evaluate their effectiveness in meet-

ing the purpose of this subagreement. The Woodtown Landfill Coalition shall review the final report and may require revisions. Upon receipt of the Woodtown Landfill Coalition revisions, the contractor shall incorporate any revisions necessary and resubmit the final report within 15 days.

II. PAYMENT

A. The Woodtown Landfill Coalition shall compensate the contractor for the services outlined in this subagreement at a rate of seventy-six dollars per hour (\$76.00 per/hr), which shall include overhead, general, and administrative costs.

B. Reimbursement for Other Direct Costs, not to exceed six hundred and forty dollars, shall be at the following rates:

1. Telephone expenses	at cost
2. Postage	at cost
3. Stationary	at cost
4. Secretarial	at cost
5. Copying, printing	at cost
6. Other expenses	at cost (graphics, for example)
7. Lodging expense	up to \$100 per diem (charged at the Government rate.)
8. Other travel expenses	at cost

Travel rates shall be limited to approved Federal reimbursement rates. (These rates can be found in the July 15, 1987 Federal Register.)

C. Overall maximum payment for the subagreement, including any reimbursement authorized in (A) and (B) above, shall not exceed:

Ten thousand, eight hundred and twenty four dollars
(amount in words)

(\$10,824)
(amount in numbers)

Payment shall be made on a basis in accordance with provision III (A) of this subagreement.

D. In no event shall the contractor be reimbursed for holidays, sick days, or time other than that actually spent providing the services.

III. METHOD OF PAYMENT

A. Standard Invoice System:

Monthly, the contractor shall submit time sheets and corresponding invoices to: Pat Jones, Executive Director, Woodtown Landfill Coalition, for services performed during the calendar month that ended. Time sheets must indicate the hours charged on a daily basis (even if zero) and indicate travel expenses corresponding to the days the charges were incurred. Invoices must clearly show

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the total hours charged for the month, rate and total cost, and specify the total charge for that month for each of the "Other Direct Cost" categories specified in provision II (B) of this subagreement. If the invoices are approved, Woodtown Landfill Coalition agrees to make reasonable efforts to process payments promptly in accordance with the provisions of 40 CFR Part 33.

The Woodtown Landfill Coalition is limited under the Technical Assistance Grant Program to reimbursement on a quarterly basis for total costs under \$500 and on a monthly basis if costs exceed \$500. Thus, contractor payment also is subject to this payment schedule. If the invoices are not approved, the Woodtown Landfill Coalition shall promptly negotiate with the contractor in an effort to resolve any disagreement. The Woodtown Landfill Coalition shall not be liable for any interest or penalty charges for late payments caused by reimbursement delays by EPA.

IV. FUNDING AND FISCAL YEAR APPROPRIATIONS

Obligations for expenditures by EPA for technical assistance grants will be approved for entire budget periods. The obligation of the Woodtown Landfill Coalition to renew this subagreement may be subject to the availability of EPA appropriations.

V. GENERAL CLAUSES

1. Supersession

The Woodtown Landfill Coalition and the contractor agree that this and other appropriate clauses in 40 CFR 33.1030 apply to that work eligible for EPA assistance to be performed under this subagreement and that these clauses supersede any conflicting provisions of this subagreement.

2. Privity of Subagreement

This subagreement is expected to be funded in part with funds from the U.S. Environmental Protection Agency. Neither the United States nor any of its departments, agencies, or employees is, or will be, a party to this subagreement or any lower tier subagreement. This subagreement is subject to regulations contained in 40 CFR Part 33 in effect on the date of the assistance award for this project.

3. Termination

(a) This subagreement may be terminated in whole or in part, in writing, by either party in the event of substantial failure by the other party to fulfill its obligations under this subagreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given (1) not less than ten (10) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination.

(b) This subagreement may be terminated in whole or in part, in writing, by the Woodtown Landfill Coalition for its convenience, provided that the contractor is given (1) not less than ten (10) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination.

(c) If termination for default is effected by the Woodtown Landfill Coalition, an equitable adjustment in the price provided for in this subagreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to

the contractor at the time of termination may be adjusted to cover any additional costs to the Woodtown Landfill Coalition because of the contractor's default. If termination for default is effected by the contractor, or if termination for convenience is effected by the Woodtown Landfill Coalition, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the contractor for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the contractor relating to commitments which had become firm prior to the termination.

(d) Upon receipt of a termination action under paragraphs (a) or (b) above, the contractor shall (1) promptly discontinue all affected work (unless the notice directs otherwise), and (2) deliver or otherwise make available to the Woodtown Landfill Coalition all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the contractor in performing this subagreement, whether completed or in process.

(e) Upon termination under paragraphs (a) or (b) above, the Woodtown Landfill Coalition may take over the work and may award another party a subagreement to complete the work under this subagreement.

(f) If, after termination for failure of the contractor to fulfill contractual obligations, it is determined that the contractor had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the recipient. In such event, adjustment of the subagreement price shall be made as provided in paragraph (c) of this clause.

4. Remedies

Unless otherwise provided in this subagreement, all claims, counter-claims, disputes, and other matters in question between the Woodtown Landfill Coalition and the contractor arising out of, or relating to, this subagreement or the breach of it will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the Woodtown Landfill Coalition is located.

5. Audit - Access to Records

(a) The contractor shall maintain books, records, documents, and other evidence directly pertinent to performance on EPA funded work under this subagreement in accordance with generally accepted accounting principles and practices consistently applied, and 40 CFR Part 30 in effect on the date of execution of this subagreement. The contractor also shall maintain the financial information and data used in the preparation or support of the cost submission required under 40 CFR 33.290 for any negotiated subagreement, or change order and a copy of the cost summary submitted to the recipient. The U.S. Environmental Protection Agency, the Comptroller General of the United States, the U.S. Department of Labor, the Woodtown Landfill Coalition, and (the State) or any of their authorized representatives shall have access to all such books, records, documents, and other evidence for the purpose of inspection, audit, and copying during normal business hours. The contractor will provide proper facilities for such access and inspection.

(b) If this is a formally advertised, competitively awarded, fixed price subagreement, the contractor agrees to make paragraphs (a) through (f) of this clause applicable to all negotiated change orders and subagreement amendments affecting the subagreement price. In the case of all other types of prime subagreements, the contractor agrees to make paragraphs (a) through (f) applica-

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ble to all subagreements they award in excess of \$25,000, at any tier, and to make paragraphs (a) through (f) of this clause applicable to all change orders directly related to project performance.

- (c) Audits conducted under this provision shall be in accordance with generally accepted auditing standards and with established procedures and guidelines of the reviewing or audit agency(ies).
- (d) The contractor agrees to disclose all information and reports resulting from access to records under paragraphs (a) and (b) of this clause to any of the agencies referred to in paragraph (a).
- (e) Access to records is not limited to the required retention periods. The authorized representatives designated in paragraph (a) of this clause shall have access to records and at reasonable time for as long as the records are maintained.
- (f) This right of access clause applies to financial records pertaining to all subagreements (except formally advertised, competitively awarded, fixed price subagreements) and all subagreement change orders regardless of the type of subagreement, and all subagreement amendments regardless of the type of subagreement. In addition, this right of access applies to all records pertaining to all subagreements, subagreement change orders and subagreement amendments:
 - (1) To the extent the records pertain directly to subagreement performance;
 - (2) If there is any indication that fraud, gross abuse, or corrupt practices may be involved;
or
 - (3) If the subagreement is terminated for default or for convenience.

6. Covenant Against Contingent Fees

The contractor assures that no person or selling agency has been employed or retained to solicit or secure this subagreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee excepting bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business. For breach or violation of this assurance, the Woodtown Landfill Coalition shall have the right to annul this agreement without liability or, at its discretion, to deduct from the subagreement price or consideration, or otherwise recover the full amount of such commission, percentage, or brokerage or contingent fee.

7. Gratuities

- (a) If the Woodtown Landfill Coalition finds after a notice and hearing that the contractor or any of the contractor's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of the Woodtown Landfill Coalition, the State or EPA in an attempt to secure a subagreement or favorable treatment in awarding, amending or making any determinations related to the performance of this subagreement, the Woodtown Landfill Coalition may, by written notice to the contractor, terminate this subagreement. The Woodtown Landfill Coalition also may pursue other rights and remedies that the law or this subagreement provides. However, the existence of the facts on which the Woodtown Landfill Coalition bases such findings shall be an issue and may be reviewed in proceedings under the Remedies clause of this subagreement.
- (b) In the event this subagreement is terminated as provided in paragraph (a), the Woodtown Landfill Coalition may pursue the same remedies against the contractor as it could pursue in the

event of a breach of the subagreement by the contractor, and as a penalty, in addition to any other damages to which it may be entitled by law, be entitled to exemplary damages in an amount (as determined by the Woodtown Landfill Coalition) which shall be not less than three nor more than ten times the costs the contractor incurs in providing any such gratuities to any such officer or employee.

8. Responsibility of the Contractor

- (a) The contractor is responsible for the professional quality, technical accuracy, timely completion, and coordination of all reports or other services furnished by the contractor under this subagreement. The contractor shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in the reports and other services.
- (b) The contractor shall perform the professional services necessary to accomplish the work specified in this subagreement in accordance with this subagreement and applicable EPA requirements in effect on the date of execution of the assistance agreement for this project.
- (c) The Woodtown Landfill Coalition's or EPA's approval of reports and incidental work or materials furnished hereunder shall not in any way relieve the contractor of responsibility for the technical adequacy of his work. Neither the Woodtown Landfill Coalition's nor EPA's review, approval, acceptance, or payment of any of the services shall be construed as a waiver of any rights under this subagreement or of any cause for action arising out of the performance of this subagreement.
- (d) The contractor shall be, and shall remain, liable in accordance with applicable law for all damages to the Coalition or EPA caused by the contractor's negligent performance of any of the services furnished under this subagreement, except for errors, omissions or other deficiencies to the extent attributable to the Coalition, Coalition-furnished data, or any third party. The contractor shall not be responsible for any time delays in the project caused by circumstances beyond the contractor's control.
- (e) The contractor's obligations under this clause are in addition to the contractor's other express or implied assurances under this subagreement or State law and in no way diminish any other rights that the Coalition may have against the contractor for faulty materials, equipment, or work.

9. Final Payment

Upon satisfactory completion of the work performed under this subagreement, as a condition before final payment under this subagreement, or as a termination settlement under this subagreement, the contractor shall execute and deliver to the Woodtown Landfill Coalition a release from any future claims against the Woodtown Landfill Coalition arising under this subagreement, except claims that are specifically exempted by the contractor to be set forth in the release. Unless otherwise provided in this subagreement, by State law or otherwise expressly agreed to by the parties to this subagreement, final payment under this subagreement or settlement upon termination of this subagreement shall not constitute a waiver of the Woodtown Landfill Coalition's claims against the contractor under this subagreement.

10. Conflict of Interest

For the purposes of this subagreement, the contractor shall provide: (1) information on its status and the status of parent companies, subsidiaries, affiliates, subcontractors, and current clients and attorneys and agents of such parties as potentially responsible parties (PRPs) at the site (this dis-

closure requirement encompasses past and anticipated financial and business relationships, including services related to any proposed or pending litigation, with such parties); (2) certification that, to the best of its knowledge and belief, it has disclosed such information or no such information exists; and (3) a statement that it shall disclose immediately any such information discovered after submission of its bid or proposal or after award.

11. Ineligible Activities Prohibited

The services to be provided by the contractor under this subagreement shall not include any of the following activities:

Assisting an attorney in preparing a legal action or preparing for and serving as an expert witness at any legal proceeding;

Partisan political activity, including lobbying for any issue or cause, or to further the election or defeat of any candidate for public office;

Generation of new primary data such as well drilling and testing, including split sampling; and

Reopening final Agency decisions or conducting disputes with the Agency.

12. Preparation and Distribution of Informational Materials

The contractor shall not, without prior review and approval by the Woodtown Landfill Coalition, disclose or release informational materials to the general public, other governmental agencies, businesses or other legal entities.

13. Record Retention

All records required under this subagreement shall be maintained by the contractor during performance on EPA assisted work under this subagreement. Such records must clearly detail acquisitions, work progress, reports, expenditures, and commitments indicating their relationship to established costs and schedules. These records shall be retained for three years from close-out of the subagreement, unless audit, litigation, cost-recovery, and/or any disputes are initiated before the end of the three-year retention period. Prior written approval shall be obtained from the Woodtown Landfill Coalition before any records may be destroyed after the record retention period.

Sample Cost Analysis

(for subagreements over \$25,000)

This section explains how to perform a cost analysis, and how to review and categorize cost information provided by potential technical advisors under a competitively negotiated procurement. Cost analysis also is discussed in Chapter 5 of this manual.

This information is adapted from Chapter 22 of the *Assistance Administration Manual* (12/3/84) published by the EPA Grants Administration Division.

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COST ANALYSIS

A cost analysis is a detailed review of each element of a contractor's proposed costs to determine that they are necessary, allowable, and reasonable. You must conduct a cost analysis before awarding a subagreement on all procurements over \$25,000 when the technical advisor is hired under the competitive or noncompetitive negotiation procurement methods. You also must conduct a cost analysis on all change orders to the subagreement regardless of the dollar amount of the change order and regardless of the procurement method used to hire the technical advisor. (See Chapter 5 for a further discussion of change orders.)

The technical advisor must provide you with a summary of his/her proposed costs on an EPA Form 5700-41, or on another form which contains the same information (some States may have their own forms for this purpose). You may have to request additional information from the technical advisor.

You must review the technical advisor's proposed costs to determine that they are necessary, reasonable, and allowable. Necessary costs are those required to complete the approved scope of work. Allowable costs are those authorized under the appropriate cost principles (for commercial organizations the applicable cost principles are 48 CFR Part 31.1 and 31.2). Reasonable costs are those that a prudent businessperson would pay for the same product or service at that time. You also must determine that only fair and reasonable profits are paid to the technical advisor.

This appendix examines each of the types of costs summarized on EPA Form 5700-41 and gives examples of each type of cost.

A. Types of Cost

Direct Labor costs are charges for the hours worked by personnel on tasks directly related to the subagreement. (Form 5700-41, Section 7, Direct Labor.)

Example:

Category	Estimated Hours	Hourly Rate	
Senior Scientist	400	x \$35.00	= \$ 14,000
Staff Scientist	100	x 25.00	= \$ 2,500
Clerical	150	x 12.00	= \$ 1,800
Total Direct Personnel Cost		=	\$ 18,300

Things to Consider:

The level of effort or the total amount of time proposed. The proposed effort must be consistent with the tasks required by the subagreement.

The labor mix or the labor categories proposed. Labor mix (senior scientist versus staff scientist versus clerical) must be consistent with the level and type of tasks required by the subagreement; and

The annual salary rates and any factor for project cost increases. Generally, the conversion of annual salaries into hourly rates is accomplished by dividing the annual salary by 2,080 hours.

Indirect Costs are costs which benefit the technical advisor's organization as a whole, which are not specifically identified in the subagreement. Indirect costs also are referred to as overhead or burden costs, and include such costs as fringe benefits, office rental, equipment depreciation, accounting costs, legal services, and top level management costs.

In some cases the technical advisor will present his/her Indirect costs as separate categories of costs (e.g., fringe benefits, general and administrative); in other cases the technical advisor will present his/her indirect costs as one figure. Either way is acceptable provided the technical advisor consistently accounts for indirect costs in the same way all of the time.

Example 1:

<u>Category</u>	<u>Labor Rate</u>	<u>Direct Estimated Base</u>	<u>Indirect Cost</u>
Fringe benefits	10%	x \$18,300	= \$ 1,830
Overhead	50%	x \$18,300	= \$ 9,150
General and Administrative	2%	x \$18,300	= \$ 366

Example 2:

Total Indirect Costs \$11,346

<u>Category</u>	<u>Rate</u>	<u>Base</u>	<u>Estimated Cost</u>
Indirect Costs	62%	x \$18,300	= \$11,346

Things to Consider:

The indirect cost base. Does the indirect cost base include only reasonable and allowable costs such as office space and equipment depreciation?

The proposed indirect rate. Has the rate been approved by EPA or another Federal agency? If not, is there enough documentation to evaluate the rate? Unallowable costs must be excluded from the rate. (See 40 CFR 31.1 and 31.2 for the applicable cost principles.)

Travel and per diem costs are costs for travel and related charges (e.g., hotel and meal charges) that can be directly related to the subagreement. A per diem usually is a lump sum that includes the cost of hotel room and meals for one day.

The technical advisor must provide detailed information on his proposed travel costs. The example shows how a prospective technical advisor may arrive at his travel expenses shown in Section 9(a) of the form. The Federal rate for trips by car is 20.5 cents per mile.

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Example:

<u>Travel</u>	<u>Number of Miles</u>	<u>Number of Trips</u>	<u>Number per Mile</u>	
Office to Superfund site and return	50	x 1	x \$205	= \$ 10.25
Office to EPA Regional Office and return	200	x 1	x \$205	= \$ 41.00
			Total	\$ 51.25

Hotel and meal costs can be charged only for trips which require overnight accommodations. The technical advisor must charge only the allowed Federal travel reimbursement rates to the grant, which vary from city to city. Your EPA TAG Project Officer will have these rates or you should refer to the July 15, 1987 Federal Register.)

<u>Per Diem</u>	<u>Number of Days</u>	<u>Rate per Day</u>	
Hotel and Meals	3	x \$82.00	= \$ 246.00
		Total Travel and Per Diem Cost	\$ 150.00

Things to Consider:

- The type of trip to be made;
- The number of trips to be made;
- The number of people on the trip;
- The cost per trip (per mile for local travel); and
- The rate of per diem allowance (e.g., hotel and meals).

Equipment, materials, and supply costs should be minimal for technical assistance projects. The technical advisor should not need to purchase any equipment. Any miscellaneous supplies such as paper should be included in the technical advisor's overhead rate. A Form 5700-41 (see Section 9(b)), however, will not show any information except the name of the item, the quantity to be purchased, and the cost of each item. In the rare situation when this category of costs is used, you must request that the technical advisor provide a supplementary statement that itemizes and justifies all costs included in Section 9(b).

Things to Consider:

- The cost of rental vs. the cost of purchase;
- The technical advisor must itemize pieces of equipment with a unit acquisition cost of \$1,000 or more; and
- The actual need for the itemized equipment.

Subcontract costs are costs related to work performed by an additional "contractor" hired by the technical advisor to aid in carrying out the tasks specified in the subagreement. In some cases, a technical advisor may want to acquire the services of an additional expert whose knowledge may complement the overall services the technical advisor candidate could provide to you. This additional expert is called a subcontractor. For example, if the primary technical advisor is a health sciences expert but engineering expertise is also needed, an engineer might be hired as a subcontractor. Costs associated with the subcontractor must be reflected in the technical advisor's cost or price summary. The procedures for cost analysis of subcontracts are the same as for the primary contractor.

Example:

	<u>Price</u>
Total direct and indirect costs	\$10,000
Profit	\$ 1,000
Total Cost	\$11,000

B. Cost Analysis Findings

You must determine (and document) that all costs are allowable, necessary, and reasonable. You also must determine that only fair and reasonable profits are paid to their technical advisors.

Allowable costs are identified in the applicable cost principles (see 40 CFR 30.410). A few examples of unallowable costs are:

- ◆ **Bad Debts.** Losses arising from uncollectible accounts and other claims, and related costs.
- ◆ **Entertainment.** Costs of amusements, social activities, and related costs, such as meals or beverages.
- ◆ **Interest and Other Financial Costs.** Interest on borrowing (however represented), bond discounts, costs of financing operations, and related legal and professional fees.
- ◆ **Fines and Penalties.** Costs from violations of, or failure to comply with Federal, State, and local laws and regulations.

Necessary Costs are those, which you determine must be incurred in order for the technical advisor to carry out the work plan.

Reasonable costs are the minimum amounts for each necessary and allowable cost.

Profit is determined before the subagreement award and does not change unless there is a change in the scope of work. Profit cannot be tied to the actual costs of the project. In other words, profits cannot increase if costs go up. Profit may be established by taking a percentage of the estimated costs, but the subagreement should list profit as a dollar figure, not a percentage.

Generally, you should negotiate fee or profit amounts based on:

- ◆ **Technical advisor's assumption of risk:** The greater the amount of risk the technical advisor assumes, normally the higher the rate of profit. On "fixed-price" subagreements involving complex or difficult tasks, the technical advisor would assume considerably more risk than on

Appendix A

the "cost reimbursement type" subagreements being used in the Technical Assistance Grant Program;

- ◆ Technical advisor's record of performance: Excellent past performance should be rewarded and poor performance should not.
- ◆ Technical advisor's input to total performance: The greater the amount of resources and work the technical advisor will provide, itself, the greater the profit. If the technical advisor intends to subcontract most of the work, the profit should be less.

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CUSTOM PRICE SUMMARY

(See accompanying instructions before completing this form.)

100-00000000
OMB No. 2030-0011
Approval Expires 10-31-06

PART I - GENERAL

1 RECIPIENT Woodstown Landfill Coalition		2 ASSISTANCE IDENTIFICATION NO			
3 NAME OF CONTRACTOR OR SUBCONTRACTOR Acme Services		4 DATE OF PROPOSAL 9/15/90			
5 ADDRESS OF CONTRACTOR OR SUBCONTRACTOR (Include ZIP Code) 123 Main Street Anytown, USA		6 TYPE OF SERVICE TO BE FURNISHED Technical Assistance			
7 TELEPHONE NUMBER (Include Area Code) (203) 123-4567					
PART II - COST SUMMARY					
8 DIRECT LABOR (Specify labor categories)		ESTIMATED HOURS	HOURLY RATE	ESTIMATED COST	TOTALS
Senior Scientist		400	35.00	14,000	
Staff Scientist		100	25.00	2,500	
Clerical		150	12.00	1,800	
DIRECT LABOR TOTAL:				18,300	
9 INDIRECT COSTS (Specify indirect cost pools)		RATE	= BASE =	ESTIMATED COST	
		0	0	0	
Overhead Rate		62%	18,300		
INDIRECT COSTS TOTAL:				11,346	
10 OTHER DIRECT COSTS					
a TRAVEL (To visit the site and the EPA Regional Office)				ESTIMATED COST	
i) TRANSPORTATION (local)				51	
ii) PER DIEM (3 days @ \$62.00 per day)				246	
				297	
TRAVEL SUBTOTAL					
b EQUIPMENT MATERIALS SUPPLIES (Specify categories)		QTY	COST	ESTIMATED COST	
None		0	0	0	
EQUIPMENT SUBTOTAL:					
c SUBCONTRACTS				ESTIMATED COST	
Goodtime Engineering				0	
				11,000	
SUBCONTRACTS SUBTOTAL:				11,000	
d OTHER (Specify categories)				ESTIMATED COST	
None				0	
OTHER SUBTOTAL:				0	
e OTHER DIRECT COSTS TOTAL:				11,346	
10 TOTAL ESTIMATED COST				40,943	
11 PROFIT				5,094	
12 TOTAL PRICE				45,937	

EPA Form 1700-41 (Rev. 4-84) Previous editions may be used until January 1, 1985

AB500205

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PURPOSE AND APPLICABILITY

The purpose of this form is to provide a simple form for the display of cost and price data. 40 CFR 33.290 requires the recipient to perform cost or price analysis for every procurement action, including subagreement modifications. This form is not required by EPA, but may be used at the recipient's option. If the recipient currently uses a cost and price analysis form which accomplishes the same objectives as this form, the recipient may use its own form.

INSTRUCTIONS

If this form is used, CAREFULLY READ AND FOLLOW ALL INSTRUCTIONS. Many items are not self-explanatory. Attach additional sheets if necessary.

Use only the applicable portions of this form.

Part I is applicable to all subagreements.

Part II is applicable to all subagreements requiring a cost analysis pursuant to EPA procurement regulations.

Part III is applicable to all subagreements where review is based on price comparison (i.e., price analysis).

Part IV certifications will be executed as required by the instructions for each block.

PART I - GENERAL

Item 1 — Enter the name of the recipient as shown on the assistance agreement.

Item 2 — Enter the assistance identification number shown on the assistance agreement (or assigned to the project, if no assistance agreement has yet been executed).

Item 3 — Enter the name of the contractor or subcontractor with whom the subagreement is proposed to be executed.

Item 4 — Enter the date of the contractor's or subcontractor's proposal to the recipient.

Item 5 — Enter the full mailing address of the contractor or subcontractor.

Item 6 — Give a brief description of the work to be performed under the proposed subagreement.

PART II - COST SUMMARY

This portion of the form is to be completed by the contractor (or his/her subcontractor) with whom a subagreement is proposed to be executed, unless that subagreement is a formally advertised, competitively bid, fixed price contract.

Nothing in the following discussions should be interpreted as recommending the inclusion as direct costs any items normally treated as overhead costs in the firm's accounting or estimating system. 40 CFR Part 30 identifies general cost principles applicable to subagreements under EPA assistance. Pursuant to that Part, all subagreements awarded to profit-making organizations are subject to the cost principles of 41 CFR 31.2. Architect, engineer and construction contracts are also subject to 41 CFR 31.105.

Item 7 — Direct Labor.

Direct labor costs normally include salaries at a regular time rate. Overtime premiums should be identified separately on an attachment. Incurrence of unanticipated overtime costs requires the approval of the recipient at the time of incurrence. If significant overtime is known to be needed at the time of compilation of the cost review form, the reasons therefore, labor categories, rates and hours should be identified on an attachment. Also included is the cost of partners' or principals' time when they are directly engaged in services to be rendered.

under the subagreement. In case the full time of any employee is not to be devoted to work to be performed under the subagreement only the cost of actual time to be applied should be included. The compensation of a partner or principal shall be included as direct cost only for the time that she/he is expected to be engaged directly in the performance of work under the subagreement and only if it is the firm's normal practice to charge such time directly to clients. The rate of compensation of a partner or principal shall be commensurate with the cost of employing another qualified person to do such work, but the salary portion shall not exceed the actual salary rate of the individual concerned. Distribution of profits shall not be included in the rate of compensation.

Enter in block 7 the categories of professional or technical personnel necessary to perform each major element of work under the subagreement scope of services. Estimate hours worked for each category and extend them by the wage rates to be paid during the actual performance of the work. Current rates, adjusted for projected increases, if any, should be used for the actual categories of labor contemplated. All projected increases should be supported by recent experience or established personnel policy.

Enter in the far right column the total estimated direct labor cost.

Supporting records to be maintained by the contractor and which must be submitted or made available to the recipient or EPA upon request include

- a. The method of estimating proposed hours worked
- b. The computation technique used in arriving at proposed labor rates
- c. The specific documents, books, or other records used as factual source material to develop proposed hours worked and labor rates.
- d. Detailed rate computations which were used in computing the information submitted on the form

If in block 14a, the contractor has checked "No" a brief narrative description of the methods used in arriving at items 8 through 10 above shall be included on an attached sheet.

Item 8 — Indirect Costs.

Indirect costs may consist of one or more pools of expenses which are grouped on the basis of the benefits accruing to the cost objectives represented by the distribution base or bases to which they are allocated. Since accounting practices vary, the use of particular groupings is not required. Neither is the use of any particular allocation base mandatory. However, it is mandatory that the method used results in an equitable allocation of indirect costs to cost objectives which it supports.

Normally, the firm's accounting system and estimating practices determine the method used to allocate overhead costs. The firm's established practices, if in accord with generally accepted accounting principles and PROVIDED THEY PRODUCE EQUITABLE RESULTS in

AR500207

THE CIRCUMSTANCES, will generally be accepted. Proposed overhead rates should represent the firm's best estimate of the rates to be experienced during the subagreement period. They should be based upon recent experience and be adjusted for known factors which will influence experienced trends.

Common overhead groupings overhead on direct labor and general and administrative expenses. The first grouping usually includes employment taxes, fringe benefits, holidays, vacation, idle time, bonuses, etc., applicable to direct labor. The second generally includes the remaining costs which because of their inaccuracy for common or joint objectives are not readily subject to treatment as direct costs. It is expected, however, that proposal groupings will correspond with the firm's normal method for accumulating indirect costs. Under some accounting systems, the first grouping would be included instead under item 7. No special categorization is required provided the results are realistic and equitable.

Direct salaries are the normal distribution base for overhead costs, but in some circumstances other bases produce more equitable results. As in the case of overhead costs groupings, the method to be used will depend upon the firm's normal practices and the equity of the results produced in the circumstances.

In the case of multibranch firms, joint ventures, or affiliates, it is expected that overhead costs applicable to (the specific locations) where work is to be based on cost data from the most recent fiscal periods, updated to reflect changes in volume of business or operations.

Enter in block 8 the indirect cost pools normally used by the firm for allocation of indirect costs. Enter the indirect cost rate for each pool and extend each one by the rate base to which it applies to arrive at the estimated indirect costs to be incurred during the actual performance of the work. If the direct labor total from block 7 is not used as the rate base for any of the indirect cost pools, the rate base used must be explained on an attached sheet.

A brief narrative statement outlining the firm's policies and practices for accumulating indirect costs. Enter the indirect cost rate costs and the method used to compute the proposed rate or rates shall accompany the form. Include comment on the firm's policies regarding the pricing and costing of principals' time. The normal accounting treatment of principals' salaries, the annual amounts, and the hourly charge rate, if used, should be discussed.

Enter in the far right column the total estimated indirect costs.

Supporting records to be maintained by the contractor and which must be submitted or made available to the recipient or EPA upon request include:

- a. Detailed cost data showing overhead accounts, allocation bases, and rate computations for the preceding fiscal period, if more than six months of the current fiscal period have elapsed, cost data for this period should be included as one of the three periods).
- b. Company budgets, budgetary cost data, and overhead rate computations for future periods)

Item 9 — Other Direct Costs

The following items are illustrative of costs normally included in this category of costs:

- a. Travel costs, including transportation, lodging, subsistence, and incidental expenses incurred by personnel or consultants while in a travel status in connection with the performance of services required by the contract. The cost principles generally

require the use of less than first class air accommodations and also limit the cost of private aircraft.

b. Equipment, Materials, and Supplies

- (1) Long distance telephone, telegraph, and cable to be incurred in connection with the performance of services required in connection with the contract.
- (2) Reproduction costs including blueprints, black and white prints, color prints, photographs, photostats, negative and express charges.
- (3) Commercial printing, binding, artwork, and models.
- (4) Special equipment.

c. Subcontracts.

d. Other. Direct costs, if any, not included above.

Enter in blocks 9a-d all other direct costs proposed. Travel cost entered must be supported by an attachment which identifies the number of staff trips proposed and the estimated cost per staff trip for both local and long distance transportation. The number of days at the rate per day must be provided to support the per diem shown. A subcontract and consultant agreement must be identified separately in block 9c.

Enter in the far right column on line 9e the total of all other direct costs (9a-d).

Supporting data to be maintained by the contractor and which must be submitted or made available to the recipient or EPA upon request include:

- a. basis for other direct costs proposed.
- b. factual sources of costs, rates, etc., used in computing proposed amount of each cost element.

Item 10 — Total Estimated Cost

Enter the total of all direct labor, indirect costs, and other direct costs from items 7, 8, and 9.

Item 11 — Profit

A fair and reasonable provision for profit cannot be made by simply applying a certain predetermined percentage to the total estimated cost. Rather, profit will be estimated as a dollar amount as considering:

- a. degree of risk,
- b. nature of the work to be performed,
- c. extent of firm's investment,
- d. subcontracting of work, and
- e. other criteria.

The Federal Acquisition Regulation cost principles applicable to agreements with profit-making organizations (41 CFR 31.2-6, 31.106) disallow certain types of costs which are sometimes incurred by firms in the normal conduct of their business. Examples of costs which are not allowable under these cost principles include, but are not limited to, entertainment, interest on borrowed capital, and debts. Because the Government considers "profit" to be the excess

price over allowable costs, such computation can indicate a higher profit estimate than the firm's experienced profit as it customarily computes it. The contractor may separately disclose to the recipient its customary computations.

Enter the dollar amount of profit in block 11.

Item 12 — Total Price

Enter the total of items 10 and 11.

PART III — PRICE SUMMARY

This portion of the form is for use by a recipient when price comparison (i.e., price analysis) is used in subagreement review. It may also be used by a contractor when price comparison is used as a basis for award of a subcontract.

Item 13 — Competitor's Catalog Listings, In-House Estimates, Price Quotes

Enter sources of all competitive bids or quotes received, or catalogs used and their prices, or in-house estimates made, if appropriate, for comparison. Attach additional sheets if necessary, particularly for purchases of several different items.

Enter in the far right column the proposed price for the subagreement.

PART IV — CERTIFICATIONS

Item 14 — Contractor — FOR USE BY CONTRACTOR OR SUBCONTRACTOR ONLY

- a.** Complete this block only if part II has been completed.
- b.** Complete this block only if part II has been completed.

Enter the specific cost principles with which the cost summary of Part II conforms. Cost principles applicable to subagreements with various types of organizations are identified in 40 CFR Part 30-410. Cost principles applicable to subagreements with profit-making organizations are those at 41 CFR 31.2, and, for architect/engineer or construction contracts, 41 CFR 31.108.

- c. (1)** Describe the proposal, quotation, request for price adjustment, or other submission involved, giving appropriate identifying number (e.g., RFP No. _____).
- (2)** Enter the date when the price negotiations were concluded and the contract price was agreed to. The responsibility of the subagreement is not limited by the personal knowledge of the contractor's negotiator if the time of agreement, showing that the negotiated price is not based on incomplete, current, and accurate data.
- (3)** Enter the date of signature. This date should be as close as practicable to the date when the price negotiations were concluded and the subagreement price was agreed to (not to exceed 30 days).

Item 15 — Recipient Reviewer — FOR USE BY RECIPIENT ONLY

If required by applicable assistance regulations, the recipient must submit the signed form for EPA review prior to execution of the subagreement.

Item 16 — EPA Reviewer — FOR USE BY EPA ONLY

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APPENDIX B

BLANK FORMS

B-1

AR500210

BLANK FORMS

A list of forms required for the EPA Technical Assistance Grant Program and a blank copy of each form are provided in this appendix. Grant applicants/recipients may use the attached blank forms or request an EPA technical assistance grant forms package from: EPA Headquarters Grants Administration Office, 401 M Street, S.W., Room M-3225, Washington, D.C. 20460, (202) 382-5266, or any EPA Regional Office listed in Appendix C (key contacts list).

Reference List of Blank Forms:

- ◆ EPA Form 5700-33 (Rev. 11-86)
Standard Form 424
Application for Federal Assistance
(State and Local Nonconstruction Programs)
General Instructions
- ◆ EPA Form 5700-40 (Rev. 5-84)
Procurement System Certification
- ◆ EPA Form SF 334
Minority and Women's Business Utilization Report
- ◆ Standard Form 270 (7-76)
Request for Advance or Reimbursement
- ◆ Standard Form 269 (7-76)
Financial Status Report
- ◆ EPA Form 5700-41 (4-84)
Cost or Price Summary Format for Subagreements
Under U.S. EPA Grants

U.S. Environmental Protection Agency
Application for Federal Assistance
(State and Local Nonconstruction Programs)

General Instructions

Note: This application may be used to request financial assistance for either a grant or cooperative agreement. Where the term "grant" is used the term "cooperative agreement" may be used interchangeably.

In completing this form, carefully read and follow all instructions. Many items are not self-explanatory. An incomplete or incorrectly completed application may delay consideration of your application.

1. Use of this Application Form - This application form, with appropriate program narrative, is to be used for all EPA State and local grant programs except for (a) construction, land acquisition or land development projects and (b) single purpose one-time assistance requests of less than \$10,000 which do not require a clearing-house review, an environmental impact statement, or relocation of persons, businesses, or farms. This form shall be used to request continuation or refunding for approved grants originally submitted on this form.

2. Submission - All applications for State and local government grants (excluding construction grants) are to be addressed to the Grants Administration Branch of the appropriate EPA Regional Office. Submit the original and three copies of the forms. When a request is made for supplemental assistance, amendments, or changes to an approved grant, submit only those pages which are appropriate.

3. Grant Regulations - Applicants must comply with all EPA grant regulations. These regulations are published in Title 40, Chapter 1, Subchapter B of the Code of Federal Regulations. A copy of these regulations is included in the application kit.

4. Environmental Impact - The National Environmental Policy Act of 1969 requires that all agencies of the Federal Government prepare detailed environmental statements on any actions to be taken which significantly affect the quality of the human environment. EPA procedures for the preparation of such statements are set forth in Part 6 of Title 40 of the Code of Federal Regulations (40 CFR 6.1 et seq.); a copy of the Environmental Assessment outline is included in the appropriate application kits. As stated in the regulations, EPA requires an environmental assessment of certain projects that are to be supported by agency grants. Those projects which require such an assessment and the responsibilities of the applicant in supporting and contributing to the conduct of the assessment are set forth in the regulations. EPA will use the environmental assessment to either prepare an Environmental Impact Statement which will identify and analyze in detail the impact of the project on the quality of the environment, or a "Negative Declaration" indicating that there will be no such impact.

5. Relocation Assistance and Real Property Acquisition - The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646, provides certain rights and benefits to persons whose land is acquired or who are displaced as the result of a Federal or a federally assisted project. If the project of a State or local agency involves land acquisition or the displacement of any person from his home, business, or farm, actions must be taken to assure compliance with the Act. Land must be acquired in accordance with the policies of Title III of the Act. Persons to be displaced must be provided decent, safe, sanitary, and comparable housing. Procedures for complying with the Act are set forth in Part 4 of Title 40 of the Code of Federal Regulations (40 CFR 4.1 et seq.). No project subject to the Act can be assisted without the actions and assurances required by those regulations. Applicants whose projects involve the acquisition of land or the displacement of people should request a copy of 40 CFR Part 4 from the office to which this application is submitted.

6. Flood Insurance - The Flood Disaster Protection Act of 1973 (P.L. 93-234) requires grantees, as a condition of receiving any form of Federal assistance for acquisition (including real and nonexpansible personal property) or construction purposes in an identified special flood area, to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more. Special flood hazard areas are identified on Flood Hazard Boundary Maps and Flood Insurance Rate Maps issued by the Department of Housing and Urban Development. Communities have one year after they are notified that they are a flood-prone community to enter the flood insurance program, or no grant assistance may be awarded for property in the flood hazard area. Specific requirements pertaining to the flood insurance program and to the required grantee purchase of flood insurance are set forth in 40 CFR 30.600(b).

7. Completing the Application:

- a. This application consists of 5 parts: General Information, Signature, and Certification on Part I, Project Approval Information on Part II, Budget Information on Part III, Project Narrative Statement on Part IV, and Assurances on Part V.
- b. All dollar amounts requested in this application should be rounded to the nearest dollar.
- c. Applicants currently receiving grant assistance from EPA who are applying for a continuation grant for an additional budget period within the project period need not complete an entirely new Project Narrative Statement. The narrative should detail only changes in the narrative statement applicable to the existing grant. The current grant should be identified by its EPA Identification Number and Title. Evaluation of performance under the current grant will be based on progress reports required by EPA assistance regulations or grant agreement. Continuation applications for each budget period after the first will include, as a minimum, a report of estimated financial expenditures, a technical progress report and a statement of the objectives to be achieved during the next budget period. This information, along with any other reports which may have been required by the grant agreement, provides the basis for evaluation of progress and for a decision regarding continuation funding. Applications for amendments to existing grants may be submitted on the Short Form, EPA Form 5700-31.
- d. Project - The term "project" as used in this application refers to the activities or tasks which will be supported in part by grant funds requested in this application.
- e. Preapplication Assistance - EPA preapplication assistance may be obtained from the appropriate program office prior to application submission.

APPLICATION FORM
(State and Local Nonconstruction Programs)

OMB No. 25-0-0020
Approval expires 7-31-89

Note: This application may be used to request financial assistance for either a grant or cooperative agreement. Where the term "grant" is used, the term "cooperative agreement" may be used interchangeably.

In completing this form, CAREFULLY READ AND FOLLOW ALL INSTRUCTIONS. Many items are not self-explanatory. An incomplete or incorrectly completed application form may delay consideration of your application.

1. Use of this Application Form—This application form, with appropriate program narrative, is to be used for all EPA State and local grant programs except for (a) construction, land acquisition or land development projects and (b) single purpose one-time assistance requests of less than \$10,000 which do not require a clearnghouse review, an environmental impact statement, or relocation of persons, businesses or farms. This form shall be used also to request continuation or refunding, for approved grants originally submitted on this form.

2. Submission—All applications for State and local government grants (excluding construction grants) are to be addressed to the Grants Administration Branch of the appropriate EPA Regional Office. These programs are listed below by title as used in the Catalog of Federal Domestic Assistance:

Air Pollution Control Program Grants

Water Pollution Control Statewide Interstate Program Grants

Water Pollution Control Areawide Waste Treatment Management Planning Grants

Water Pollution Control State Operator Training Grants

Air Pollution Control and Water Pollution Control Demonstration Grants

Environmental Protection Agency Consolidated Program Support Grants

State Public Water System Supervision Program Grants.

Submit the original and three copies of the forms. When a request is made for supplemental assistance, amendments or changes to an approved grant, submit only those pages which are appropriate.

3. Grant Regulations—Applicants are expected to understand and comply with all EPA grant regulations. These regulations are published in Title 40, Chapter 1, Subchapter B of the Code of Federal Regulations. A copy of these regulations is included in the application kit.

4. Executive Order 12372 — All coordination procedures set forth in Executive Order 12372 must be accomplished, as appropriate, when submitting an application for assistance under an EPA State and Local Nonconstruction Program. The catalog of Federal Domestic Assistance designates the coordination procedures for the specific EPA programs.

5. Environmental Impact—The National Environmental Policy Act of 1969 requires that all agencies of the Federal Government prepare detailed environmental statements on any actions to be taken which significantly affect the quality of the human environment. EPA procedures for the preparation of such statements are set forth in part 6 of Title 40 of the Code of Federal Regulations (40 CFR 6, 1 et seq.); a copy of the Environmental Assessment outline is included in the appropriate application kits. As stated in the regulations, EPA will require an environmental assessment of certain projects that are to be supported by agency grants. Those projects which require such an assessment and the responsibilities of the applicant in supporting and contributing to the conduct of the assessment are set forth in the regulations. The environmental assessment will result in the preparation by EPA of an Environmental Impact Statement identifying and analyzing in detail the impact of the project on the quality of the environment or a "Negative Declaration" indicating that there will be no such impact.

6. Relocation Assistance and Real Property Acquisition—The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646, provides certain rights and benefits to

persons whose land is acquired or who are displaced as the result of Federal or a federally assisted project. If the project of a State or its agency involves land acquisition or the displacement of any person from his home, business or farm, actions must be taken to assure compliance with the Act. Land must be acquired in accordance with the policies of Title III of the Act. Persons to be displaced must be provided decent, safe, sanitary and comparable housing. Procedures for complying with the Act are set forth in Part 4 of Title 40 of the Code of Federal Regulations (40 CFR 4.1 et seq.). No project subject to the Act can be assisted without the actions and assurances required by these regulations. Applicants whose projects involve the acquisition of land or the displacement of people should request a copy of 40 CFR 4.1 et seq. from the office to which this application is submitted.

7. Flood Insurance — The Flood Disaster Protection Act of 1973 (P.L. 93-234) requires grantees, as a condition of receiving any form of Federal assistance for acquisition or construction purposes (including real and nonexpendable personal property) in an identified special flood area, to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more. Special flood hazard areas are identified on Flood Hazard Boundary Maps and Flood Insurance Rate Maps issued by the Department of Housing and Urban Development. Communities have one year after notification of identification as a flood-prone community to enter the flood insurance program or no grant assistance may be awarded for property in the flood hazard area. Specific requirements pertaining to the flood insurance program and to the required grantees purchase of flood insurance are set forth in 40 CFR 30.800(b).

8. Completing the Application:

a. This application consists of 5 parts: General Information, Signature and Certification on Part I, Project Appr. Information on Part II, Budget Information on Part III, Project Narrative Statement on Part IV, and Assurances on Part V.

b. All dollar amounts requested in this application should be rounded to the nearest dollar.

c. Applicants currently receiving grant assistance from EPA who are applying for a continuation grant for an additional budget period within the project period need not complete an entirely new Project Narrative Statement. The narrative should detail only changes in the narrative statement applicable to the existing grant. The current grant should be identified by its EPA Identification Number and Title. Evaluation of performance under the current grant will be based on progress reports required by EPA Grant Regulations or grant agreement. Continuation applications for each budget period after the first will include, as a minimum, a report of estimated financial expenditures, a technical progress report and a statement of the objectives to be achieved during the next budget period. This information, along with any other reports which may have been required by the grant agreement, provides the basis for evaluation of progress and for a decision regarding continuation funding. Applications for amendments to existing grants may be submitted on the Short Form, EPA Form 5700-31.

9. Project—The term "project" as used in this application form refers to total undertaking which will be supported in part by grant funds requested in this application.

10. Pre-Application Assistance—EPA preapplication assistance may be obtained from the appropriate program office prior to application submission.

This is a standard application for a grant under Executive Order 12372. It is to be used in accordance with OMB Circular A-102. It will be used by Federal agencies to obtain application information from applicants which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process have been given an opportunity to review the applicant's submission.

APPLICANT PROCEDURES FOR SECTION I

Applicant will complete all items in Section I with the exception of Box 3, "State Application Identifier." If an item is not applicable, write "NA." If additional space needed, insert an asterisk (*), and use Section IV. An explanation follows for each item:

1.	Mark appropriate box. Preapplication and application are described in OMB Circular A-102 and Federal agency program instructions. Use of this form as a Notice of Intent is at State option. Federal agencies do not require Notices of Intent.	Item	(a revision or augmentation under item 14), indicate only the amount of the change. For decreases, enclose the amount in parentheses. If both basic and supplemental amounts are included, breakout in Section IV. For multiple program funding, use totals and show program breakdowns in Section IV. 12a—amount requested from Federal Government; 12b—amount applicant will contribute; 12c—amount from State, if applicant is not a State; 12d—amount from local government, if applicant is not a local government; 12e—amount from any other sources, explain in Section IV.
2a.	Applicant's own control number, if desired.	13b.	The district(s) where most of action work will be accomplished. If city-wide or State-wide, covering several districts, write "city-wide" or "State-wide."
2b.	Date Section I is prepared (at applicant's option).	14.	A. New: A submittal for project not previously funded. B. Renewal: An extension for an additional funding/budget period for a project having no projected completion date, but for which Federal support must be renewed each year. C. Revision: A modification to project nature or scope which may result in funding change (increase or decrease). D. Continuation: An extension for an additional funding/budget period for a project with a projected completion date. E. Augmentation: A requirement for additional funds for a project previously awarded funds in the same funding/budget period. Project nature and scope unchanged.
3.	Number assigned by State.	15.	Approximate date project expected to begin (usually associated with estimated date of availability of funding).
3b.	Date assigned by State.	16.	Estimated number of months to complete project after Federal funds are available.
4a-4h.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of applicant, and name and telephone number of the person who can provide further information about the request.	17.	Comments only for revisions (Item 14c), or augmentations (Item 14e).
5.	Employer Identification Number (EIN) of applicant as assigned by the Internal Revenue Service.	18.	Date preapplication/application must be submitted to Federal agency in order to be eligible for funding consideration.
6a.	Use Catalog of Federal Domestic Assistance (CFDA) number assigned to program under which assistance is requested. If more than one program (e.g., joint funding), check "multiple" and explain in Section IV. If unknown, cite Public Law or U.S. Code.	19.	Name and address of the Federal agency to which this request is addressed. Indicate as clearly as possible the name of the office to which the application will be delivered.
6b.	Program title from CFDA. Abbreviate if necessary.	20.	Existing Federal grant identification number if this is not a new request and directly relates to a previous Federal action. Otherwise, write "NA."
7.	Use Section IV to provide a summary description of the project. If appropriate, i.e., if project affects particular areas as, for example, construction or real property projects, attach a map showing the project location.	21.	Check appropriate box as to whether Section IV of form contains remarks and/or additional remarks are attached.
8.	"City" includes town, township or other municipality.		
9.	List only largest unit or units affected, such as State, county, or city.		
10.	Estimated number of persons directly benefitting from project. Check the type(s) of assistance requested.		
A.	Basic Grant—an original request for Federal funds.		
B.	Supplemental Grant—a request to increase a basic grant in certain cases where the eligible applicant cannot supply the required matching share of the basic Federal program (e.g., grants awarded by the Appalachian Regional Commission) to provide the applicant a matching share.		
E.	Other: Explain in Section IV.		
12.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included. If the action is a change in dollar amount of an existing grant (a revision or augmentation under item 14), indicate only the amount of change. For decreases, enclose the amount in parentheses. If both basic and supplemental amounts are included, breakout in Section IV. For multiple program funding, use totals and show program breakdowns in Section IV. 23a—amount awarded by Federal Government; 23b—amount applicant	22a.	Completes if application is subject to Executive Order 12372 (State review and comment).
		22b.	Check if application is not subject to E.O. 12372.
		23a.	Name and title of authorized representative of legal applicant.

APPLICANT PROCEDURES FOR SECTION II

Applicants will always complete either item 22a or 22b and items 23a and 23b

22a.	Completes if application is subject to Executive Order 12372 (State review and comment)	22b.	Check if application is not subject to E.O. 12372.
		23a.	Name and title of authorized representative of legal applicant.

FEDERAL AGENCY PROCEDURES FOR SECTION III

Applicant completes only Sections I and II. Section III is completed by Federal agencies.

28.	Use to identify award actions.	29.	will contribute; 23b—amount from State, if applicant is not a State; 23d—amount from local government, if applicant is not a local government; 23e—amount from any other sources, explain in Section IV.
27.	Use Section IV to amplify where appropriate.	30.	Data action was taken on this request.
29.	Amount to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions will be included. If the action is a change in dollar amount of an existing grant (a revision or augmentation under item 14), indicate only the amount of change. For decreases, enclose the amount in parentheses. If both basic and supplemental amounts are included, breakout in Section IV. For multiple program funding, use totals and show program breakdowns in Section IV. 23a—amount awarded by Federal Government; 23b—amount applicant	31.	Data funds will become available.
		32.	Name and telephone number of agency person who can provide more information regarding the assistance.
		33.	Date after which funds will no longer be available for obligation.
			Check appropriate box as to whether Section IV of form contains Federal remarks and/or attachment of additional remarks.

FEDERAL ASSISTANCE						
SECTION I - APPLICANT/RECIPIENT DATA	1. TYPE OF SUBMISSION (Mark one) Application P/A		2. APPLICANT'S APPLICATION IDENTIFIER <input type="checkbox"/> NOTICE OF INTENT (OPTIONAL) <input type="checkbox"/> PREAPPLICATION <input type="checkbox"/> APPLICATION		3. NUMBER 4. DATE Year month day 10	
					5. STATE APPLICATION IDENTIFIER <small>NOTE TO BE ASSIGNED BY STATE</small> 6. DATE ASSIGNED Year month day 10	
SECTION II - PROJECT DATA	7. TITLE OF APPLICANT'S PROJECT (Use section IV of this form to provide a summary description of the project)				8. EMPLOYER IDENTIFICATION NUMBER (EIN) 9. PRO. PROGRAM <small>(From CFD4)</small>	
					10. NUMBER 11. MULTIPLE <input type="checkbox"/>	
					12. TITLE	
					13. TYPE OF APPLICANT/RECIPIENT <small>(Check one)</small>	
					14. TYPE OF ASSISTANCE <small>(Check one)</small>	
					15. TYPE OF APPLICATION <small>(Check one)</small>	
					16. TYPE OF CHANGE (Per 16 or 16a) <small>(Check one)</small>	
					17. FEDERAL AGENCY TO RECEIVE REQUEST 18. ORGANIZATIONAL UNIT (IF APPROPRIATE)	
					19. ADMINISTRATIVE CONTACT (IF KNOWN)	
					20. EXISTING FEDERAL GRANT IDENTIFICATION NUMBER	
SECTION III - FEDERAL AGENCY ACTION	21. REMARKS ADDED <input type="checkbox"/> Yes <input type="checkbox"/> No					
	22. THE APPLICANT CERTIFIES THAT: To the best of my knowledge and belief all of the information/representation are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached instructions if the assistance is approved.		23. YES, THIS NOTICE OF INTENT/PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE <small>EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:</small> DATE _____			
	24. TYPED NAME AND TITLE 25. SIGNATURE		26. NO. PROGRAM IS NOT COVERED BY E.O. 12372 <input type="checkbox"/> <small>OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW <input type="checkbox"/></small>			
	27. ACTION TAKEN <small>(Check one)</small>		28. FUNDING 29. ACTION DATED Year month day 10		30. STARTING DATE Year month day 10	
	31. CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number)					
	32. ENDING DATE Year month day 10					
					33. REMARKS ADDED <input type="checkbox"/> Yes <input type="checkbox"/>	
	EPA Form 5700-33 (Rev. 11-86) Previous editions are obsolete.					
	<small>STANDARD FORM 424 PAGE 1 (Rev. 4-74) OMB Circular A-102</small>					

AR500215

DETACH AND, AS NECESSARY, STAPLE TO ABOVE SHEET.

SECTION IV-REMARKS (Please reference the proper item number from Sections I, II or III, if applicable.)

STANDARD FORM 424

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AR500217

PART II

PROJECT APPROVAL INFORMATION

Form Approved
OMB No. 2020-0002
Approved exp. 7-31-82

Item 1. Does this assistance request State, local, regional, or other priority rating?	Name of Governing Body _____ Priority Rating _____
_____ Yes _____ No	
Item 2. Does this assistance request require State or local advisory, educational, or health clearances?	Name of Agency or Board _____
_____ Yes _____ No	(Attach Documentation)
Item 3. Does this assistance request require clearinghouse review in accordance with Executive Order 12372?	(Attach Comments)
_____ Yes _____ No	
Item 4. Does this assistance request require State, local, regional or other planning approval?	Name of Approving Agency _____ Date _____
_____ Yes _____ No	
Item 5. Is the proposed project covered by an approved comprehensive plan?	Check one: State <input type="checkbox"/> Local <input type="checkbox"/> Regional <input type="checkbox"/>
_____ Yes _____ No	Location of Plan _____
Item 6. Will the assistance requested serve a Federal installation?	Name of Federal Installation _____ Federal Population Benefiting from Project _____
_____ Yes _____ No	
Item 7. Will the assistance requested be on Federal land or installation?	Name of Federal Installation _____ Location of Federal Land _____ Percent of Project _____
_____ Yes _____ No	
Item 8. Will the assistance requested have an impact or effect on the environment?	See instructions for additional information to be provided.
_____ Yes _____ No	
Item 9. Has the project for which assistance is requested caused, since January 1, 1971, or will it cause, the displacement of any individual, family, business, or firm?	Number of: Individuals _____ Families _____ Businesses _____ Firms _____
_____ Yes _____ No	
Item 10. Is there other related assistance on this project previous, pending, or anticipated?	See instructions for additional information to be provided.
_____ Yes _____ No	
Item 11. Is project in a Designated Flood Hazard Area?	_____ Yes _____ No

AR500218

INSTRUCTIONS

PART II

Negative answers will not require an explanation unless the Federal agency requests more information at a later date. Provide supplementary data for all "Yes" answers in the space provided in accordance with the following instructions:

Item 1—Provide the name of the governing body establishing the priority system and the priority rating assigned to this project.

Item 2—Provide the name of the agency or board which issued the clearance and attach the documentation of status or approval.

Item 3—Attach the clearinghouse comments for the preapplication in accordance with the instructions contained in Executive Order 12372. If comments were submitted previously with a preapplication, do not submit them again; but any additional comments received from the clearinghouse should be submitted with this application.

Item 4—Furnish the name of the approving agency and the approval date.

Item 5—Show whether the approved comprehensive plan is State, local or regional, or if none of these, explain the scope of the plan. Give the location where the approved plan is available for examination and state whether this project is in conformance with the plan.

Item 6—Show the population residing or working on the Federal installation who will benefit from this project.

Item 7—Show the percentage of the project work that will be conducted on federally-owned or leased land. Give the name of the Federal installation and its location.

Item 8—Describe briefly the possible beneficial and harmful impact on the environment of the proposed project. If an adverse environmental impact is anticipated, explain what action will be taken to minimize the impact. Federal agencies will provide separate instructions if additional data are needed.

Item 9—State the number of individuals, families, businesses, or farms this project will displace. Federal agencies will provide separate instructions if additional data are needed.

Item 10—Show the Federal Domestic Assistance Catalog number, the program name, the type of assistance, the status and the amount of each project where there is related previous, pending or anticipated assistance. Use additional sheets, if needed.

Item 11—Flood Insurance—Check "Yes" if project or any nonexpendable property is to be located in a special flood hazard area designated by the Department of Housing and Urban Development. If the answer is "Yes" the grantee must purchase the required flood insurance if required pursuant to Item 7 of the General Instructions to this application.

PART III—BUDGET INFORMATION

SECTION A—BUDGET SUMMARY

GRANT PROGRAM, FUNCTION OR ACTIVITY (a)	FEDERAL CATALOG NO. (b)	ESTIMATED UNOBIGATED FUNDS			NEW OR REVISED BUDGET		
		FEDERAL (c)	NON-FEDERAL (d)	FEDERAL (e)	NON-FEDERAL (f)	TOTAL (g)	
1.		\$	\$	\$	\$	\$	
2.							
3.							
4.							
B. TOTALS		\$	\$	\$	\$	\$	

GRANT PROGRAM, FUNCTION OR ACTIVITY (a)	GRANT PROGRAM, FUNCTION OR ACTIVITY (b)			TOTAL (c)		
	(d)	(e)	(f)	(g)	(h)	
6. Object Class Categories						
a. Personnel	\$	\$	\$	\$	\$	
b. Fringe Benefits						
c. Travel						
d. Equipment						
e. Supplies						
f. Contractual						
g. Construction						
h. Other						
7. Program Income	\$	\$	\$	\$	\$	\$

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PAGE 7 OF 12

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SECTION B - SCHEDULE B - BUDGET CATEGORIES

B. Program Elements	FUNDING			MAY YEAR
	(1) FEDERAL	(2) NON-FEDERAL	(3) TOTAL	
a.	\$	\$	\$	
b.				
c.				
d.				
e.				
f.				
g.				
h.				
i. Total Program Elements	\$	\$	\$	
ii. STATE TOTAL	\$	\$	\$	

SECTION C-MON-FEDERAL RESOURCES					
(b) GRANT PROGRAM	(d) APPLICANT	(c) STATE	(e) OTHER SOURCES	(f) TOTALS	
\$ 0.	\$	\$	\$	\$	
\$ 0.	\$	\$	\$	\$	
\$ 10.	\$	\$	\$	\$	
\$ 11.	\$	\$	\$	\$	
\$ 12. TOTALS	\$	\$	\$	\$	

SECTION D-FORECASTED CASH NEEDS

(b) GRANT PROGRAM	(d) FIRST	(c) SECOND	(e) THIRD	(f) FOURTH	
\$ 13. Federal	\$ 1st QUARTER	\$ 2nd QUARTER	\$ 3rd QUARTER	\$ 4th QUARTER	
\$ 14. Non-Federal	\$	\$	\$	\$	
\$ 15. TOTALS	\$	\$	\$	\$	

SECTION E-BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(b) GRANT PROGRAM	(d) FIRST	(c) SECOND	(e) THIRD	(f) FOURTH	
\$ 16.	\$	\$	\$	\$	
\$ 17.	\$	\$	\$	\$	
\$ 18.	\$	\$	\$	\$	
\$ 19.	\$	\$	\$	\$	
\$ 20. TOTALS	\$	\$	\$	\$	

SECTION F-OTHER BUDGET INFORMATION
(Attach Additional Sheets If Necessary)

21. Direct Charge:

22. Indirect Charge:

23. Remarks:

AR500222

INSTRUCTIONS

PART III

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adheres to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may not require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines 1-4 of Section A.

Section A. Budget Summary Lines 1-4, Columns (a) and (b).

For applications pertaining to a *single* Federal grant program (*Federal Domestic Assistance Catalog number*) and *not* requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to *multiple* programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g).

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by

the grantor agency. Enter in Columns (c) and (d) the unobligated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in Columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Schedule A—Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets were prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-h—Show the estimated amount for each direct budget (object class) category for each column with program, function or activity heading.

Line 6i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost. Refer to Office of Management and Budget Circular No. A-87.

Line 6k—Enter the total of amounts of Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in Column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 6. When additional sheets were prepared, the last two sentences apply only to the first page with summary totals.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

INSTRUCTIONS

PART III (Continued)

Section B. Schedule B—Budget Categories

Lines 6a-h—For each program element fill in the total requirements for funds (*Federal, non-Federal, and total*) and manyears.

Line i—Show the totals of Lines 6a through h in each column.

Line j—Show the State totals. Total (*Program Elements*) and State total might not be equal due to expenses which are not classified under specific program elements.

Section C. Source of Non-Federal Resources

Lines 8-11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet. (See Attachment F, A-102.)

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the amount of cash and in-kind contributions to be made by the applicant as shown in Section A. (See also Attachment F, A-102.)

Column (c)—Enter the State contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16-19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuing grant applications, enter in the proper column amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (*usually in years*). This Section need not be completed for amendments, changes or supplements to funds for the current year of existing grants.

If more than four lines are needed to list the program titles submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (*provisional, pre-determined, final or fixed*) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations required herein or any other comments deemed necessary.

**PART V
ASSURANCES**

The Applicant agrees and certifies that he or she will comply with the regulations, policies, guidelines, and requirements, including OMB Circulars No. A-102 and A-87, and Executive Order 12372, as they relate to the application, acceptance, and use of Federal funds for this Federally assisted project. Also, the Applicant agrees and certifies with respect to the grant that:

1. It possesses legal authority to apply for the grant; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
2. It will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and in accordance with Title VI of that Act, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement.
3. It will comply with Title VI of the Civil Rights Act of 1964 (42 USC 2000d) prohibiting employment discrimination where (1) the primary source of a grant is to provide employment or (2) discriminatory employment practices will result in unequal treatment of persons who are or should be benefiting from the grant-aided activity.
4. It will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally assisted programs.
5. It will comply with the provisions of the Hatch Act which limit the political activity of employees.
6. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, as they apply to employees of institutions of higher education, hospitals, other non-profit organizations, and to employees of State and local governments who are not employed in integral operations in areas of traditional governmental functions.
7. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
8. It will give the grantor agency and the Comptroller General through any authorized representative the access to and the right to examine all records, books, papers, or documents related to the grant.
9. It will comply with all requirements imposed by the Federal grantor agency concerning special requirements of law, program requirements, and other administrative requirements.
10. It will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.
11. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1976. Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards.
12. It will comply with all applicable requirements of Section 13 of the Clean Water Act Amendments of 1972 (P.L. 92-500), if the grant is awarded under any grant authority of that Act, which provides that no person in the United States shall, on the ground of sex be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity under the said Clean Water Act Amendments for which the applicant receives financial assistance and will take all necessary measures to effectuate this agreement.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC 20460

PROCUREMENT SYSTEM CERTIFICATION

Form Approved
OMB No 2000-0453
Approval expires 10-31-87

APPLICANT'S NAME

ASSISTANCE APPLICATION NUMBER . . .

APPLICANT'S ADDRESS

SECTION I - INSTRUCTIONS

The applicant must complete and submit a copy of this form with each application for EPA Assistance. If the applicant has certified its procurement system to EPA within the past 2 years and the system has not been substantially revised, complete Part A in Section II, then sign and date the form. If the system has not been certified within the past 2 years, complete Part B, then sign and date the form.

SECTION II - CERTIFICATION

A. I affirm that the applicant has within the past 2 years certified to EPA that its procurement system complies with 40 CFR Part 33 and that the system meets the requirements in 40 CFR Part 33. The date of the applicant's latest certification is:	MONTH/YEAR
B. Based upon my evaluation of the applicant's procurement system, I, as authorized representative of the applicant: (Check one of the following:)	
<input type="checkbox"/> 1. CERTIFY that the applicant's procurement system will meet all of the requirements of 40 CFR Part 33 before undertaking any procurement action with EPA assistance	

Please furnish citations to applicable procurement ordinances and regulations

2. DO NOT CERTIFY THE APPLICANT'S PROCUREMENT SYSTEM. The applicant agrees to follow the requirements of 40 CFR Part 33, including the procedures in Appendix A, and allow EPA preaward review of proposed procurement actions that will use EPA assistance.

TYPED NAME AND TITLE

SIGNATURE

DATE

OMB NO. 9999-0001 AND 0840-0017
EXPIRES: APRIL 30, 1990

MBE/WBE UTILIZATION UNDER FEDERAL GRANTS, COOPERATIVE AGREEMENTS, AND OTHER FEDERAL FINANCIAL ASSISTANCE

PART 1. (NEGATIVE REPORTS MAY BE REQUIRED)

1A. FEDERAL FISCAL YEAR <u>19</u>	1B. REPORTING QUARTER (Check appropriate box) <input type="checkbox"/> 1st (Oct.-Dec.), <input type="checkbox"/> 2nd (Jan.-Mar.), <input type="checkbox"/> 3rd (Apr.-Jun.), <input type="checkbox"/> 4th (Jul.-Sep.)		
2. FEDERAL FINANCIAL ASSISTANCE AGENCY (Department/Agency, Bureau/Administrating Office, Address)	3. REPORTING RECIPIENT (Name and Address)		
2A. REPORTING CONTACT	PHONE:	3A. REPORTING CONTACT	PHONE:
4A. FINANCIAL ASSISTANCE AGREEMENT ID NUMBER	4B. FEDERAL FINANCIAL ASSISTANCE PROGRAM		
4C. TYPE OF FEDERAL ASSISTANCE AGREEMENT <input type="checkbox"/> GRANT <input type="checkbox"/> COOPERATIVE AGREEMENT <input type="checkbox"/> OTHER FEDERAL FINANCIAL ASSISTANCE			
5A. PERIOD WHEN PROCUREMENT UNDER THIS AWARD WILL OCCUR START DATE:	END DATE:		
5B. AMOUNT OF TOTAL PROJECT DOLLARS PLANNED FOR PROCUREMENT THIS FISCAL YEAR \$	MBE	%	WBE
5D. MBE/WBE PROCUREMENT ACCOMPLISHED THIS QUARTER MBE \$	WBE \$	5E. NEGATIVE REPORT (Check) <input type="checkbox"/> SEE INSTRUCTIONS	
6. COMMENTS:			
7. NAME OF AUTHORIZED REPRESENTATIVE	TITLE		
8. SIGNATURE OF AUTHORIZED REPRESENTATIVE		DATE	

Reporting is optional at the direction of Federal financial assistance agency. AUTHORIZED FOR LOCAL REPRODUCTION

STANDARD FORM 134
Prescribed by DEPARTMENT OF COMMERCE

AR500227

MBE/WBE PROCUREMENTS OVER \$10,000 MADE DURING REPORTING QUARTER

PART II

Tuna oil and fish oil 603

Digitized by srujanika@gmail.com

3 - Transportation

9 - Services

- a - Business Services
- b - Professional Services
- c - Other Services
- d - Personal Services

10 = Other

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INSTRUCTIONS

MBE/WBE UTILIZATION UNDER FEDERAL GRANTS, COOPERATIVE AGREEMENTS, AND OTHER FEDERAL FINANCIAL ASSISTANCE

Standard Form 334

A. General Instructions:

MBE/WBE utilization is based on Executive Orders 11625, 12138 and 12432 and OMB Circular A-102. Standard Form 334 must be completed by recipients of Federal grants, cooperative agreements, or other Federal financial assistance valued at \$500,000¹ or more and which involve procurement of supplies, equipment, construction or services to accomplish Federal assistance programs.

Recipients are required to report to agency award officials within one month following the end of each Federal fiscal year quarter (i.e. January 31, April 30, July 31 and October 31) during which any procurement in excess of \$10,000 is actually executed under this assistance agreement.

B. Definitions:

Procurement is the acquisition through order, purchase, lease or barter of supplies, equipment, construction or services needed to accomplish Federal assistance programs.

A *minority business enterprise* (MBE) is a business concern that is (1) at least 51 percent owned by one or more minority individuals, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more minority individuals; and (2) whose daily business operations are managed and directed by one or more of the minority owners.

There is no standard definition of *minority individuals* used by all Federal financial assistance agencies. However, recipients shall presume that minority individuals include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, or other groups whose members are found to be disadvantaged by the Small Business Act or by the Secretary of Commerce under section 5 of Executive Order 11625. The reporting contact at your Federal financial assistance agency can provide additional information.

¹ There is no reporting threshold for the Environmental Protection Agency (EPA). Recipients of EPA financial assistance must report under all assistance agreements regardless of the size of the award.

A *women business enterprise* (WBE) is a business concern that is, (1) at least 51 percent owned by one or more women, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more women; and, (2) whose daily business operations are managed and directed by one or more of the women owners.

Business firms which are 51 percent owned by minorities or women, but are in fact managed and operated by non-minority individuals do not qualify for meeting MBE/WBE procurement goals.

The following affirmative steps for utilizing MBEs and WBEs are suggested:

1. Inclusion of MBEs/WBEs on solicitation lists.
2. Assure MBEs/WBEs are solicited once they are identified.
3. Where feasible, divide total requirements into smaller tasks to permit maximum MBE/WBE participation.
4. Where feasible, establish delivery schedules which will encourage MBE/WBE participation.
5. Encourage use of the services of the U.S. Department of Commerce's Minority Business Development Agency (MBDA) and the U.S. Small Business Administration to identify MBEs/WBEs.
6. Require that each party to a subgrant, sub-agreement, or contract award take the affirmative steps outlined here.

C. Instructions for Part I:

1. Complete Federal fiscal year and check applicable reporting quarter. (Federal fiscal year runs from October 1 through September 30.)
2. Identify the Federal financial assistance department or agency including the bureau, office or other subactivity which administers your financial assistance agreement.

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3. Identify the agency, state, authority, university or other organization which is the recipient of the Federal financial assistance and the person to contact concerning this report.
- 4a. Assistance agreement number assigned by Federal financial assistance agency.
- 4b. If appropriate, identify specific department or agency Federal financial assistance program under which this project is awarded.
- 4c. Check type of Federal assistance.
- 5a. Period during which contracts and other purchases under this award will actually be executed.
- 5b. Includes procurement using Federal funds plus recipient matching funds and funds from other sources.
- 5c. Portion of total procurement dollars recipient plans to spend with MBEs or WBEs this fiscal year. With the concurrence of the Federal financial assistance agency, a fair share goal shall be determined by each recipient.
- 5d. Dollar amount of all MBE/WBE contracts awarded under this assistance agreement this quarter.
- 5e. Check only if one or more procurements in excess of \$10,000 were executed this reporting quarter but no MBE/WBE procurements occurred. Sign and date form and return it to Federal financial assistance agency.
6. Additional comments or explanations. Please refer to specific item number(s) if appropriate.
7. Name and title of official administrator or designated reporting official.
8. Signature and month, day, year report submitted.

D. Instructions for Part II:

For each MBE/WBE procurement over \$10,000 made under this assistance agreement during the reporting quarter, provide the following information. (Recipients may also report on individual MBE/WBE procurements of less than \$10,000 if they want these credited toward their MBE/WBE goals, however, reporting on smaller procurements is not required.)

1. Check whether this is a first tier procurement made directly by Federal financial assistance recipient or other second tier procurement made by recipient's subgrantee or prime contractor. Include all qualifying second tier purchases executed this quarter regardless of when the first tier procurement occurred.
2. Check MBE or WBE.
3. Dollar value of procurement.
4. Date of award, shown as month, day, year.
5. Using codes at the bottom of the form, identify type of product or service acquired through this procurement (e.g., enter 1 if agriculture, 2 if mining, etc.).
6. Name and address of MBE/WBE firm.

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REQUEST FOR ADVANCE OR REIMBURSEMENT

(See instructions on back)

ALL FEDERALLY FUNDED AGENCY AND ORGANIZATIONAL ELEMENT TO
WHICH THIS REPORT IS SUBMITTED

Approved by Office of Management and Budget, OMB Circular A-127
07-01
07-01

1. TYPE OF PAYMENT REQUESTED	<input type="checkbox"/> ADVANCE	<input type="checkbox"/> REIMBURSEMENT	2. BASIS OF REQUEST
	<input type="checkbox"/> IN ADVANCE OF EXPENDITURE	<input type="checkbox"/> CASH	
3. PAYMENT REQUEST NUMBER		4. FEDERAL GRANT OR OTHER IDENTIFICATION NUMBER ASSIGNED BY FEDERAL AGENCY	
		& PARTIAL PAYMENT REQUEST NUMBER FOR THIS REQUEST	

5. IDENTIFICATION	6. RECIPIENT ACCOUNT NUMBER OR IDENTIFYING NUMBER	7. PERIOD COVERED BY THIS REQUEST
NAME		FROM (month, day, year) TO (month, day, year)

8. RECIPIENT ORGANIZATION

NAME
Name /
Address
Number and Street /
City, State
and ZIP Code /

10. PAYEE (Where checks are to be sent in different states show 8)

Name /
Number and Street /
City, State
and ZIP Code /

11. COMPUTATION OF AMOUNT OF REIMBURSEMENTS/ADVANCES REQUESTED

PROGRAMS/FUNCTIONS/ACTIVITIES	(a)	(b)	(c)	TOTAL
1. Total program outlays to date (As of date)	\$	\$	\$	\$
2. Less: Cumulative program income				
3. Net program outlays (Line 1 minus Line 2)				
4. Estimated net cash outlays for advance period				
5. Total (Sum of Lines 3 & 4)				
6. Non-Federal share of amount on line 5				
7. Federal share of amount on line 5				
8. Total payments previously requested				
9. Total share now requested (Line 5 minus Line 8)				
10. Advances required by month, when requested by Federal grant agency for use in making presentation of advances	1st month			
	2nd month			
	3rd month			

12. ALTERNATE COMPUTATION FOR ADVANCES ONLY			
1. Estimated Federal cash outlays that will be made during period covered by the advance	\$		
2. Less: Estimated balance of Federal cash on hand as of beginning of advance period			
3. Amount requested (Line 1 minus Line 2)	\$		

13. CERTIFICATION			
I certify that to the best of my knowledge and belief the data above are correct and that all outlays were made in accordance with the grant conditions or other agreement and that payment is due and has not been previously requested.	14. SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	15. DATE REQUEST SUBMITTED	
	TYPED OR PRINTED NAME AND TITLE	TELEPHONE (AREA CODE, NUMBER, EXTENSION)	

This space for agency use

AR500231

INSTRUCTIONS

Please type or print legibly. Items 1, 3, 5, 9, 10, 11c, 11e, 11f, 11g, 11i, 12 and 13 are self-explanatory; specific instructions for other items are as follows:

Item	Entry	Item	Entry
2	Indicate whether request is prepared on cash or accrued expenditure basis. All requests for advances shall be prepared on a cash basis.		use as many additional forms as needed and indicate page number in space provided in upper right; however, the summary totals of all programs, functions, or activities should be shown in the "total" column on the first page.
4	Enter the Federal grant number, or other identifying number assigned by the Federal sponsoring agency. If the advance or reimbursement is for more than one grant or other agreement, insert N/A; then, show the aggregate amounts. On a separate sheet, list each grant or agreement number and the Federal share of outlays made against the grant or agreement.	11a	Enter in "as of date", the month, day, and year of the ending of the accounting period to which this amount applies. Enter program outlays to date (net of refunds, rebates, and discounts), in the appropriate columns. For requests prepared on a cash basis, outlays are the sum of actual cash disbursements for goods and services, the amount of indirect expenses charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to subcontractors and subrecipients. For requests prepared on an accrued expenditure basis, outlays are the sum of the actual cash disbursements, the amount of indirect expenses incurred, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received and for services performed by employees, contractors, subgrantees and other payees.
6	Enter the employer identification number assigned by the U.S. Internal Revenue Service, or the FICE (Institution) code if requested by the Federal agency.	11b	Enter the cumulative cash income received to date, if requests are prepared on a cash basis. For requests prepared on an accrued expenditure basis, enter the cumulative income earned to date. Under either basis, enter only the amount applicable to program income that was required to be used for the project or program by the terms of the grant or other agreement.
7	This space is reserved for an account number or other identifying number that may be assigned by the recipient.	11d	Only when making requests for advance payments, enter the total estimated amount of cash outlays that will be made during the period covered by the advance.
8	Enter the month, day, and year for the beginning and ending of the period covered in this request. If the request is for an advance or for both an advance and reimbursement, show the period that the advance will cover; if the request is for reimbursement, show the period for which the reimbursement is requested.	13	Complete the certification before submitting this request.
Note: The Federal sponsoring agencies have the option of requiring recipients to complete items 11 or 12, but not both. Item 12 should be used when only a minimum amount of information is needed to make an advance and outlay information contained in item 11 can be obtained in a timely manner from other reports.			
11	The purpose of the vertical columns (a), (b), and (c), is to provide space for separate cost breakdowns when a project has been planned and budgeted by program, function, or activity. If additional columns are needed,		

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Please type or print legibly. Items 1, 2, 3, 6, 7, 9, 10d, 10h, 10g, 10i, 10l, 11a, and 12 are self-explanatory. Specific instructions for other items are as follows:

Item	Entry	Item	Entry
4	Enter the employer identification number assigned by the U.S. Internal Revenue Service or FICE (institution) code, if required by the Federal sponsoring agency.	10c	Enter the amount of all program income realized in this period that is required by the terms and conditions of the Federal award to be deducted from total project costs. For reports prepared on a cash basis, enter the amount of cash income received during the reporting period. For reports prepared on an accrual basis, enter the amount of income earned since the beginning of the reporting period. When the terms or conditions allow program income to be added to the total award, explain in remarks, the source, amount and disposition of the income.
5	This space is reserved for an account number or other identifying numbers that may be assigned by the recipient.	10f	Enter amount pertaining to the non-Federal share of program outlays included in the amount on line e.
8	Enter the month, day, and year of the beginning and ending of this project period. For formula grants that are not awarded on a project basis, show the grant period.	10h	Enter total amount of unliquidated obligations for this project or program, including unliquidated obligations to subgrantees and contractors. Unliquidated obligations are:
10	The purpose of vertical columns (a) through (f) is to provide financial data for each program, function, and activity in the budget as approved by the Federal sponsoring agency. If additional columns are needed, use as many additional forms as needed and indicate page number in space provided in upper right; however, the totals of all programs, functions or activities should be shown in column (g) of the first page. For agreements pertaining to several Catalog of Federal Domestic Assistance programs that do not require a further functional or activity classification breakdown, enter under columns (a) through (f) the title of the program. For grants or other assistance agreements containing multiple programs where one or more programs require a further breakdown by function or activity, use a separate form for each program showing the applicable functions or activities in the separate columns. For grants or other assistance agreements containing several functions or activities which are funded from several programs, prepare a separate form for each activity or function when requested by the Federal sponsoring agency.		Cash basis—obligations incurred but not paid; Accrued expenditure basis—obligations incurred but for which an outlay has not been recorded. Do not include any amounts that have been included on lines a through g. On the final report, line h should have a zero balance.
10a	Enter the net outlay. This amount should be the same as the amount reported in Line 10e of the last report. If there has been an adjustment to the amount shown previously, please attach explanation. Show zero if this is the initial report.	10j	Enter the Federal share of unliquidated obligations shown on line h. The amount shown on this line should be the difference between the amounts on lines h and i.
10b	Enter the total gross program outlays (less rebates, refunds, and other discounts) for this report period, including disbursements of cash realized as program income. For reports that are prepared on a cash basis, outlays are the sum of actual cash disbursements for goods and services, the amount of indirect expense charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to contractors and subgrantees. For reports prepared on an accrued expenditure basis, outlays are the sum of actual cash disbursements, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received and for services performed by employees, contractors, subgrantees, and other payees.	10k	Enter the sum of the amounts shown on lines g and j. If the report is final the report should not contain any unliquidated obligations.
		10m	Enter the unbilled balance of Federal funds. This amount should be the difference between lines k and l.
		11b	Enter rate in effect during the reporting period.
		11c	Enter amount of the base to which the rate was applied.
		11d	Enter total amount of indirect cost charged during the report period.
		11e	Enter amount of the Federal share charged during the report period. If more than one rate was applied during the project period, include a separate schedule showing bases against which the indirect cost rates were applied, the respective indirect rates the month, day, and year the indirect rates were in effect, amounts of indirect expense charged to the project, and the Federal share of indirect expense charged to the project to date.

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COST OR PRICE SUMMARY
(See accompanying instructions before completing this form)

Form Approved
OMB No. 2030-0011
Approval expires 10-31-86

PART I - GENERAL

1. RECIPIENT	2. ASSISTANCE IDENTIFICATION NO.
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3. NAME OF CONTRACTOR OR SUBCONTRACTOR	4. DATE OF PROPOSAL
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5. ADDRESS OF CONTRACTOR OR SUBCONTRACTOR (Include ZIP Code)	6. TYPE OF SERVICE TO BE FURNISHED
--	------------------------------------

TELEPHONE NUMBER (Include Area Code)	
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PART II - COST SUMMARY

7. DIRECT LABOR (Specify labor categories)	ESTIMATED HOURS	HOURLY RATE	ESTIMATED COST	TOTALS
	0	0		
DIRECT LABOR TOTAL:			0	
8. INDIRECT COSTS (Specify indirect cost pool/s)	RATE	A. BASE	ESTIMATED COST	
	0	0		
INDIRECT COSTS TOTAL:			0	
9. OTHER DIRECT COSTS				ESTIMATED COST
a. TRAVEL				
(1) TRANSPORTATION				0
(2) PER DIEM				0
TRAVEL SUBTOTAL:			0	
b. EQUIPMENT, MATERIALS, SUPPLIES (Specify categories)	QTY	COST	ESTIMATED COST	
	0	0		
EQUIPMENT SUBTOTAL:			0	
c. SUBCONTRACTS				ESTIMATED COST
				0
				0
				0
SUBCONTRACTS SUBTOTAL:			0	
d. OTHER (Specify categories)			ESTIMATED COST	
			0	
			0	
			0	
OTHER SUBTOTAL:			0	
e. OTHER DIRECT COSTS TOTAL:			0	
10. TOTAL ESTIMATED COST			0	
11. PROFIT			0	
12. TOTAL PRICE			0	

EPA Form 5700-41 (Rev. 4-84) Previous editions may be used until supplies are exhausted.

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PART III - PRICE SUMMARY

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PURPOSE AND APPLICABILITY

The purpose of this form is to provide a simple form for the display of cost and price data. 40 CFR 33.290 requires the recipient to perform cost or price analysis for every procurement action, including subagreement modifications. This form is not required by EPA, but may be used at the recipient's option. If the recipient currently uses a cost and price analysis form which accomplishes the same objectives as this form, the recipient may use its own form.

INSTRUCTIONS

If this form is used, CAREFULLY READ AND FOLLOW ALL INSTRUCTIONS. Many items are not self-explanatory. Attach additional sheets if necessary.

Use only the applicable portions of this form:

Part I is applicable to all subagreements.

Part II is applicable to all subagreements requiring a cost analysis pursuant to EPA procurement regulations.

Part III is applicable to all subagreements where review is based on price comparison (i.e., price analysis).

Part IV certifications will be executed as required by the instructions for each block.

PART I — GENERAL

Item 1 — Enter the name of the recipient as shown on the assistance agreement.

Item 2 — Enter the assistance identification number shown on the assistance agreement (or assigned to the project, if no assistance agreement has yet been executed).

Item 3 — Enter the name of the contractor or subcontractor with whom the subagreement is proposed to be executed.

Item 4 — Enter the date of the contractor's or subcontractor's proposal to the recipient.

Item 5 — Enter the full mailing address of the contractor or subcontractor.

Item 6 — Give a brief description of the work to be performed under the proposed subagreement.

PART II — COST SUMMARY

This portion of the form is to be completed by the contractor (or his/her subcontractor) with whom a subagreement is proposed to be executed, unless that subagreement is a formally advertised, competitively bid, fixed price contract.

Nothing in the following discussions should be interpreted as recommending the inclusion as direct costs any items normally treated as overhead costs in the firm's accounting or estimating system. 40 CFR Part 30 identifies general cost principles applicable to subagreements under EPA assistance. Pursuant to that Part, all subagreements awarded to profit-making organizations are subject to the cost principles of 41 CFR 31.2, Architect engineer and construction contracts are also subject to 41 CFR 31.105.

Item 7 — Direct Labor

Direct labor costs normally include salaries at a regular time rate. Overtime premiums should be identified separately on an attachment. Incurrence of unanticipated overtime costs requires the approval of the recipient at the time of occurrence. If significant overtime is known to be needed at the time of completion of the cost review form, the reasons therefore, labor categories, rates and hours should be identified on an attachment. Also included is the cost of partners' or principals' time when they are directly engaged in services to be rendered

under the subagreement. In case the full time of any employee is not to be devoted to work to be performed under the subagreement only the cost of actual time to be applied should be included. The compensation of a partner or principal shall be included as direct cost only for the time that she/he is expected to be engaged directly in the performance of work under the subagreement and only if it is the firm's normal practice to charge such time directly to all jobs. The rate of compensation of a partner or principal shall be commensurate with the cost of employing another qualified person to do such work, but the salary portion shall not exceed the actual salary rate of the individual concerned. Distribution of profits shall not be included in the rate of compensation.

Enter in block 7 the categories of professional or technical personnel necessary to perform each major element of work under the subagreement scope of services. Estimate hours worked for each category and extend them by the wage rates to be paid during the actual performance of the work. Current rates, adjusted for projected increases, if any, should be used for the actual categories of labor contemplated. All projected increases should be supported by recent experience or established personnel policy.

Enter in the far right column the total estimated direct labor cost.

Supporting records to be maintained by the contractor and which must be submitted or made available to the recipient or EPA upon request include:

- a. The method of estimating proposed hours worked.
- b. The computation technique used in arriving at proposed labor rates.
- c. The specific documents, books, or other records used as factual source material to develop proposed hours worked and labor rates.
- d. Detailed rate computations which were used in computing information submitted on the form.

If in block 14a, the contractor has checked "No," a brief narrative description of the methods used in arriving at items a through d above shall be included on an attached sheet.

Item 8 — Indirect Costs

Indirect costs may consist of one or more pools of expenses which are grouped on the basis of the benefits accruing to the cost objective represented by the distribution base or bases to which they are allocated. Since accounting practices vary, the use of particular grouping is not required. Neither is the use of any particular allocation basis mandatory. However, it is mandatory that the method used results in an equitable allocation of indirect costs to cost objectives which the support.

Normally, the firm's accounting system and estimating practices will determine the method used to allocate overhead costs. The firm established practices, if in accord with generally accepted accounting principles and PROVIDED THEY PRODUCE EQUITABLE RESULTS if

THE CIRCUMSTANCES, will generally be accepted. Proposed overhead rates should represent the firm's best estimate of the rates to be experienced during the subagreement period. They should be based upon recent experience and be adjusted for known factors which will influence experienced trends.

Common overhead groupings overhead on direct labor and general and administrative expenses. The first grouping usually includes employment taxes, fringe benefits, holidays, vacation, idle time, bonuses, etc., applicable to direct labor. The second generally includes the remaining costs which because of their inaccuracy for common or joint objectives are not readily subject to treatment as direct costs. It is expected, however, that proposal groupings will correspond with the firm's normal method for accumulating indirect costs. Under some accounting systems, the first grouping would be included instead under item 7. No special categorization is required provided the results are realistic and equitable.

Direct salaries are the normal distribution basis for overhead costs, but in some circumstances other bases produce more equitable results. As in the case of overhead costs groupings, the method to be used will depend upon the firm's normal practices and the equity of the results produced in the circumstances.

In the case of multibranch firms, joint ventures, or affiliates, it is expected that overhead costs applicable to the specific locations, where work is to be based on cost date from the most recent fiscal periods updated to reflect changes in volume of business or operations.

Enter in block 8 the indirect cost pools normally used by the firm for allocation of indirect costs. Enter the indirect cost rate for each pool and extend each one by the rate base to which it applies to arrive at the estimated indirect costs to be incurred during the actual performance of the work. If the direct labor total from block 7 is not used as the rate base for any of the indirect cost pools, the rate base used must be explained on an attached sheet.

A brief narrative statement outlining the firm's policies and practices for accumulating indirect costs. Enter the indirect cost rate costs and the method used to compute the proposed rate or rates shall accompany the form. Include comment on the firm's policies regarding the pricing and costing of principals' time. The normal accounting treatment of principals' salaries, the annual amounts, and the hourly charge rate, if used, should be discussed.

Enter in the far right column the total estimated indirect costs.

Supporting records to be maintained by the contractor and which must be submitted or made available to the recipient or EPA upon request include

- a. Detailed cost data showing overhead accounts, allocation bases, and rate computations for the preceding fiscal period. If more than six months of the current fiscal period have elapsed, cost data for this period should be included as one of the three periods).
- b. Company budgets, budgetary cost data, and overhead rate computations for future periods).

Item 9 — Other Direct Costs

The following items are illustrative of costs normally included in this category of costs:

- a. Travel costs, including transportation, lodging, subsistence, and incidental expenses incurred by personnel or consultants while in a travel status in connection with the performance of services required by the contract. The cost principles generally

require the use of less than first class air accommodations + also limit the cost of private aircraft

b. Equipment, Materials, and Supplies

- (1) Long distance telephone, telegraph, and cable to be incurred in connection with the performance of services required in connection with the contract
- (2) Reproduction costs including blueprints, block and w* prints, offset prints, photographs, photostats, negative, and express charges.
- (3) Commercial printing, binding, artwork, and models
- (4) Special equipment.

c. Subcontracts

- d. Other. Direct costs, if any, not included above

Enter in blocks 9a-d all other direct costs proposed. Travel costs entered must be supported by an attachment which identifies number of staff trips proposed and the estimated cost per staff trip both local and long distance transportation. The number of days + the rate per day must be provided to support the per diem shown. Each subcontract and consultant agreement must be identified separately in block 9a.

Enter in the far right column on line 9e the total of all other direct costs (9a-d).

Supporting data to be maintained by the contractor and which must be submitted or made available to the recipient or EPA upon request include:

- a. basis for other direct costs proposed,
- b. factual sources of costs, rates, etc., used in computing amount of each cost element.

Item 10 — Total Estimated Cost

Enter the total of all direct labor, indirect costs, and other direct costs from items 7, 8, and 9.

Item 11 — Profit

A fair and reasonable provision for profit cannot be made by simply applying a certain predetermined percentage to the total estimated cost. Rather, profit will be estimated as a dollar amount as considering:

- a. degree of risk,
- b. nature of the work to be performed,
- c. extent of firm's investment,
- d. subcontracting of work, and
- e. other criteria.

The Federal Acquisition Regulation cost principles applicable to s. agreements with profit-making organizations (41 CFR 31.2 + 31.106) disallow certain types of costs which are sometimes incurred by firms in the normal conduct of their business. Examples of costs which are not allowable under these cost principles include, but are not limited to, entertainment, interest on borrowed capital, and debts. Because the Government considers "profit" to be the excess

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price over allowable costs, such computation can indicate a higher profit estimate than the firm's experienced profit as it customarily computes it. The contractor may separately disclose to the recipient its customary computations.

Enter the dollar amount of profit in block 11.

Item 12 — Total Price

Enter the total of items 10 and 11.

PART III — PRICE SUMMARY

This portion of the form is for use by a recipient when price comparison (i.e., price analysis) is used in subagreement review. It may also be used by a contractor when price comparison is used as a basis for award of a subcontract.

Item 13 — Competitor's Catalog Listings, In-House Estimates, Price Quotes

Enter sources of all competitive bids or quotes received, or catalogs used and their prices, or in-house estimates made, if appropriate, for comparison. Attach additional sheets if necessary, particularly for purchases of several different items.

Enter in the far right column the proposed price for the subagreement.

PART IV — CERTIFICATIONS

Item 14 — Contractor — FOR USE BY CONTRACTOR OR SUBCONTRACTOR ONLY.

- a. Complete this block only if part II has been completed.
- b. Complete this block only if part II has been completed.

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APPENDIX C

KEY CONTACTS LIST

- I. Contacts for the Superfund Program
 - A. EPA Technical Assistance Grants Staff
 - B. EPA Headquarters Superfund Community Relations Staff
 - C. EPA Regional Technical Assistance Grants Contacts
 - D. State Superfund Contacts
- II. Small, Minority, and Women's Business Contacts
 - A. EPA Headquarters Contacts
 - B. Minority Business Development Centers (Regional Offices)
 - C. Minority Business Development Centers (District Offices)
- III. Intergovernmental Review Contacts
 - A. State Single Point of Contact List

KEY CONTACTS LIST

I. Contacts for the Superfund Program

A. EPA Technical Assistance Grants Staff

Daphne Gammill
Office of Emergency and Remedial Response
EPA Headquarters (WH-548E)
401 M Street, S.W.
Washington, DC 20460
(202) 382-2460

B. EPA Headquarters Superfund Community Relations Staff

Melissa Friedland
Superfund Community Relations Coordinator
Office of Emergency and Remedial Response
EPA Headquarters (WH-548E)
401 M Street, S.W.
Washington, DC 20460
(202) 382-2461

Vanessa Musgrave
Superfund Community Relations Coordinator
Office of Emergency and Remedial Response
EPA Headquarters (WH-548E)
401 M Street, S.W.
Washington, DC 20460
(202) 382-2462

C. EPA Regional Technical Assistance Grant Contacts

Region 1

Mary Grealish
Superfund Management
EPA - Region 1
John F. Kennedy Federal Building
Boston, MA 02203
(617) 565-5701

Region 4

Pat Zweig
Superfund
EPA - Region 4
345 Courtland Street, N.E.
Atlanta, GA 30365
(404) 347-2234

Region 2

Lillian Johnson
Office of Public Affairs
EPA - Region 226 Federal Plaza
New York, NY 10278
(212) 264-4534

Region 5

Jennifer Hall
Office of Public Affairs
EPA - Region 5
230 South Dearborn
Chicago, IL 60604
(312) 886-4359

Region 3

Ann Cardinal
Office of Public Affairs
EPA - Region 3
841 Chestnut Street
Philadelphia, PA 19107
(215) 597-9905

Region 8

Ellen Greeney
EPA - Region 6
1445 Ross Avenue, 10th Floor
Dallas, TX 75270
(214) 655-6720

Region 7

Steve Wurtz
Office of Public Affairs
EPA - Region 7
726 Minnesota Avenue
Kansas City, KS 66101
(913) 236-2803

Region 8

Robin Coursen
Superfund
EPA - Region 8
1 Denver Place
999 18th Street, Suite 1300
Denver, CO 80202
(303) 293-1648

D. State Superfund Contacts

Region 1

Connecticut:

William Delaney
Director, Information and Education
Connecticut Department of Environmental
Protection
Office of Public Affairs
Room 117, State Office Building
165 Capitol Avenue
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The Citizens' Guidance Manual for the Technical Assistance Grant Program

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APPENDIX D

SELECTED REGULATORY TEXT

EPA Grant Regulations
40 CFR Part 30, Annotated

EPA Procurement Regulations
40 CFR Part 33, Annotated

OMB Circular A-122 and Revision

AR500254

The Citizens' Guidance Manual for the Individual Assistance Grant Program

SUBCHAPTER B—GRANTS AND OTHER FEDERAL ASSISTANCE

PART 30—GENERAL REGULATION FOR ASSISTANCE PROGRAMS

Subpart A—What is the Purpose and Scope of this Regulation?

Sec.
30.100 What is the purpose of this regulation?
30.101 What is the scope of this regulation?
30.102 What laws authorize EPA to issue this regulation?

Subpart B—What Definitions Apply to this Regulation?

30,200 What definitions apply to this regulation?

Subpart C—How do I Apply for and Receive Assistance?

- 30,300 What activities does EPA fund?
- 30,301 To whom does EPA award assistance?
- 30,302 How do I apply for assistance?
- 30,303 What steps must I take when filing a standard application?
- 30,304 Is the information I submit to EPA confidential?
- 30,305 How do I find out if EPA approved or disapproved my application?
- 30,306 How long will I have to complete my project?
- 30,307 How much must I contribute to the funding of my project?
- 30,308 When may I begin incurring costs?
- 30,309 What is the effect of accepting an assistance agreement?

Subpart D—How does EPA Pay Me?

- 30.400 How does EPA make payments?
- 30.405 Can I assign my payment to anyone else?
- 30.410 How does EPA determine allowable costs?
- 30.412 How are costs categorized?

SUSPENSE—HOW DO I MANAGE MY AWKWARD

- 30,500 What records must I maintain?
- 30,501 How long must I keep these records?
- 30,502 To whom must my contractor and I show these records?
- 30,503 What type of quality assurance practices am I required to have?
- 30,505 What reports must I submit?

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- 30.510 What type of financial management system must I maintain?
- 30.515 What restrictions on signs, surveys, and questionnaires must I observe?
- 30.518 What are the procedures for publishing scientific, informational, and educational documents?
- 30.520 When may I use my own employees ("force account")?
- 30.525 How should I treat program income?
- 30.528 How do I treat interest earned on EPA funds?
- 30.530 May I purchase personal property using EPA assistance funds?
- 30.531 What property management standards must I follow for nonexpendable personal property purchased with an EPA award?
- 30.532 How do I dispose of personal property?
- 30.535 May I purchase real property with EPA awarded funds?
- 30.538 How do I manage Federally-owned property?
- 30.537 Are contractors required to comply with EPA property policies?
- 30.538 May I use General Services Administration (GSA) supplies and services?
- 30.540 Who will audit my project?

Subpart F—What Other Federal Requirements Must I Comply With?

- 30,600 What Federal laws and policies affect my award?
- 30,601 Are there restrictions on the use of assistance funds for advocacy purposes?
- 30,602 What additional Federal laws apply to EPA assisted construction projects?
- 30,610 What are my responsibilities for preventing and detecting fraud and other corrupt practices?
- 30,611 Can I hire a person or agency to solicit EPA assistance for me?
- 30,612 May an EPA employee act as my representative?
- 30,613 What is EPA's policy on conflicts of interest?
- 30,614 May I employ a former EPA employee and still receive assistance?

Subpart C—Can an Assistance Agreement be Changed?

- 30.700 What changes to my assistance agreement require a formal amendment?
- 30.705 What changes can I make to my assistance agreement without a formal amendment?

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Appendix D

Sec.

30.710 Can I terminate a part or all of my assistance agreement?

Subpart H—How do I Close out my Project?

30.800 What records and reports must I keep after I complete my project?
30.802 Under what conditions will I owe money to EPA?

Subpart I—What Measures may EPA Take for Non-compliance?

30.900 What measures may EPA take for non-compliance?
30.901 What are the consequences of a stop-work order?
30.902 What are the consequences of withholding payments?
30.903 What are the consequences of termination for cause?
30.904 What are the consequences of annulment?
30.905 May I request a review of a termination or annulment?
30.906 What are the consequences of suspension or debarment?

Subpart J—Can I get an Exception ("Deviation") From These Regulations?

30.1001 Will EPA approve any exceptions to these regulations?
30.1002 Who may request a deviation?
30.1003 What information must I include in a deviation request?
30.1004 Who approves or disapproves a deviation request?
30.1005 May I request a review of a deviation decision?

Subpart K—What Policies Apply to Patents, Data, and Copyrights?

30.1100 What assistance agreements are subject to EPA patent rules?
30.1101 What Federal patent laws or policies govern my assistance agreement?
30.1102 What are my invention rights and my reporting requirements if my award is other than an award under section 6914 of RCRA?
30.1103 What are my invention rights and obligations if I am a profitmaking firm with an award under section 6914 of RCRA?
30.1104 Can I get a waiver from section 6981(c) of RCRA?
30.1105 Do the patent rules apply to sub-agreements?
30.1106 Does EPA require any type of licensing of background patents that I own?
30.1112 Are there any other patent clauses or conditions that apply to my award?

Sec.

30.1130 What rights in data and copyrights does EPA acquire?

Subpart L—How are Disputes Between EPA Officials and me Resolved?

30.1200 What happens if an EPA official and I disagree about an assistance agreement requirement?
30.1205 If I file a request for review, with whom must I file?
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30.1220 If the Assistant Administrator confirms the final decision of the Headquarters disputes decision official, may I seek further administrative review?
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APPENDIX A—EPA PROGRAMS

APPENDIX B—PATENTS AND COPYRIGHTS CLAUSES

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RIGHTS

APPENDIX D—PART 30 REPORTING REQUIRE-

MENTS

APPENDIX E—PART 30 AUDIT REQUIREMENTS FOR STATE AND LOCAL GOVERNMENT RECIPIENTS

AUTHORITY: 33 U.S.C. 1251 et seq.; 42 U.S.C. 7401 et seq.; 42 U.S.C. 6901 et seq.; 42 U.S.C. 300f et seq.; 7 U.S.C. 136 et seq.; 15 U.S.C. 2601 et seq.; 42 U.S.C. 6901 et seq.

SOURCE: 48 FR 48062, Sept. 30, 1983, unless otherwise noted.

Text of 40 CFR Part 30

Subpart A—What Is the Purpose and Scope of this Regulation?

§ 30.100 What is the purpose of this regulation?

(a) The U.S. Environmental Protection Agency (EPA) is responsible for protecting and enhancing the quality of the environment. To achieve these objectives, EPA may award assistance in the form of grants, cooperative agreements, or fellowships to support: (1) State and local pollution control programs; (2) research, demonstration, or training projects; and (3) other projects that advance EPA's mission. This regulation tells how to apply for and manage an EPA project, describes EPA involvement in the process, and identifies recipients' responsibilities. Other EPA assistance regulations supplement these. They are found in 40 CFR Part 32 (Debarment), Part 33 (Procurement Under Assistance Agreements), Part 35 (State and Local Assistance), Part 40 (Research and Demonstration), Part 45 (Training) and Part 46 (Fellowships).

(c) This regulation incorporates the requirements of Office of Management and Budget (OMB) Circulars and EPA Orders.

(d) Recipients must provide the reporting information required in this part to be eligible for EPA assistance awards.

NOTE: The OMB clearances required by the Paperwork Reduction Act are identified in Appendix D to this part.

§ 30.101 What is the scope of this regulation?

This regulation covers financial assistance awards made as grants or cooperative agreements under requirements of the Federal Grant and Cooperative Agreement Act (Pub. L. 95-224). It does not cover direct EPA contracts under which EPA acquires property or services for its use.

§ 30.102 What laws authorize EPA to issue this regulation?

Reorganization Plan Number 3 of 1970 and the following statutes authorize the Administrator of EPA to issue this regulation.

Explanation of Key Provisions

All technical assistance grants are considered "assistance agreements" and are therefore subject to all of the relevant requirements in this section.

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- (a) The Clean Water Act, as amended (33 U.S.C. 1251 et seq.);
- (b) The Clean Air Act, as amended (42 U.S.C. 7401 et seq.);
- (c) The Solid Waste Disposal Act, as amended (42 U.S.C. 6901 et seq.);
- (d) The Safe Drinking Water Act, as amended (42 U.S.C. 300f et seq.);
- (e) The Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 et seq.);
- (f) The Toxic Substances Control Act (15 U.S.C. 2601 et seq.); and
- (g) The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(48 FR 45042, Sept. 30, 1983; 49 FR 38944, Oct. 2, 1984)

Subpart B—What Definitions Apply to this Regulation?

§ 30.200 What definitions apply to this regulation?

"Allowable costs." Those project costs that are eligible, reasonable, necessary, and allocable to the project; permitted by the appropriate Federal cost principles, and approved by EPA in the assistance agreement.

"Applicant." Any entity that files an application or unsolicited proposal for EPA financial assistance under this subchapter.

"Assistance agreement." The legal instrument EPA uses to transfer money, property, services, or anything of value to a recipient to accomplish a public purpose. It is either a grant or a cooperative agreement and will specify: budget and project periods; the Federal share of eligible project costs; a description of the work to be accomplished; and any special conditions.

"Award official." The EPA official with the authority to execute assistance agreements and to take other actions authorized by this subchapter and by EPA Orders.

"Budget period." The length of time EPA specifies in an assistance agreement during which the recipient may expend or obligate Federal funds.

Explanation of Key Provisions

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"Consolidated assistance." An assistance agreement awarded under more than one EPA program authority or funded together with one or more other Federal agencies. Applicants for consolidated assistance submit only one application.

"Continuation award." An assistance agreement after the initial award, for a project which has more than one budget period in its approved project period, or annual awards, after the first award, to State, Interstate, or local agencies for continuing environmental programs (see § 30.306).

"Contractor." Any party to whom a recipient awards a subagreement.

"Cooperative agreement." An assistance agreement in which substantial EPA involvement is anticipated during the performance of the project (does not include fellowships).

"Cost sharing." The portion of allowable project costs that a recipient contributes toward completing its project (i.e., non-Federal share, matching share).

"Environmentally related measurements." Any data collection activity or investigation involving the assessment of chemical, physical, or biological factors in the environment which affect human health or the quality of life. The following are examples of environmentally related measurements: (a) A determination of pollutant concentrations from sources or in the ambient environment, including studies of pollutant transport and fate; (b) a determination of the effects of pollutants on human health and on the environment; (c) a determination of the risk/benefit of pollutants in the environment; (d) a determination of the quality of environmental data used in economic studies; and (e) a determination of the environmental impact of cultural and natural processes.

"Expendable personal property." All tangible personal property other than nonexpendable personal property.

"Force account work." The use of the recipient's own employees or equipment for construction, construction-related activities (including A and E services), or for repair or improvement to a facility.

Explanation of Key Provisions

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Text of 40 CFR Part 30

"Foreign awards." An EPA award of assistance when all or part of the project is performed in a foreign country by (a) a U.S. recipient, (b) a foreign recipient, or (c) an international organization.

"Formal amendment." A written modification of an assistance agreement signed by both the authorized representative of the recipient and the award official.

"Grant agreement." An assistance agreement that does not substantially involve EPA in the project and where the recipient has the authority and capability to complete all elements of the program (does not include fellowships).

"In-kind contribution." The value of a non-cash contribution to meet a recipient's cost sharing requirements. An in-kind contribution may consist of charges for real property and equipment or the value of goods and services directly benefiting the EPA funded project.

"Nonexpendable personal property." Personal property with a useful life of at least two years and an acquisition cost of \$500 or more.

"Personal property." Property other than real property. It may be tangible (having physical existence), such as equipment and supplies, or intangible (having no physical existence), such as patents, inventions, and copyrights.

"Program income." Gross income the recipient earns during its project period from charges for the project. This may include income from service fees, sale of commodities, trade-in allowances, or usage or rental fees. Fees from royalties are program income only if the assistance agreement so states. Revenue generated under the governing powers of a State or local government which could have been generated without an award is not considered program income. Such revenues include fines or penalties levied under judicial or penal power and used as a means to enforce laws. (Revenue from wastewater treatment construction grant projects under Title II of the Clean Water Act, as amended, is not program income. It must be used for operation and maintenance costs of the recipient's wastewater facilities.)

Explanation of Key Provisions

Text of 40 CFR Part 30

"Project." The activities or tasks EPA identifies in the assistance agreement.

"Project costs." All costs the recipient incurs in carrying out the project. EPA considers all allowable project costs to include the Federal share.

"Project officer." The EPA official designated in the assistance agreement as EPA's program contact with the recipient. Project officers are responsible for monitoring the project.

"Project period." The length of time EPA specifies in the assistance agreement for completion of all project work. It may be composed of more than one budget period.

"Quality assurance narrative statement." A description of how precision, accuracy, representativeness, completeness, and compatibility will be assessed, and which is sufficiently detailed to allow an unambiguous determination of the quality assurance practices to be followed throughout a research project.

"Quality assurance program plan." A formal document which describes an orderly assembly of management policies, objectives, principles, organizational responsibilities, and procedures by which an agency or laboratory specifies how it intends to:

- (a) Produce data of documented quality, and
- (b) Provide for the preparation of quality assurance project plans and standard operating procedures.

"Quality assurance project plan." An organization's written procedures which delineate how it produces quality data for a specific project or measurement method.

"Real property." Land, including land improvements, and structures and appurtenances, excluding movable machinery and equipment.

"Recipient." Any entity which has been awarded and accepted an EPA assistance agreement.

"Standard operating procedure." A document which describes in detail an operation, analysis, or action which is commonly accepted as the preferred method for performing certain routine or repetitive tasks.

Explanation of Key Provisions

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"Subagreement." A written agreement between an EPA recipient and another party (other than another public agency) and any lower tier agreement for services, supplies, or construction necessary to complete the project. Subagreements include contracts and subcontracts for personal and professional services, agreements with consultants, and purchase orders.

"Violating facility." Any facility that is owned, leased, or supervised by an applicant, recipient, contractor, or subcontractor that EPA lists under 40 CFR Part 15 as not in compliance with Federal, State, or local requirements under the Clean Air Act or Clean Water Act. A facility includes any building, plant, installation, structure, mine, vessel, or other floating craft.

"Unsolicited proposal." An informal written offer to perform EPA funded work for which EPA did not publish a solicitation.

[46 FR 45082, Sept. 30, 1981, as amended at 49 FR 36944, Oct. 2, 1984]

Subpart C—How do I Apply for and Receive Assistance?

§ 30.300 What activities does EPA fund?

EPA awards assistance to support various activities that protect the environment and reduce or control pollution. EPA groups these activities into the following types of assistance programs:

- (a) State and local pollution control;
- (b) Construction of wastewater treatment works;
- (c) Research;
- (d) Demonstration;
- (e) Training;
- (f) Fellowships;
- (g) Special investigations, surveys or studies; and
- (h) Consolidated assistance.

§ 30.301 To whom does EPA award assistance?

(a) EPA awards assistance only to applicants which are eligible under applicable statutes and regulations and which have the ability to meet the following criteria:

Explanation of Key Provisions

EPA may award a technical assistance grant to any group of individuals that may be affected by a release or threatened release of toxic chemicals from any hazardous waste site that is listed on the National Priorities List (NPL) (e.g., a Superfund site) or proposed for listing and a response action is underway. See Chapter 3 for a discussion of group eligibility criteria.

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(b) If EPA approves the deviation before an award, the revised requirement will be included in your assistance agreement. Approval of a deviation before an award does not guarantee an award.

§ 30.1005 May I request a review of a deviation decision?

You may not request a review of a deviation decision under the procedures in Subpart L of this part. However, you may request the Director of the Grants Administration Division to reconsider his decision.

(48 FR 45082, Sept. 30, 1983; 49 FR 38946, Oct. 2, 1984)

Subpart K—What Policies Apply to Patents, Data, and Copyrights?

§ 30.1100 What assistance agreements are subject to EPA patent rules?

§ 30.1101 What Federal patent laws or policies govern my assistance agreement?

§ 30.1102 What are my invention rights and my reporting requirements if my award is other than an award under section 6914 of RCRA?

§ 30.1103 What are my invention rights and obligations if I am a profitmaking firm with an award under section 6914 of RCRA?

§ 30.1104 Can I get a waiver from section 6981(c) of RCRA?

On a case by case basis, you may ask EPA for a deviation from section 6981(c) of RCRA. You must follow the procedures in Subpart J.

§ 30.1106 Do the patent rules apply to subagreements?

§ 30.1108 Does EPA require any type of licensing of background patents that I own?

§ 30.1112 Are there any other patent clauses or conditions that apply to my award?

§ 30.1130 What rights in data and copyrights does EPA acquire?

Explanation of Key Provisions

Sections 30.1100–30.1104, 30.1106, 30.1108, and 30.1112 will rarely apply to technical assistance grants (text deleted). In the event that activities funded under a technical assistance grant involve patents, data, or copyrights, grant recipients should read, understand, and comply with Subpart K in its entirety.

The patent rules apply to technical assistance grants only in the unlikely event that subagreements involve experimentation, development, special investigation, surveys, studies, or research (text deleted). Under these circumstances, grant recipients should read, understand, and comply with Subpart K in its entirety.

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(a) On a case-by-case basis, EPA will consider requests for exceptions to these regulations.

(b) EPA may issue a "deviation" from any of its assistance related regulations, except for those that implement statutory and executive order requirements.

(c) The award official may "waive" certain requirements of this subchapter for foreign awards. All provisions waived will be stated in the assistance agreement.

(40 FR 45062, Sept. 30, 1983; 49 FR 38945, Oct. 2, 1984)

#30.1002 Who may request a deviation?

You, your project officer, or an EPA program office may request a deviation from EPA regulations. If you are the initiator, you must send your written request to your project officer if the request is for a Headquarters program or to the Regional Administrator for a Regionally administered program, who will then forward the request to the Director, Grants Administration Division, with a recommendation for approval or disapproval.

#30.1003 What information must I include in a deviation request?

Your request must include the following information:

(a) Your name, the assistance identification number, date of award, and the dollar value of the application or award;

(b) The section of the regulation from which you need a deviation;

(c) A complete description of what the deviation will do and a justification of why the deviation is necessary; and

(d) A statement of whether the same or a similar deviation has been previously requested. If such a request has been made previously, explain why it was made and the outcome.

#30.1004 Who approves or disapproves a deviation request?

(a) The Director, Grants Administration Division (GAD), approves or disapproves your deviation request. Assistant Administrators in the affected program areas must review and concur on deviations affecting a class of applicants or recipients.

Explanation of Key Provisions

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- (2) You obtained an assistance agreement by fraud or misrepresentation;
- (3) You are found to practice corrupt administrative procedures;
- (4) You have inordinately delayed project completion without good cause; or
- (5) You have failed to meet the project purpose to the extent that the fundamental purpose stated in the assistance agreement is frustrated.

(b) If EPA intends to issue an annulment, the award official will inform you of the annulment in writing. The award official will provide you an opportunity for consultation before issuing a notice of annulment. If your assistance agreement is annulled, you must return all funds received for the project including those already expended. EPA may pursue other available remedies under Federal, State, and local laws.

§ 30.905 May I request a review of a termination or annulment?

You may request a review of EPA's decision to terminate or annul an assistance agreement. Within thirty days after the notice of termination or annulment is issued, you must file a written request for review to the appropriate Assistant or Regional Administrator. Your request for review must follow the procedures under Subpart L of this part.

(49 FR 38945, Oct. 2, 1984)

§ 30.906 What are the consequences of suspension or debarment?

EPA may suspend or debar you in accordance with 40 CFR Part 32. You may not receive assistance or a sub-agreement if your name or organization appears on EPA's Master List of Debarred and Suspended Firms and Individuals.

(48 FR 45062, Sept. 30, 1983; 49 FR 38945, Oct. 2, 1984)

Subpart J—Can I get An Exception ("Deviation") From These Regulations?

§ 30.1001 Will EPA approve any exceptions to these regulations?

Explanation of Key Provisions

Requests for reviews of a termination action by EPA must be submitted to the appropriate EPA office within 30 calendar days of the notice.

EPA may issue a deviation or exception from its regulations on a case-by-case basis.

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§ 30.902 What are the consequences of withholding payments?

- (a) The award official may withhold payments when you fail to comply with the tasks, reporting requirements, or conditions of your assistance agreement. The award official will provide you reasonable notice in writing before withholding payment.
- (b) The award official may withhold only the amount necessary to assure compliance with your assistance agreement.
- (c) The award official may withhold payment to the extent you are indebted to the United States, unless the collection of the indebtedness will impair the accomplishment of the project and the continuation of the project is in the best interest of the United States.

§ 30.903 What are the consequences of termination for cause?

- (a) The award official may unilaterally terminate your agreement in whole or in part at any time before the date of completion, whenever he determines that you have failed to comply with the conditions of your agreement. The award official will provide you an opportunity for consultation before issuing a notice of termination.
- (b) If EPA terminates your agreement, the award official will notify you in writing of his determination, the reasons for the termination, and the effective date. Upon receiving the termination notice, you must stop work immediately. EPA will not reimburse you for any new commitments you make after you receive the termination notice.
- (c) EPA will pay you the Federal share of allowable costs incurred up to the date of termination and allowable costs related to commitments you made prior to termination that you cannot cancel.

§ 30.904 What are the consequences of annulment?

- (a) The award official may unilaterally annul in whole or in part your assistance agreement in any of the following cases:
 - (1) You have made no substantial progress on the project without good cause;

Explanation of Key Provisions

Upon receipt of a termination notice, the recipient must stop work immediately. EPA will not reimburse a group for any financial commitments or obligations made after a termination notice is issued.

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Subpart I—What Measures may EPA Take for Non-compliance?

§ 30.900 What measures may EPA take for non-compliance?

If you do not comply with all of the terms and conditions of your assistance agreement, the award official may apply any of the following:

- (a) Issue a stop-work order;
- (b) Withhold payment;
- (c) Suspend or terminate your assistance agreement for cause;
- (d) Annul your assistance agreement;
- (e) Request that the Director, Grants Administration Division, debar or suspend you as an eligible recipient;
- (f) Take other appropriate administrative action; or
- (g) Institute judicial proceedings.

(46 FR 45062, Sept. 30, 1983, as amended at 49 FR 38945, Oct. 2, 1984)

§ 30.901 What are the consequences of a stop-work order?

(a) A stop-work order requires you to immediately stop the work or activities described in the order and to take all reasonable steps to minimize costs incurred on the work. The award official will issue the order in writing. The order will be in effect for forty-five days after you receive it unless cancelled or extended by mutual agreement between you and EPA. If the problem cannot be resolved during the stop-work period and EPA is likely to terminate or annul the agreement, the award official will so inform you.

(b) If the stop-work order is cancelled and it caused any increase in the cost of and/or the time for completing the project, you may request an adjustment in the project period, budget period, or assistance amount. You must submit a request for adjustment to the project officer within sixty days after the stop-work order ended.

Explanation of Key Provisions

A stop work order requires that work is immediately stopped and remains in effect for 45 days unless cancelled or extended by mutual agreement between the recipient and EPA.

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(b) EPA will pay you the Federal share of allowable costs incurred up to the date of termination and allowable costs related to commitments you made prior to termination that you cannot cancel.

Subpart H—How do I Close out my Project?

§ 30.800 What records and reports must I keep after I complete my project?

You and your contractors must keep all books, records, documents, and other evidence (including accounting procedures and practices and sub-agreement documents) that track the progress of your project in accordance with the requirements under § 30.501.

§ 30.802 Under what conditions will I owe money to EPA?

(a) If the award official determines that you owe funds, you must reimburse the Federal government that amount. EPA will take appropriate legal and administrative action to collect the amount you owe the Agency if reimbursement is not made in a timely manner. EPA may offset the debt against other funds payable to you under an EPA or other Federal agency assistance agreement if not explicitly prohibited by another statute.

(b) EPA will charge you interest if you fail to pay within 30 days from the date of the Agency's decision that a debt is owed. The interest rate will be the rate established by the Secretary of the Treasury in accordance with the Treasury Fiscal Requirements Manual G-8020.20. The rates are published quarterly in the **FEDERAL REGISTER**.

(c) If you are not a State or local government, EPA will charge you its cost to process and handle the overdue debt at the end of each 30 day period the debt is overdue, and a penalty of 6% per annum if the debt is not paid within 120 days after the date of the Agency's decision that a debt is owed.

(46 FR 45062, Sept. 30, 1981, as amended at 51 FR 6353, Feb. 21, 1986)

Explanation of Key Provisions

All records must be kept for three years following project completion or until any litigation, dispute, claim, or audit relating to the grant is resolved. If after the three years, the recipient intends to dispose of the records, EPA must be notified in writing and the records must be held until EPA notifies the recipient as to their disposition. See section 35.4105 of the Interim Final Rule for further details.

APPENDIX 4

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Subpart G—Can an Assistance Agreement be Changed?

§ 30.700 What changes to my assistance agreement require a formal amendment?

You must receive from the award official a formal amendment before implementing:

- (a) A transfer of an award to another recipient;
- (b) Changes in the objectives of the project;
- (c) Changes in the assistance amount;
- (d) Substantial changes within the scope of the project; or
- (e) A rebudgeting of the following:
 - (1) Amounts budgeted for either construction or non-construction activities if transferred from one activity to the other;
 - (2) Amounts budgeted for indirect costs to absorb increases in direct costs; or
 - (3) Amounts budgeted for training allowances if transferred to other cost categories.

§ 30.705 What changes can I make to my assistance agreement without a formal amendment?

Minor changes in the project work that are consistent with the objective of the project and within the scope of the assistance agreement do not require the execution of a formal amendment before the recipient's implementation of the change. However, such changes do not obligate EPA to provide Federal funds for any costs incurred by you in excess of the assistance amount, unless approved in advance under § 30.700.

§ 30.710 Can I terminate a part or all of my assistance agreement?

- (a) You and EPA may terminate a part or all of your assistance agreement, when both parties agree that the continuation of the project will not produce beneficial results. You and the award official must agree on the conditions of the termination, the effective date, and in the case of partial termination, the portion to be terminated. EPA may unilaterally terminate for cause your assistance agreement under § 30.903 of this part.

Explanation of Key Provisions

Recipients of EPA grants may negotiate changes in the grant agreement with the EPA Award Official. See Chapter 4 for a discussion on changes that may be permitted.

The Citizen's Guidance Manual for the Technical Assistance Grant Program

Text of 40 CFR Part 30

§ 30.613 What is EPA's policy on conflict of interest?

EPA's policy is to prevent personal or organizational conflict of interest, or the appearance of such conflict of interest in the award and administration of EPA assistance, including sub-agreements. (For restrictions on EPA employees, see 40 CFR Part 3.)

(a) An official or employee of a recipient may not participate in any activity relating to EPA assistance if any of the following persons or organizations, to the official's or employee's knowledge, has a financial interest in the activity:

- (1) The official or employee himself;
- (2) The official or employee's spouse or minor child;
- (3) A partner of the official or employee;

(4) An organization (other than a public agency) in which the official or employee serves as an officer, director, trustee, partner, or employee; or

(5) Any person or organization with whom the official or employee is negotiating or has any arrangement concerning prospective employment.

(b) Officials and employees of recipients must avoid any action which might result in, or create the appearance of:

- (1) Using official position for private gain;
- (2) Giving preferential treatment to any person;
- (3) Losing independence or impartiality;
- (4) Making an official decision outside official channels; or
- (5) Undermining public confidence in the integrity of EPA programs.

§ 30.615 May I employ a former EPA employee and still receive assistance?

You may hire a former EPA employee and still receive assistance provided the former employee complies with the restrictions on post-employment activities established by 18 U.S.C. 207. These restrictions are explained in regulations issued by the Office of Personnel Management under 5 CFR Part 737 and EPA regulations under 40 CFR Part 3.

Explanation of Key Provisions

Conflicts of interest must be avoided. Conflicts occur if employees, officers, or agents of a group or their families have a financial or other interest in a contractor to be hired or are employed by the prospective contractor. Additionally, contractors are required to disclose to the recipients all financial and business relationships with a potentially responsible party involved at the site for which the grant has been awarded. See section 35.4130 of the Interim Final Rule for further details.

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§ 30.610 What are my responsibilities for preventing and detecting fraud and other corrupt practices?

- (a) You bear the primary responsibility for preventing, detecting, and prosecuting corrupt practices under your assistance agreement.
- (b) If you become aware of allegations, evidence, or the appearance of corrupt practices, you must:
 - (1) Immediately inform the EPA project officer and the EPA Office of Inspector General; and
 - (2) Promptly pursue available State and local legal and administrative remedies.

§ 30.611 Can I hire a person or agency to solicit EPA assistance for me?

Yes, but you may not reimburse with EPA assistance funds any person, corporation, partnership, agency, or other entity which solicits or secures EPA assistance for you in exchange for a commission, a percentage fee, a brokerage fee, or a contingent fee.

§ 30.612 May an EPA employee act as my representative?

(a) An EPA employee may not represent you as an agent or attorney in any proceeding before EPA or any other Federal agency in which the United States is a party or has a direct or substantial interest unless:

- (1) You are a State or local government agency;
- (2) The EPA employee is on detail to the agency under the Intergovernmental Personnel Act (5 U.S.C. 3371-3378); and
- (3) The representation takes place in the context of carrying out programs for which EPA and your agency have a joint responsibility under the environmental statutes.

(b) Except as provided for in paragraph (a) of this section, an EPA employee must not act as an agent or attorney for a recipient or for a contractor or subcontractor of a recipient in any claim against the United States.

Explanation of Key Provisions

A group can hire someone to prepare the EPA grant application for them but they cannot reimburse that person for their service with EPA grant funds.

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(j) *The Indian Self-Determination and Education Assistance Act.* You must comply with the Indian Self-Determination and Education Assistance Act of 1975 (Pub. L. 93-638). If your project will benefit Indians, the Act requires you to give Indians preference in training and employment opportunities and in the award of sub-agreements.

(k) *The Hatch Act.* If you are a State or local government recipient, you must ensure compliance with the Hatch Act, (4 U.S.C. 1501 et seq.), as amended. The Act requires State and local government employees to comply with the restrictions on political activities imposed by the Act if their principal employment activities are funded wholly or in part by Federal assistance. See 5 CFR Part 151 for specific prohibitions and exemptions.

(l) *Safe Drinking Water Act.* Section 1424(e) of the Safe Drinking Water Act (42 U.S.C. 300h-3(e)), prohibits EPA from awarding assistance to you if EPA determines that your project may contaminate a sole source aquifer which will result in a significant hazard to public health. See CFR Part 149.

[48 FR 45082, Sept. 30, 1983; 49 FR 38945, Oct. 2, 1984]

§ 30.601 Are there restrictions on the use of assistance funds for advocacy purposes?

(a) You may not use assistance funds for:

(1) Lobbying or influencing legislation before Congress;

(2) Partisan or political advocacy purposes; or

(3) An activity whose objective could affect or influence the outcome of an EPA regulatory or adjudicatory proceeding.

(b) For nonprofit recipient organizations other than educational institutions, EPA will implement § 30.601(a) (1) and (2) consistent with the requirements of OMB Circular A-122, as revised (see § 30.410(c)).

[49 FR 38945, Oct. 2, 1984]

§ 30.603 What additional Federal laws apply to EPA assisted construction projects?

Explanation of Key Provisions

Under CERCLA, technical assistance grant funds cannot be used for legal actions including the preparation of testimony and the hiring of expert witnesses. See Chapter 3 for more information about legal restrictions and other conditions of eligible activities.

Section 30.603 does not apply to technical assistance grants since technical assistance grants cannot be issued to fund construction activities (text deleted).

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ception) if you intend to use any facility on EPA's List of Violating Facilities to complete work on your agreement. You must include a clause in all subagreements to comply with the requirements of 40 CFR Part 15 (see 40 CFR 33.1020). Section 13 of the 1972 Amendments to the Act prohibits sex discrimination under any program or activity receiving assistance under the Act. See 40 CFR Part 7 for specific requirements.

(e) *Civil Rights Act.* You must comply with section 802, Title VI of the Civil Rights Act of 1964, (42 U.S.C. 2000d), and related nondiscrimination laws and Executive Order 11246. These authorities prohibit you from excluding any person from participating in, denying them the benefits of, or discriminating against them on the basis of race, color, or national origin under any program or activity involving Federal financial assistance. See 40 CFR Parts 7 and 8 for specific requirements.

(f) *Rehabilitation Act.* You must comply with section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 794), as amended, which prohibits discrimination on the basis of handicap in Federally assisted programs. See 40 CFR Part 7 for specific requirements.

(g) *Age Discrimination Act.* You must comply with the provisions of the Age Discrimination Act of 1975, (42 U.S.C. 6101 et seq.), which prohibit discrimination on the basis of age in Federally assisted programs. See 40 CFR Part 7 for specific requirements.

(h) *Title IX of the Education Amendments of 1972.* You must comply with Title IX of the Education Amendments of 1972, (20 U.S.C. 1681 et seq.) which prohibits sex discrimination in Federally assisted education programs. See 40 CFR Part 7 for specific requirements.

(i) *Uniform Relocation Assistance and Real Property Acquisition Policies Act.* You must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. 4601 et seq.), if your project involves acquiring an interest in real property and/or any displacement of persons, businesses, or farm operations. See 40 CFR Part 4 for specific requirements.

Explanation of Key Provisions

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Subpart F—What Other Federal Requirements Must I Comply With?

§ 30.600 What Federal laws and policies affect my award?

You must comply with all applicable Federal laws.

(a) *National Environmental Policy Act.* You must comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as amended and other related environmental laws and executive orders that require you to assess the environmental impact of your project. See 40 CFR Part 6 for specific requirements.

(b) *Flood Disaster Protection Act.* If your project involves construction or property acquisition in a special flood hazard area, you must comply with the Flood Disaster Protection Act of 1973 (Pub. L. 93-234, December 13, 1973). If your project is located in a community participating in the National Flood Insurance Program (42 U.S.C. 1001-4128), the Act requires you to purchase flood insurance as a condition of receiving EPA assistance. If the community is not participating in the National Flood Insurance Program and the special flood hazard area has been designated by the Federal Insurance Administration of the Federal Emergency Management Agency for at least one year, EPA will not award assistance for your project until the community enters the program and flood insurance is purchased. See 44 CFR Parts 59 through 79 for specific requirements.

(c) *Clean Air Act.* Section 308 of the Clean Air Act, (42 U.S.C. 7608), as amended, and Executive Order 11738 prohibit EPA from awarding assistance to you (with certain exceptions) if you intend to use any facility on EPA's List of Violating Facilities to complete work on your agreement. You must include a clause in all sub-agreements that requires the recipients of those subagreements to comply with the requirements of 40 CFR Part 15 (see 40 CFR 33.1020).

(d) *Federal Water Pollution Control Act.* Section 308 of the Federal Water Pollution Control Act, (33 U.S.C. 1368), as amended, and Executive Order 11738 prohibit EPA from awarding assistance to you (with certain exceptions).

Explanation of Key Provisions

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§ 30.540 Who will audit my project?

(a) General. EPA may perform pre-award or interim audits, as well as a final audit of your project. If EPA audits your project, EPA will rely to the extent practicable on your audits conducted under § 30.510(g) (if done in accordance with applicable audit standards) instead of reauditing the same records.

(b) State and local governments. (1) State and local governments must comply with the audit requirements of OMB Circular A-128 (see Appendix E). Generally, under A-128 you must conduct an audit each year, unless the Circular permits you to conduct less frequent audits. The Circular provides:

(i) State and local governments that receive \$100,000 or more in Federal financial assistance in a year must have an audit made in accordance with the Circular.

(ii) State and local governments that receive \$25,000 or more, but less than \$100,000, in a year must have an audit made in accordance with the Circular, or in accordance with Federal laws and regulations governing the programs they participate in.

(iii) State and local governments that receive less than \$25,000 in a year are exempt from compliance with the Circular and are subject only to the audit requirements prescribed by State and local law or regulation.

(2) EPA will keep audit cognizance over subagreements under the wastewater treatment construction grants program.

(c) Other recipients. The award official may request a final audit after the submission of, or the due date of, the final Financial Status Report (see § 30.505(b)). Where your organization has a cognizant Federal audit agency, EPA will refer these audits to your organization's cognizant Federal audit agency. Where OMB has not established a cognizant Federal audit agency, EPA staff may perform or arrange for the audit to be performed.

(45 FR 45002, Sept. 30, 1983, as amended at 51 FR 6353, Feb. 21, 1986)

Explanation of Key Provisions

Recipients should be aware that EPA may audit their project at any time. The financial recordkeeping procedures outlined in Chapter 6 discusses how to establish a financial management system that will meet EPA audit requirements.

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Text of 40 CFR Part 30

- (1) You must get approval from EPA to use the property for other Federally supported projects or programs; or
- (2) You must contact EPA for instructions on how to dispose of the property. EPA may:
 - (i) Permit you to retain title to the property provided you compensate EPA for its share; or
 - (ii) Direct you to sell the property and to compensate EPA for its share, less your expenses; or
 - (iii) Direct you to transfer the title of the property to the Federal Government and then compensate you based on your percentage of participation in the original cost of the project, which will be applied to the current fair market value of the property.

(40 FR 45062, Sept. 30, 1982; 49 FR 38945, Oct. 2, 1984)

#30.536 How do I manage federally-owned property?

You must negotiate the use of federally-owned property with the award official and comply with your lease agreement and § 30.505(d). You must inform the project officer of the availability of the property when the property is no longer needed for the assistance project or when you have completed the project. EPA will give you instructions on where to return the property.

#30.537 Are contractors required to comply with EPA property policies?

Generally, contractors are not required to comply with EPA property policies. However, if your contractors acquired personal property with EPA funds, and the subagreement states that ownership vests in you or EPA, the contractor must comply with EPA property policies.

#30.538 May I use General Services Administration (GSA) supplies and services?

You may not use GSA sources of supplies and services, or excess Government property. Excess Government property consists of property under the control of any Federal agency that is not required for its needs.

Explanation of Key Provisions

Appendix D

Text of 40 CFR Part 30

(a) Generally, if you purchased non-expendable personal property for less than \$1,000 per unit, you may either keep it or sell it and keep the proceeds. However, if you are a profit-making organization, you may keep nonexpendable personal property only if you reimburse EPA for its proportionate share of the current fair market value of the property.

(b) EPA is entitled to compensation on nonexpendable personal property you purchased for more than \$1,000. You may keep it, provided you compensate EPA for its proportionate share of the current fair market value. If you do not want to keep the property, your project officer will give you instructions for disposition.

(c) If, at the end of your project, you have expendable personal property with a total aggregate fair market value exceeding \$1,000, you may use the property on other Federally sponsored projects. If you do not use the property on other Federally sponsored projects you must keep it or sell it, but in either case you must compensate EPA for its proportionate share of the current fair market value.

(48 FR 45062, Sept. 30, 1983, as amended at 49 FR 38945, Oct. 2, 1984)

§ 30.535 May I purchase real property with EPA awarded funds?

You may purchase real property subject to the following conditions:

(a) The award official must approve the purchase.

(b) Except as provided in paragraph (f) of this section, you must use the real property only for the purpose for which it was purchased under the assistance award.

(c) You comply with the requirements in 40 CFR Part 4.

(d) You must also comply with 40 CFR Part 35, Subpart I, if your award is a wastewater treatment construction grant.

(e) You must assure that EPA's interest is adequately reflected and protected in compliance with all recordation or registration requirements of applicable local laws on real property.

(f) When it is no longer needed for the original project:

Explanation of Key Provisions

Groups may purchase real property with technical assistance funds if authorized to do so in the grant agreement. Real property includes land and buildings. Groups must comply with EPA property management requirements. See Chapter 6, "Determining Allowable Costs."

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- (6) The percentage of the Federal share of the cost;
- (7) Location, use, and condition of property and the date the information was recorded; and
- (8) Ultimate disposition data, including sales price or the method used to determine the price, or the method used to determine current fair market value where a recipient compensates EPA for its share under § 30.532 of this part.

(b) Conduct a physical inventory of property, and reconcile the results with the property records, at least once every two years. Your inventory must verify the current use and continued need for the property.

(c) Maintain a control system to prevent loss, damage, or theft. (You must thoroughly investigate and document any loss, damage, or theft of nonexpendable personal property.)

(d) Maintain adequate maintenance procedures that ensure the property is in good condition and that instruments used for precision measurements are periodically calibrated.

(e) Maintain proper sales procedures which provide for competition resulting in the highest possible return.

(f) Maintain identification of Federally-owned property.

(48 FR 45062, Sept. 30, 1983; 49 FR 38945, Oct. 2, 1984)

§ 30.532 How do I dispose of personal property?

Nonprofit institutions of higher education conducting basic or applied research and nonprofit organizations whose primary purpose is the conduct of scientific research are exempt from the following requirements. All other recipients must comply with the following requirements. When personal property is no longer needed for the original project, you may use it on other EPA projects. If you do not have other EPA projects, you may use it on other Federal projects. If you wish to use the property on other than Federally sponsored activities, you must comply with the following requirements:

Explanation of Key Provisions

Groups may purchase non-expendable personal property with technical assistance funds if authorized to do so in the grant agreement. Non-expendable personal property is equipment with a useful life of at least two years and an acquisition cost of \$500 or more. Groups must comply with EPA property management requirements. See Chapter 5, "Determining Allowable Costs."

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- (1) You must use the property in the EPA assisted project for which it was acquired as long as needed, whether or not the project continues to be supported with EPA funds;
- (2) You must assure that EPA's interest (the percentage of EPA's participation in the total award) is adequately reflected and protected in compliance with all recordation or registration requirements of the Uniform Commercial Code or other applicable local laws on all nonexpendable personal property with a unit acquisition cost of \$10,000 or more;
- (3) You must follow the property management standards in § 30.531;
- (4) You must follow the disposition requirements in § 30.532; and
- (5) EPA reserves the right to transfer the title for nonexpendable personal property having a unit acquisition cost of \$1,000 or more to the Federal Government or a third party, within 120 days after project completion. EPA must identify such property in the assistance agreement.

(46 FR 45062, Sept. 30, 1983; 49 FR 38945, Oct. 2, 1984)

§ 30.531 What property management standards must I follow for nonexpendable personal property purchased with an EPA award?

Nonprofit institutions of higher education conducting basic or applied research and nonprofit organizations whose primary purpose is to conduct scientific research are exempt from the following standards. All other recipients must comply with the following property management standards. Recipients may use their own property management system if the system meets the following minimum standards.

- (a) Maintain accurate records reflecting:
 - (1) A description of the property;
 - (2) Manufacturer's serial number, model number, or other identification number;
 - (3) Source of the property, including assistance identification number;
 - (4) Whether title is vested in the recipient or the Federal Government;
 - (5) Unit acquisition date and cost;

Explanation of Key Provisions

Recipients are required to establish a property management system if any property is purchased with grant funds.

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§ 30.526 How do I treat interest earned on EPA funds?

If you earn interest on an EPA advance, you must return it to EPA unless you are:

- (a) A State, or State agency as defined under section 203 of the Intergovernmental Cooperation Act of 1968, (42 U.S.C. 4213), or
- (b) A tribal organization as defined under sections 102, 103, or 104 of the Indian Self Determination Act (25 U.S.C. 450f, 450g, and 450h).

§ 30.530 May I purchase personal property using EPA assistance funds?

(a) Nonprofit institutions of higher education conducting basic or applied research and nonprofit organizations whose primary purpose is the conduct of scientific research. You may purchase personal property for the conduct of basic or applied research if authorized to do so in your assistance agreement. Before you purchase property or equipment with a unit acquisition cost of \$10,000 or more, you must receive the award official's approval. Title will be vested in you but may be limited as provided in paragraph (a)(1) of this section.

(1) If EPA determines that it is in the best interest of the Agency, EPA may reserve the right to transfer the title for personal property having a unit acquisition cost of \$1,000 or more to the Federal Government or a third party, within 120 days after project completion. EPA must identify such property in the assistance agreement, or otherwise notify you in writing that EPA reserves the right to transfer the title.

(2) If EPA does not reserve the right to transfer the title, you have no other obligations or accountability to EPA.

(b) Other recipients. You may purchase personal property with EPA assistance funds if authorized to do so in your assistance agreement. Before you purchase personal property with a unit cost of \$10,000 or more, you must receive the award official's approval. Title will be vested in you, subject to the following conditions:

Explanation of Key Provisions

Any interest earned on grant funds must be credited against remaining EPA funds obligated to the group, i.e., EPA will subtract the interest earned from the total amount of the award under the grant agreement.

A grant recipient may purchase property with EPA grant funds only if authorized to do so in the grant agreement.

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a copy of the article to your project officer when you send it for publication. Following publication, three copies of the article should be submitted to the project officer. The article must include the following statement:

Although the research described in this article has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement (number) to (recipient), it has not been subjected to the Agency's peer and administrative review and therefore may not necessarily reflect the views of the Agency and no official endorsement should be inferred.

(e) Documents that are not to be released to the public as EPA publications but are part of a recipient's regular pollution control activities are not subject to the EPA peer and administrative review process, e.g., State pollution control agency-published newsletters and operation and maintenance manuals under the wastewater treatment construction grants program. However, EPA encourages you to establish a similar review process before publishing any documents at your own expense. You may publish such documents only if you include the following statement:

This project has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement (number) to (recipient). The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.

(48 FR 48062, Sept. 30, 1983; 49 FR 38945, Oct. 2, 1984)

§ 30.520 When may I use my own employees ("force account")?

§ 30.525 How should I treat program income?

Explanation of Key Provisions

Section 30.520 does not apply to technical assistance grants because the Technical Assistance Grant Program will not fund construction activities (text deleted).

Section 30.525 does not apply to the Technical Assistance Grant Program because program income (income earned by the recipient from charges for the project) is not allowed under the Technical Assistance Grant Program (text deleted).

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§ 30.518 What are the procedures for publishing scientific, informational, and educational documents?

(a) EPA encourages publication of the results of its assistance agreements.

(b) You must comply with EPA's peer and administrative review process if you intend to release to the public informational materials, reports, and other products produced under an EPA assistance agreement.

(1) Except for articles published under paragraph (d) of this section, you must submit three copies of the documents to your project officer for EPA review. EPA will evaluate the documents and will provide you with written, suggested changes, if any.

(2) You should make every effort to accommodate suggestions arising from the EPA review process while preparing a revised draft. You should alert EPA reviewers to suggestions you cannot accommodate and to changes initiated by you in the revised draft.

(3) If an agreement is reached that the material is appropriate for release as an EPA publication, the following statement must be included in the document:

The information in this document has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement (number) to (recipient). It has been subjected to the Agency's peer and administrative review and has been approved for publication as an EPA document. Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

(c) If agreement cannot be reached that the material is appropriate for release as an EPA publication, you may independently publish and distribute the document for your own use and at your own expense provided you include the following statement in the document:

Although the information in this document has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement (number) to (recipient), it may not necessarily reflect the views of the Agency and no official endorsement should be inferred.

(d) EPA also encourages independent publication of reports in referred journals at any time. You must submit

Explanation of Key Provisions

If a grant recipient or one of the group's contractors wishes to publish a report under a technical assistance grant, they must submit the document for review to the EPA TAG Project Officer. For the purposes of this program, "publish" means to have a document prepared for public distribution by a professional printing house. Copied materials need not be submitted for EPA review.

If a group does publish documents for its own use, it must include this statement.

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and practices and at least includes:

- (a) An accurate, current, and complete accounting of all financial transactions for your project;
- (b) Records, together with supporting documents showing the source and application of all project funds, including assistance awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income;
- (c) Control over, and accountability for, all project funds, property, and other assets, and an assurance that you used these solely for their authorized purpose;
- (d) A comparison of actual costs versus budgeted object class amounts;
- (e) Procedures to ensure prompt disbursement of Federal funds after you receive them;
- (f) Procedures for determining allowable, allocable, and reasonable costs;
- (g) Audits at least every other year on an organization-wide basis or as required by OMB Circular A-128, if applicable (see § 30.540); and
- (h) A systematic method to resolve audit findings and recommendations.

(46 FR 45062, Sept. 30, 1983, as amended at 51 FR 6353, Feb. 21, 1986)

§ 30.515 What restrictions on signs, surveys, and questionnaires must I observe?

- (a) **Signs.** You must place a visible project identification sign at a construction site. The sign must give project information and credit EPA for funding. Your project officer will give you specifications for sign design, content, and placement. The cost of making and erecting the sign is an allowable cost.
- (b) **Surveys and questionnaires.** If your survey or questionnaire states that information is being collected for the Federal Government, you must request written approval from EPA to use Agency funds to cover the costs of data collection. To assure compliance with the Paperwork Reduction Act of 1980, Pub. L. 98-511 (44 U.S.C. 3501 et seq.), the project officer can grant approval only with the agreement of the EPA Headquarters reports management officer. You must also receive the project officer's approval to list EPA as a recipient of the survey information.

Explanation of Key Provisions

A group's records must undergo an independent audit at least every other year.

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§ 30.503 What type of quality assurance practices am I required to have?

§ 30.505 What reports must I submit?

(a) *Interim and final progress reports.* You must submit interim and final progress reports if the assistance agreement or EPA regulations require them. See 40 CFR Parts 35, 40, and 46 for specific requirements. EPA or its authorized representatives may inspect your project at any reasonable time to review its progress.

(b) *Financial reports.* (1) You must submit a Financial Status Report (SF 269) within 90 days after each budget period and within 90 days after the end of your project completion or termination. If either the Financial Status Report (FSR) you submit after the budget period or the FSR you submit after your project is completed or terminated includes unliquidated obligations, you must submit a final FSR immediately after those obligations are liquidated. If you do not submit a final FSR within a reasonable time after the 90 day period, the award official may disallow the unliquidated obligations.

(2) Under the wastewater treatment construction grants program, your final "Outlay Report and Request for Reimbursement for Construction Programs" (SF 271) will serve as the financial report.

(3) Recipients of fellowship assistance agreements do not have to submit FSR's.

(c) *Invention reports.* You must report all inventions to the award official (see Subpart K for details).

(d) *Report on federally-owned property.* You must submit an annual inventory of all Federally-owned property used on your project. At the end of the project period, or when you no longer need the property, you must submit a final inventory which states the present condition of each item and requests disposition instructions.

(40 FR 45062, Sept. 30, 1983, as amended at 49 FR 38945, Oct. 2, 1984)

§ 30.510 What type of financial management system must I maintain?

You must maintain a financial management system that consistently applies accepted accounting principles

Explanation of Key Provisions

Section 30.503 does not apply to technical assistance grants since the grant will not fund activities to gather new primary data (text deleted).

Recipients are required to submit final Financial Status Reports at the close of each budget period. Participants in the Technical Assistant Grant Program are required to submit quarterly progress reports.

See Chapter 6 for a discussion of how to comply with EPA's financial recordkeeping requirements, a sample general ledger for recording cash transactions during a budget period, and a sample quarterly progress report.

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§ 30.501 How long must I keep these records?

(a) Generally you and your contractor must keep all records for three years from the end of the project. Except for real property and nonexpended personal property records, the beginning date of the three year period depends on the type of project you are conducting, as follows:

(1) For research, demonstration, and training programs, the submission date of a final Financial Status Report (SF-269);

(2) For State and local assistance programs, the submission date of the final Financial Status Report (SF-269); or

(3) For construction awards, the approval date of EPA's final payment for the project.

(b) You must keep your records on real property and nonexpended personal property for three years from the date of final disposition.

(c) If EPA terminates your award, you must keep all records for three years from the termination date, except as provided in paragraph (b) of this section.

(d) If litigation, a claim, a dispute under Subpart L, or an audit is begun before the end of the three year period, you must keep all records until the three years have passed or until the litigation, dispute, claim, or audit is completed and resolved, whichever is longer.

(48 FR 45082, Sept. 30, 1983; 49 FR 38916, Oct. 2, 1984)

§ 30.502 To whom must my contractor and I show these records?

You and your contractor must allow the project officer and any authorized representative of EPA, including the Office of Inspector General, the Comptroller General of the United States, the Department of Labor, or a representative of delegated States under the wastewater treatment construction grants program, to inspect, copy, and audit records pertinent to the project. Access to records is not limited to the required retention periods. You and your contractor must allow access to records at any reasonable time for as long as the records are kept.

Explanation of Key Provisions

All records pertaining to the technical assistance grant must be kept for three years following project completion or until any litigation, dispute, claim, or audit relating to the grant is resolved. If, after three years, the recipient intends to dispose of the records, EPA must be notified in writing and the records must be held until EPA notifies the recipient as to their disposition.

The grant recipient and the group's contractors must allow the EPA TAG Project Officer or any other authorized representative of EPA to inspect, copy, and audit records relating to the project.

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§ 30.412 How are costs categorized?

- (a) Costs are categorized as being either a direct cost if they support a specific project only or as an indirect cost as described in the applicable cost principles (see § 30.410). To receive payment for indirect costs, you must have negotiated an indirect cost rate with your cognizant Federal Agency and your assistance agreement must provide for the use of that rate.
- (b) You may request a special indirect cost rate, if (1) your project is conducted at an off-site location; or (2) your project is a large, one-time project and its costs would distort the normal direct cost base used in computing the indirect cost rate.

Subpart E—How do I Manage My Award?

§ 30.500 What records must I maintain?

- (a) You must maintain official records for each assistance award you receive and identify them with EPA assistance identification numbers. These records must contain the following information:
 - (1) Amount received and expended for the project, including all Federal and cost sharing funds;
 - (2) Program income;
 - (3) Total cost of the project (both direct and indirect costs);
 - (4) Property purchased under the award or used as part of your in-kind contribution;
 - (5) Time records and other supporting data. Institutions of higher education may account for the distribution of salaries and wages of professional or professional staff by budgeted, planned, or assigned work activity if the system for wages and salaries meets the requirements in OMB Circular A-21;
 - (6) Documentation of compliance with applicable statutes and regulations.
- (b) Your contractor must maintain books, documents, papers, and records pertinent to the project.

(46 FR 45082, Sept. 30, 1983, as amended at 49 FR 38945, Oct. 2, 1984)

Explanation of Key Provisions

Recipients are required to establish a recordkeeping system. Throughout the technical assistance process, groups must keep very complete records of all activities relating to the grant. See Chapter 6 for a discussion of how to meet these requirements.

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§ 30.405 Can I assign my payment to anyone else?

Except as provided for in 40 CFR 35.2025(b)(2) of EPA's wastewater treatment construction grants regulation, you cannot assign your right to receive payments under your assistance agreement. EPA will make payments only to the payee identified in the assistance agreement.

§ 30.410 How does EPA determine allowable costs?

To be allowable, costs must meet applicable statutory provisions and Federal cost principles. EPA uses the following cost principles in determining allowable costs for all EPA assistance agreements and subagreements under them, except as otherwise provided by statute or this subchapter. Regardless of whether the organization is the recipient of the award or is performing services for the recipient, the nature of the organization is the sole criterion for determining applicable cost principles.

(a) *State and local governments* must use OMB Circular A-87 to determine allowable costs;

(b) *Educational institutions* must use: (1) OMB Circular A-21 cost principles for research and development, training, and other educational services under grants, cooperative agreements, and subagreements, and (2) OMB Circular A-88 which provides principles for coordinating the establishment of indirect cost rates and the auditing of grants, cooperative agreements, and subagreements;

(c) *Other non-profit institutions* must use OMB Circular A-122, as revised;

(d) *Profit-making organizations* must use Federal Acquisition Regulation 41 CFR Subparts 31.1 and 31.2;

(e) *Hospitals* must use 45 CFR Part 74, Appendix E.

[46 FR 45062, Sept. 30, 1983, as amended at 49 FR 38944, Oct. 2, 1984]

Explanation of Key Provisions

EPA will make payments only to the person identified in the grant as the payee.

The primary allowable cost incurred under the Technical Assistance Grant Program will be paying the technical advisor for services rendered. For a discussion of other allowable costs, see Chapter 6 of this manual.

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Subpart D—How does EPA Pay Me?

§ 30.400 How does EPA make payments?

(a) EPA will promptly pay you for allowable costs you incur in accordance with EPA regulations and your assistance agreement. If at any time, EPA determines you received payment for unallowable cost or received an over-payment, you are required to reimburse EPA. (See § 30.802.)

(b) Your assistance agreement will specify one of the following ways for EPA to pay you. You will receive the appropriate forms and instructions with your assistance agreement.

(1) *By letter of credit.* EPA will pay you by the letter of credit method, if you meet the Treasury Department's criteria contained in Treasury Circular No. 1075, as revised. You must establish a separate bank account when payments under a letter of credit are made on a "check-paid" basis.

(2) *By advance.* If you do not qualify for a letter of credit, EPA may pay you by the advance payment method. You must negotiate the amount of your initial advance with the award official. The negotiated amount should not exceed the cash you will need for the first three months of operation. You must request the initial advance on Standard Form 270 (SF 270, "Request for Advance or Reimbursement") which will be included in your award package. EPA will issue a check for the first three months or one check each month (at EPA's option) to pay the advance. After your initial advance, you must submit an SF 270 at least quarterly, but not more often than monthly, indicating the amount of your expenditures to date and your request for funds for the coming period.

(3) *By reimbursement.* If you do not meet letter of credit requirements or receive advance payments, EPA will pay you by reimbursement. Also, EPA generally will pay you under the reimbursement method if you are receiving assistance under EPA's wastewater treatment construction grants program (see 40 CFR Part 35, Subpart I). When EPA pays by this method, you will be reimbursed for costs which you have incurred and are currently and legally obligated to pay.

Explanation of Key Provisions

Technical assistance grants will be paid by the "reimbursement" method. Recipients of EPA grant awards may submit an EPA Form SF 270 -- "Request For Reimbursement" quarterly. See instructions provided in Chapter 6.

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(c) All project expenditures by the recipient shall be deemed to include the Federal share.

(46 FR 46082, Sept. 30, 1981; 49 FR 38944, Oct. 2, 1984)

§ 30.308 When may I begin incurring costs?

(a) Except as permitted in § 30.308(d), paragraph (b) of this section, or other EPA regulations, the award official and you must sign the EPA assistance agreement before you incur costs.

(b) You may incur costs between the date the award official signs the assistance agreement and you sign the agreement, provided the costs are identified in the agreement and you do not change the agreement.

(49 FR 38944, Oct. 2, 1984)

EDITORIAL NOTE: For a class deviation document affecting § 30.308, see 50 FR 24876, June 13, 1985.

§ 30.309 What is the effect of accepting an assistance agreement?

(a) When the award official signs the assistance agreement, EPA will obligate Federal funds for the amount stated in your assistance agreement for the purposes of the award. EPA is not obligated to provide Federal funds for any costs incurred by you in excess of the Federal share of your approved budget. (See Subpart G of this part.)

(b) The award of an assistance agreement constitutes a public trust. By signing and accepting an assistance agreement, you become responsible for complying with all terms and conditions of your assistance agreement, including any special conditions necessary to assure compliance with EPA policies and objectives, this subchapter, and any other applicable statute or regulation. You must efficiently and effectively manage your project, successfully complete the project according to the schedule, and meet all monitoring and reporting requirements. You may not delegate or transfer this responsibility.

Explanation of Key Provisions

The EPA grant agreement must be signed by the group's project manager and the EPA Award Official before costs are incurred.

EPA will not provide funds for costs incurred in excess of the Federal share of the approved budget.

The grant recipient is legally responsible for the proper management of the Federal funds awarded including compliance with all Federal laws and regulations, as well as thorough recordkeeping, and accounting. The recipient may not delegate or transfer this responsibility.

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- (6) Any other reports that the assistance agreement may require.
- (c) If approved by the award official, you may carry over unexpended prior year funds: (1) In lieu of new funds; (2) to complete work started in prior years; or (3) to supplement the new award. You must meet all program and cost sharing requirements in each budget period to carry over funds.
- (d) If EPA executes a continuation agreement, EPA will reimburse you for allowable costs you incur between the end of a budget period and date of award for the next budget period provided you submit a continuation application before the expiration of the prior budget period.

[48 FR 45062, Sept. 30, 1983, as amended at 49 FR 38944, Oct. 3, 1984]

§ 30.307 How much must I contribute to the funding of my project?

(a) The amount of cost sharing you must contribute depends upon the statutory and regulatory cost sharing provisions that apply to your specific assistance project (see 40 CFR Parts 35 and 40). You must contribute at least a 5 percent share of the total allowable project costs for each budget period unless:

- (1) A lesser amount is specified in the respective statute or regulation applicable to your project; or
- (2) The assistance agreement is for a remedial planning action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

(b) You may satisfy the requirement for cost sharing with cash or, when not prohibited by statute or regulations, with in-kind contributions. Your contribution may not be paid with Federal funds or with property or services received under another assistance agreement, unless authorized by statute. Additionally, your contributions must be:

- (1) Negotiated before and specified in your assistance agreement;
- (2) Verifiable from your records;
- (3) Used exclusively for a single project; and
- (4) Properly allocable to and allowable under the project.

Explanation of Key Provisions

EPA may reimburse a group for allowable costs incurred between the end of a budget period and renewal of funding if the group submits a continuation application (EPA Form 5700-33) before the first budget period expires.

The technical assistance grant program requires a 35% contribution of matching funds in cash or in-kind contributions. See Chapter 3 for a discussion of this requirement.

An in-kind contribution represents the value of non-cash contributions provided by the grant recipient and non-Federal third parties including States, local units of government and private citizens. In-kind contributions may be charges for the use of real property, non-expendable personal property, or the value of goods and services.

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§ 30.305 How do I find out if EPA approved or disapproved my application?

(a) If EPA approves your application, the award official will prepare and sign an assistance agreement and send it to you for signature. Your authorized representative must either sign and return the agreement to EPA within three calendar weeks after you receive it or request EPA to extend the time for acceptance. If you do not sign or request an extension within the three week period, the assistance agreement is null and void.

(b) If EPA disapproves your application, it will promptly notify you in writing. You may appeal EPA's disapproval under Subpart L.

(c) Sometimes, EPA will defer your application. You will be notified in writing of this decision.

§ 30.306 How long will I have to complete my project?

(a) Your assistance agreement will state the length of your approved budget period(s) and project period. Subject to statutory provisions, your approved project period may include more than one budget period. In this case, you must submit a continuation application to EPA to request funding for each budget period after the initial one. EPA makes continuation awards subject to availability of funds and Agency priorities. (Assistance awards under 40 CFR Part 35, Subpart A, do not have project periods, but recipients of such awards may receive continuation awards.)

(b) The continuation application must include:

(1) A detailed progress report for the current budget period;

(2) A preliminary financial statement for the current budget period that includes estimates of the amount you expect to spend by the end of the current budget period and the amount of any uncommitted funds which you propose to carry over beyond the term of the current budget period;

(3) A budget for the new budget period;

(4) A detailed work plan revised to account for your actual accomplishments during the current budget period;

(5) An invention report, if applicable;

Explanation of Key Provisions

EPA will notify the grant applicant in writing if the application has been approved, denied or deferred. If an application has been approved, the group's project manager must sign the assistance agreement within three weeks or request an extension of the time for acceptance. If it has been denied, EPA's disapproval may be appealed under Subpart L.

A technical assistance grant project period may cover the duration of the cleanup process at the hazardous waste site. Each budget period may not be longer than three years, thus a project may extend over more than one budget period. In this case, a continuation application (EPA Form 5700-33) must be submitted to EPA.

The continuation application must include:

- a detailed progress report for the current budget period;
- a Financial Status Report (SF 269);
- a budget for the new budget period; and
- an updated Scope of Services.

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(48 FR 45082, Sept. 30, 1983; 49 FR 38944, Oct. 2, 1984)

§ 30.303 What steps must I take when filing a standard application?

(a) Before you file an application, you must complete the forms according to the instructions. At least one copy of the completed application must have an original signature of the person authorized to obligate you or your organization to the terms and conditions of EPA's regulations and assistance agreement.

(b) You must:

(1) Comply with your State's intergovernmental review process, if it established one under Executive Order 12372. See 40 CFR Part 29 (48 FR 29288, June 24, 1983).

(2) Comply with the areawide review requirements of Section 204 of the Demonstration Cities and Metropolitan Development Act of 1988, as amended (42 U.S.C. 3334) if your project will be located in a metropolitan area. EPA programs that are subject to areawide review are listed in 48 FR 29304, June 24, 1983, and marked with an asterisk (*).

§ 30.304 Is the information I submit to EPA confidential?

(a) Generally, the information is not confidential. When EPA receives your assistance application or unsolicited proposal the information you submit becomes part of the Agency's records. As such, it is subject to EPA's disclosure of information policy (40 CFR Part 2) which is based on the provisions of the Freedom of Information Act (5 U.S.C. 552) and on the provision for patents and rights in data and copyrights under Subpart K of this part.

(b) If you submit data, documents, or parts of documents which you consider to be confidential, you should clearly identify them with the words "trade secret," "proprietary," or "business confidential." For further instructions on assertion of confidentiality claims, see 40 CFR Part 2, Subpart B.

Explanation of Key Provisions

See IFR section 35.4045 and Chapter 4 of this manual for detailed instructions on how to apply for a technical assistance grant.

Before filing the grant application, a grant applicant must find out what procedures need to be followed to comply with their State's intergovernmental review process. State contacts are listed in Appendix C. EPA will not process an application without evidence of compliance with this requirement. See Chapter 4 of this manual, and the grant application form for more details.

Technical assistance grant application information is not considered confidential.

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(c) You can get program information and an application kit with instructions from the EPA grants office which is responsible for administering that program. Regional EPA grants offices provide and review applications and award assistance for State and local pollution control projects. State water pollution control agencies provide and review applications for grants for the construction of wastewater treatment facilities. EPA Headquarters provides and reviews applications for and awards research, demonstration, fellowships, training, special investigations, surveys, studies, and most training assistance.

(d)(1) For assistance agreements awarded for Fiscal Year 1984, you must develop and implement a quality assurance program acceptable to the award official if your proposal involves any environmental related measurements or data generation. Except as noted in paragraphs (d) (2) and (3) of this section, your application for financial assistance must include a quality assurance plan which meets the requirements in § 30.503. If you already have an EPA approved quality assurance plan, you need only reference that plan in your application, provided the plan covers the project in your application.

(2) The recipient of an assistance award under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, must submit a schedule for developing a quality assurance project plan within 30 days of receiving an assistance award. Recipients may not begin field or laboratory work until the award official approves the recipient's quality assurance project plan.

(3) The recipient of a wastewater treatment construction grant awarded under Title II of the Clean Water Act must comply with § 30.503 only if a grant condition specifically requires the recipient to gather environmental related data. If a quality assurance program is required, recipients must submit a schedule for developing a quality assurance project plan within 30 days of assistance award. Recipients must not begin field or laboratory work until the award official approves the recipient's quality assurance project plan.

Explanation of Key Provisions

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- (1) Financial resources, technical qualifications, experience, organization, and facilities adequate to carry out the project, or a demonstrated ability to obtain these;
- (2) Resources to meet the project completion schedule contained in the assistance agreement;
- (3) A satisfactory performance record for completion of projects and subagreements;
- (4) Accounting and auditing procedures adequate to control property, funds, and assets, as required in Subpart E of this part;
- (5) Procurement standards that comply with Part 33 of this subchapter;
- (6) Property management systems for acquiring, maintaining, safeguarding, and disposing of property, as required in Subpart E of this part; and
- (7) Demonstrated compliance or willingness to comply with the civil rights, equal employment opportunity, labor law, and other statutory requirements under Subpart F of this part.

(b) EPA considers your submission of an assistance application as your assurance that you can and will meet these standards. EPA may conduct a preaward audit or other review to determine your capabilities.

(c) EPA must notify you in writing if it finds you unable to meet these standards. The written notice will state the reasons for the finding. You may appeal EPA's findings under the disputes procedures in Subpart L.

(d) Individuals, agencies, or organizations voluntarily excluded, suspended, or debarred under 40 CFR Part 32 are ineligible to receive assistance.

§ 30.302 How do I apply for assistance?

- (a) You must submit a standard application to apply for EPA assistance.
- (b) Before you file an application to perform unsolicited work, you may submit an unsolicited proposal. EPA will apprise you of your proposal's potential for funding.

Explanation of Key Provisions

Recipients must be aware that acceptance of EPA grant funds will require the establishment of accounting, procurement, and property management systems. EPA has the authority to cancel the assistance agreement or stop the reimbursement of the expenditure of Federal funds when grants are improperly or inadequately managed.

Applicants to the Technical Assistance Grant Program managed by EPA must complete EPA Form 6700-33 "State and Local Nonconstruction Programs" and EPA Form 5700-48 "Procurement System Certification." These forms will be included in the application kit. In addition, a completed application package must include a "Scope of Services," which specifies the projected tasks, schedule, and budget for the technical assistance project. See Chapter 4 for more details on the special requirements for technical assistance grants.

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Subpart L—How are Disputes Between EPA Officials and me Resolved?

§ 30.1200 What happens if an EPA official and I disagree about an assistance agreement requirement?

- (a) Disagreements should be resolved at the lowest level possible.
- (b) If you can not reach an agreement, the EPA disputes decision official will provide you with a written final decision. The EPA disputes decision official is the individual designated by the award official to resolve disputes concerning your assistance agreement.
- (c) The disputes decision official's decision will constitute final agency action unless you file a request for review by registered mail, return receipt requested, within 30 calendar days of the date of the decision.

[40 FR 45062, Sept. 30, 1983; 49 FR 38946, Oct. 2, 1984]

§ 30.1205 If I file a request for review, with whom must I file?

- (a) For final decisions issued by an EPA disputes decision official at Headquarters, you must file your request with the Assistant Administrator responsible for the assistance program.
- (b) For final decisions issued by a Regional disputes decision official, you must file your request for review with the Regional Administrator. If the Regional Administrator issued the final decision, you must request the Regional Administrator to reconsider that decision.

§ 30.1210 What must I include in my request for review or reconsideration?

Your request must include:

- (a) A copy of the EPA disputes decision official's final decision;
- (b) A statement of the amount in dispute;
- (c) A description of the issues involved; and
- (d) A concise statement of your objections to the final decision.

§ 30.1215 What are my rights after I file a request for review or reconsideration?

Explanation of Key Provisions

If a disagreement occurs between a group and an EPA official regarding the terms of the grant, the dispute should be resolved at the lowest level of EPA authority possible. If agreement cannot be reached, the Disputes Decision Official will issue a written decision. This decision is final unless the group requests a review by the Award Official within 30 days of the date of the decision.

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(a) You may be represented by counsel and may submit documentary evidence and briefs for inclusion in a written record;

(b) You are entitled to an informal conference with EPA officials; and

(c) You are entitled to a written decision from the appropriate Regional or Assistant Administrator.

§ 30.1220 If the Assistant Administrator confirms the final decision of the Headquarters disputes decision official, may I seek further administrative review?

A decision by the Assistant Administrator to confirm the final decision of a Headquarters disputes decision official will constitute the final Agency action.

§ 30.1225 If the Regional Administrator confirms the final decision of the Regional disputes decision official, may I seek further administrative review at EPA Headquarters?

(a) A determination by the Regional Administrator to confirm the Regional disputes decision official's decision will constitute the final Agency action. However, you may file a petition for discretionary review by the Assistant Administrator responsible for the assistance program within 30 calendar days of the Regional Administrator's decision. Your petition must be sent to the Assistant Administrator by registered mail, return receipt requested, and must include:

(1) A copy of the Regional Administrator's decision; and
(2) A concise statement of the reasons why you believe the decision is erroneous.

(b) If the Assistant Administrator decides not to review the Regional Administrator's decision, the Assistant Administrator will advise you in writing that the Regional Administrator's decision remains the final Agency action.

(c) If the Assistant Administrator decides to review the Regional Administrator's decision, the review will generally be limited to the written record on which the Regional Administrator's decision was based. The Assistant Administrator may allow you to submit briefs in support of your petition for

Explanation of Key Provisions

The EPA Assistant Administrator's decision is the final step in regard to a dispute.

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review and may provide you an opportunity for an informal conference in order to clarify factual or legal issues. After reviewing the Regional Administrator's decision, the Assistant Administrator will issue a written decision which will then become the final Agency action.

§ 30.1230 Will I be charged interest if I owe money to EPA?

(a) Interest will accrue on any amounts of money due and payable to EPA from the date of the disputes decision official's final decision, even if you request review of the decision under this subpart. Only full payment of the debt within 30 days of the disputes decision officials' final decision will prevent EPA from charging interest. If you pay a debt but request review under this subpart and the amount of the debt is reduced as a result of the review, EPA will refund the interest and penalty charges that you paid on the adjustment. However, processing and handling charges which you may have paid are refundable only if EPA determines that the entire amount of the debt is not owed.

(b) State and local government recipients are not subject to the penalty and handling charges in this section, but are subject to the interest charges.

(48 FR 45062, Sept. 30, 1983, as amended at 51 FR 6353, Feb. 21, 1986)

§ 30.1235 Are there any EPA decisions which may not be reviewed under this subpart?

You may not request a review of:

- (a) Disapprovals of deviations under Subpart J;
- (b) Bid protest decisions under Part 33;
- (c) National Environmental Policy Act decisions under Part 6;
- (d) Advanced wastewater treatment decisions of the Administrator; and
- (e) Policy decisions of the EPA Audit Resolution Board.

(48 FR 45062, Sept. 30, 1983, as amended at 49 FR 38946, Oct. 2, 1984)

APPENDIX A—EPA PROGRAMS

The following chart identifies EPA's assistance programs and the types of awards (grants or cooperative agreements) that EPA will award under these programs.

Explanation of Key Provisions

Other than the technical assistance grant (catalogue no. 68.807), none of EPA's other assistance programs apply (text deleted).

Appendix D

Text of 40 CFR Part 30

APPENDIX B—PATENTS AND COPYRIGHTS CLAUSES

Notice and Assistance Clause

(a) The recipient must report to the project officer, promptly and in reasonable written detail, each known notice or claim of patent or copyright infringement on this agreement.

(b) In the event of any claim or suit against the Government, on account of any alleged patent or copyright infringement arising out of the performance of this agreement or out of the use of any supplies furnished or work or services performed hereunder, the recipient must furnish to the Government, when requested by the project officer, all evidence and information in possession of the recipient pertaining to such suit or claim. Such evidence and information must be furnished at the expense of the Government except where the recipient has agreed to indemnify the Government.

(c) The recipient must include in each sub-agreement (including any lower tier sub-agreement) in excess of \$10,000 a clause substantially similar to the foregoing provisions.

Authorization and Consent Clause

EPA gives its authorization and consent for all use and manufacture of any invention described in and covered by a patent held by the United States in the performance of an assistance agreement and any sub-agreement.

APPENDIX C—RIGHTS IN DATA AND COPYRIGHTS

APPENDIX D—PART 30 REPORTING REQUIREMENTS

APPENDIX E—PART 30 AUDIT REQUIREMENTS FOR STATE AND LOCAL GOVERNMENT RECIPIENTS

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Explanation of Key Provisions

Appendix C will rarely apply to technical assistance grants (text deleted). In the event that activities funded under a technical assistance grant involve rights in data and copyrights, grant recipients should read, understand, and comply with Appendix C in its entirety.

This section lists the various forms and OMB clearance numbers for applications for EPA assistance other than technical assistance grants (text deleted).

This section only applies to government entities that receive Federal funds, such as a State with whom EPA signs a technical assistance grant cooperative agreement (text deleted).

PART 33—PROCUREMENT UNDER ASSISTANCE AGREEMENTS

Sec.
33.001 Applicability and scope of this part.
33.003 Definitions.

Subpart A—Procurement System Evaluation
33.105 Applicability and scope of this sub-part.
33.110 Applicant and recipient certification.
33.115 Procurement system review.

Subpart B—Procurement Requirements
33.205 Applicability and scope of this sub-part.
33.210 Recipient responsibility.
33.211 Recipient reporting requirements.
33.220 Limitation on subagreement award.
33.225 Violations.
33.230 Competition.
33.235 Profit.
33.240 Small, minority, women's, and labor surplus area businesses.
33.245 Privity of subagreement.
33.250 Documentation.
33.255 Specifications.
33.260 Intergovernmental agreements.
33.265 Bonding and insurance.
33.270 Code of conduct.
33.275 Federal cost principles.
33.280 Payment to consultants.
33.285 Prohibited types of subagreements.
33.290 Cost and price considerations.
33.295 Subagreements awarded by a contractor.

SMALL PURCHASES

33.305 Small purchase procurement.
33.310 Small purchase procedures.
33.315 Requirements for competition.

FORMAL ADVERTISING

33.405 Formal advertising procurement method.
33.410 Public notice and solicitation of bids.
33.415 Time for preparing bids.
33.420 Adequate bidding documents.
33.425 Public opening of bids.
33.430 Award to lowest, responsive, responsible bidder.

COMPETITIVE NEGOTIATION

33.505 Competitive negotiation procurement method.
33.510 Public notice.
33.515 Evaluation of proposals.
33.520 Negotiation and award of subagreement.

Sec.
33.525 Optional selection procedure for negotiation and award of subagreements for architectural and engineering services.

NONCOMPETITIVE NEGOTIATION
33.605 Noncompetitive negotiation procurement method.

Subpart C—Requirements for Recipients of Assistance Agreements for the Construction of Treatment Works

33.705 Applicability and scope of this sub-part.
33.710 Buy American.
33.715 Use of the same architect or engineer during construction.

Subpart D—Requirements for Institutions of Higher Education and Other Nonprofit Organizations

33.805 Applicability and scope of this sub-part.
33.810 Nonapplicable subagreement clauses.
33.815 Nonapplicable procurement provisions.
33.820 Additional procurement requirements.

Subpart E—Requirements for Recipients of Remedial Action Cooperative Agreements Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

33.905 Applicability and scope of this sub-part.
33.910 Preference for formal advertising.
33.915 Award official approval.

Subpart F—Subagreement Provisions

33.1005 Applicability and scope of this sub-part.
33.1010 Requirements for subagreement clauses.
33.1015 Subagreement provisions clause.
33.1016 Labor standards provisions.
33.1019 Patents, data and copyrights clause.
33.1020 Violating facilities clause.
33.1021 Energy efficiency clause.
33.1030 Model subagreement clauses.

Subpart G—Protests

33.1105 Applicability and scope of this sub-part.
33.1110 Recipient protest procedures.
33.1115 Protest appeal.
33.1120 Limitations on protest appeals.
33.1125 Filing requirements.

Appendix D

Sec.
33.1130 Review of protest appeals;
33.1140 Deferral of procurement action;
33.1145 Award official's review;

**APPENDIX A—PROCEDURAL REQUIREMENTS
FOR RECIPIENTS WHO DO NOT CERTIFY
THEIR PROCUREMENT SYSTEMS, OR FOR
RECIPIENTS WHO HAVE THEIR PROCURE-
MENT CERTIFICATIONS REVOKED BY EPA**

AUTHORITY: 7 U.S.C. 138 et seq.; 18 U.S.C.
2801 et seq.; 33 U.S.C. 1251 et seq.; 42 U.S.C.
241, 242b, 243, 246, 300j-1, 300j-2, 300j-3,
1857 et seq., 6901 et seq.; and 42 U.S.C. 9601
et seq.

SOURCE: 46 FR 12926, Mar. 28, 1983, unless
otherwise noted.

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§ 33.001 Applicability and scope of this part.

(a) This part applies to all assistance agreements awarded on or after the effective date of this part. For assistance agreements awarded before the effective date, this part will apply only to those procurement actions initiated by the recipient on or after the date the recipient complies with the self-certification requirements in § 33.110 of this part.

(b) This part:

(1) Describes EPA's procurement system evaluation process.

(2) Identifies the minimum requirements for the procurement of supplies, services, and construction under EPA assistance agreements.

(3) Identifies an additional specification requirement for procurement under assistance agreements for the construction of treatment works awarded under 40 CFR Part 35, Subparts E and I.

(4) Identifies the procurement standards that institutions of higher education and other nonprofit organizations must follow.

(5) Identifies the provisions that recipients of EPA assistance agreements must include in their subagreements.

(6) Describes the procedures that EPA will use to handle protest appeals concerning the award of a subagreement by the recipient of an EPA assistance agreement.

(c) This part does not apply to work beyond the scope of the project for which an assistance agreement is awarded (i.e., ineligible work).

(d) This part does not apply to expenses for services for which the recipient will receive an allowance or a potential recipient will receive an advance of an allowance under 40 CFR Part 35, Subpart I.

(e) This part supplements the requirements in:

(1) 40 CFR Part 30 "General Regulation for Assistance Programs," and

(2) 40 CFR Part 32, "Debarments and Suspensions under EPA Assistance Programs."

(f) The following types of recipients must comply with the specified subparts in this part:

(1) Recipients of assistance agreements for the construction of treatment works awarded under 40 CFR

Explanation of Key Provisions

All technical assistance grants are considered to be "assistance agreements" and are therefore subject to all of the appropriate requirements in this regulation.

Grant recipients also must comply with 40 CFR Parts 30 and 32.

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Part 33, Subparts E and I, must follow the requirements in Subparts A, B, C, F and G.

(2) Recipients of remedial action cooperative agreements under the Comprehensive Environmental Response, Compensation, Liability Act of 1980 (Superfund 42 U.S.C. 6901 et seq.) must follow the requirements in Subparts A, B, E, F and G.

(3) State and local government recipients for other than construction grants and CERCLA remedial action cooperative agreements must follow the requirements in Subparts A, B, F and G.

(4) Institutions of higher education, hospitals, and other nonprofit organizations must follow the requirements in Subparts A, B, D and G.

(5) In the construction of treatment works program under the Clean Water Act (33 U.S.C. 1251 et seq.), it is EPA's policy to delegate determinations on individual projects to State agencies to the maximum extent possible (see 40 CFR Part 35, Subpart F). This part uses the term "award official." To the extent that the award official for a treatment works assistance agreement delegates responsibility for determining compliance with the requirements of this part (except for § 33.115 "Procurement system review," and Subpart G "Protests") to a State agency under a delegation agreement (40 CFR 35.1130), the term "award official" may be read "State agency."

(h) This part applies to a grant awarded under 40 CFR Part 35 Subpart E only if the recipient elects to follow the requirements in this part. If the recipient of a Subpart E grant does not elect to follow the requirements in this part, it is subject to the procurement requirements in 40 CFR Subpart E.

(48 FR 12928, Mar. 28, 1983; 48 FR 30364, July 1, 1983)

§ 33.005 Definitions.

(a) Words and terms not defined below shall have the meaning given to them in 40 CFR Part 30 and Part 35.

(b) As used in this part, the following words and terms mean:

Architectural or engineering (A/E) services. Consultation, investigations; reports, or services for design-type

Explanation of Key Provisions

These are the subparts that apply to nonprofit organizations and, thus, to technical assistance grant recipients.

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projects within the scope of the practice of architecture or professional engineering as defined by the laws of the State or territory in which the recipient is located.

Construction. Erection, building, alteration, remodeling, improvement, or extension of buildings, structures or other property. Construction also includes remedial actions in response to a release, or a threat of a release, of a hazardous substance into the environment as determined by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

Contractor. Any party to whom a recipient awards a subagreement.

Cost analysis. The review and evaluation of each element of subagreement cost to determine reasonableness, allocability and allowability.

Intergovernmental Agreement. Any written agreement between units of government under which one public agency performs duties for or in concert with another public agency using EPA assistance. This includes substate and interagency agreements.

Minority business enterprise. A minority business enterprise is a business which is: (1) Certified as socially and economically disadvantaged by the Small Business Administration, (2) certified as a minority business enterprise by a State or Federal agency, or (3) an independent business concern which is at least 51 percent owned and controlled by minority group members. A minority group member is an individual who is a citizen of the United States and one of the following:

- (i) Black American;
- (ii) Hispanic American (with origins from Puerto Rico, Mexico, Cuba, South or Central America);
- (iii) Native American (American Indian, Eskimo, Aleut, native Hawaiian), or
- (iv) Asian-Pacific American (with origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, Taiwan or the Indian subcontinent).

Explanation of Key Provisions

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Price analysis. The process of evaluating a prospective price without regard to the contractor's separate cost elements and proposed profit. Price analysis determines the reasonableness of the proposed subagreement price based on adequate price competition, previous experience with similar work, established catalog or market price, law, or regulation.

Profit. The net proceeds obtained by deducting all allowable costs (direct and indirect) from the price. (Because this definition of profit is based on applicable Federal cost principles, it may vary from many firms' definition of profit, and may correspond to those firms' definition of "fee.")

Services. A contractor's labor, time, or efforts which do not involve the delivery of a specific end item, other than documents (e.g., reports, design drawing, specifications). This term does not include employment agreements or collective bargaining agreements.

Small business. A business as defined in section 3 of the Small Business Act, as amended (15 U.S.C. 632).

Subagreement. A written agreement between an EPA recipient and another party (other than another public agency) and any lower tier agreement for services, supplies, or construction necessary to complete the project. Subagreements include contracts and subcontracts for personal and professional services, agreements with consultants, and purchase orders.

Supplies. All property, including equipment, materials, printing, insurances, and leases of real property, but excluding land or a permanent interest in land.

Women's business enterprise. A women's business enterprise is a business which is certified as such by a State or Federal agency, or which meets the following definition: A women's business enterprise is an independent business concern which is at least 51 percent owned by a woman or women who also control and operate it. Determination of whether a business is at least 51 percent owned by a woman or women shall be made without regard to community property laws. For example, an otherwise qualified WBE which is 51 percent owned by a married woman in a community

Explanation of Key Provisions

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property state will not be disqualified because her husband has a 50 percent interest in her share. Similarly, a business which is 51 percent owned by a married man and 49 percent owned by an unmarried woman will not become a qualified WBE by virtue of his wife's 50 percent interest in his share of the business.

Subpart A—Procurement System Evaluation

§ 33.105 Applicability and scope of this subpart.

- (a) This subpart applies to all recipients of EPA assistance agreements.
- (b) For procurements involving EPA funds, recipients shall use their own procurement policies and procedures if those policies and procedures reflect applicable Federal, State, and local laws and regulations, and at least meet the requirements set forth in this part.
- (c) This subpart describes when EPA will review the recipient's procurement practices.

§ 33.110 Applicant and recipient certification.

- (a) It is the applicant's and recipient's responsibility to evaluate its own procurement system and to determine whether its system meets the applicable requirements in this part (see § 33.001).

(b) After evaluating its procurement system, the applicant or recipient will complete the "Procurement System Certification" (EPA Form 5700-48). The applicant or recipient will either certify that:

- (1) Its system will meet the intent of all the requirements in this part before any procurement action with EPA assistance is undertaken, or
- (2) Its current system does not meet the intent of the requirements of this part and, therefore, the applicant will follow the requirements of 40 CFR Part 33 and allow EPA preaward review of proposed procurement actions that will use EPA funds. The additional requirements for EPA review and approval are contained in Appendix A to this part.

Explanation of Key Provisions

All applicants and recipients must complete EPA Form 5700-48, "Procurement System Certification" (see sample in Chapter 4).

Few, if any, technical assistance grant recipients will have an existing procurement system. Therefore, recipients must follow section 33.110(b)(2) and Appendix A of Part 33.

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(c) The applicant must submit the signed certification form with the assistance application to the award official.

(d) The certification will be valid for two years or for the length of the project period specified in the assistance agreement, whichever is greater, unless the recipient substantially revises its procurement system or the award official determines that the recipient is not following the intent of the requirements in this part (see § 33.115(b)). If the recipient substantially revises its procurement system, the recipient must re-evaluate its system and submit a revised EPA Form 5700-4B.

(e) Even when a recipient certifies its procurement system, the EPA award official retains the authority stated in:

(1) Section 33.210(h) "Recipient's procurement responsibilities," which requires the recipient to receive the award official's prior written approval if the recipient wants to use an innovative procurement method.

(2) Section 33.211 "Recipient reporting requirements," which requires the award official to notify the Department of Labor of certain construction subagreement awards, and obtain all bid or offer tabulations.

(3) Section 33.605(d) "Noncompetitive negotiation procurement method," to authorize a noncompetitive award.

(4) Section 33.820(b) "Additional procurement requirements," which requires the award official's prior approval for a sole source award over \$10,000 by an institute of higher education or other nonprofit organization.

(5) Section 33.915 "Award official approval," which requires the award official to approve the recipient's use of a procurement method other than formal advertising for a Superfund remedial action construction award, and

(6) Subpart G "Protests."

(46 FR 12926, Mar. 26, 1983; 46 FR 30364, July 1, 1983)

§ 33.115 Procurement system review.

(a) EPA will not substitute its judgment for that of the recipient unless the matter is primarily a Federal concern.

Explanation of Key Provisions

Recipients must be aware of the responsibilities retained by the EPA Award Officials as outlined in section 33.110 (e)(1,3,4,6).

Section 33.110 (e)(2) and (5) apply only to construction contractors. Technical assistance grant recipients will not be involved in construction activities.

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(b) Even if a recipient has a certified procurement system, EPA reserves the right to review a recipient's procurement system or procurement action under an assistance agreement:

(1) To determine if the recipient is following the procurement requirements in this part; or

(2) When there is sufficient reason to believe that the recipient's system may be unacceptable based on:

(i) Information concerning the review or certification of the recipient's procurement system or actions by other Federal agencies or Congress;

(ii) Information from the recipient's cognizant audit agency;

(iii) Information from State agencies and organizations independent of the recipient's procurement activity;

(iv) Recipient responses to the procurement system certification form;

(v) Previous EPA experience with the recipient; or

(vi) Information from contractors or prospective contractors.

(c) If the award official determines that the recipient is not following the procurement requirements it certified it would follow, the award official shall revoke the recipient's certification and:

(1) Require that the recipient follow the procurement requirements in this part, including Appendix A, for future procurement actions and, if appropriate,

(2) Apply the sanctions in 40 CFR Part 30.

(d) The recipient may recertify its procurement system if it shows the award official that it has corrected the procurement deficiencies noted by the award official, and the award official accepts the recertification.

Subpart B—Procurement Requirements

§ 33.205 Applicability and scope of this subpart.

This subpart contains:

(a) The recipient's and EPA's responsibilities; and

(b) The minimum procurement standards for each recipient's procurement system.

Explanation of Key Provisions

Recipients must be aware of EPA's right to review the recipient's procurement system as provided in section 33.115(b).

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§ 33.210 Recipient responsibility.

(a) The recipient is responsible for the settlement and satisfactory completion in accordance with sound business judgment and good administrative practice of all contractual and administrative issues arising out of subagreements entered into under the assistance agreement. This includes issuance of invitations for bids or requests for proposals, selection of contractors, award of subagreements, settlement of protests, claims, disputes and other related procurement matters.

(b) The recipient shall maintain a subagreement administration system to assure that contractors perform in accordance with the terms, conditions and specifications of their subagreements.

(c) The recipient shall review its proposed procurement actions to avoid purchasing unnecessary or duplicative items.

(d) The recipient shall consider consolidating its procurement or dividing it into parts to obtain a more economical purchase.

(e) Where appropriate, the recipient shall make an analysis of lease versus purchase alternatives in its procurement actions.

(f) A recipient of a remedial action cooperative agreement awarded under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 must obtain the EPA award official's approval to use a procurement method other than the formal advertising method for a construction award (see Subpart E).

(g) A recipient may request technical and legal assistance from the award official for the administration and enforcement of any subagreement awarded under this part. However, such assistance does not relieve the recipient of its responsibilities under this part.

(h) A recipient may use innovative procurement methods or procedures only if it receives the award officials' prior written approval.

(40 FR 12926, Mar. 28, 1983; 40 FR 30364, July 1, 1983)

Explanation of Key Provisions

Recipients of technical assistance grants must comply with the requirements of sound business judgement and good administrative practices listed in section 33.210 (a,b,c,d,e,g,h).

33.210 (f) applies only to construction awards. Technical assistance grant recipients will not be involved in making construction awards.

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§ 33.211 Recipient reporting requirements.

§ 33.220 Limitation of subagreement award.

(a) The recipient shall award subagreements only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. A responsible contractor is one that has:

(1) Financial resources, technical qualifications, experience, organization and facilities adequate to carry out the project, or a demonstrated ability to obtain these;

(2) Resources to meet the completion schedule contained in the subagreement;

(3) A satisfactory performance record for completion of subagreements;

(4) Accounting and auditing procedures adequate to control property, funds and assets, as required in this part and 40 CFR Part 30; and

(5) Demonstrated compliance or willingness to comply with the civil rights, equal employment opportunity, labor law and other statutory requirements under 40 CFR Part 30.

(b) The recipient shall not make awards to contractors who have been suspended, debarred, or voluntarily excluded under 40 CFR Part 32 nor shall it permit any portion of the work required by the subagreement to be performed at any facility listed on the EPA List of Violating Facilities (see 40 CFR Part 15).

§ 33.225 Violations.

The recipient shall refer violations of law to the local, State or Federal authority with jurisdiction over the matter (see 40 CFR 30.810).

(46 FR 12926, Mar. 26, 1981; 46 FR 30364, July 1, 1981)

Explanation of Key Provisions

Section 33.211 applies only to construction subagreements. Technical assistance grant recipients will not be entering into construction subagreements (text deleted).

Recipients will be responsible for assuring that any contractors hired using technical assistance grant funds meet the qualifications listed in section 33.220(a) and IFR section 35.4065 and are not barred from EPA-funded work by the regulations in section 33.220 (b).

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§ 33.230 Competition.

- (a) The recipient shall conduct all procurement transactions in a manner that provides maximum open and free competition.
- (b) Procurement practices shall not unduly restrict or eliminate competition. Examples of practices considered to be unduly restrictive include:
 - (1) Noncompetitive practices between firms;
 - (2) Organizational conflicts of interest;
 - (3) Unnecessary experience and bonding requirements;
 - (4) State or local laws, ordinances, regulations, or procedures which give local or in-State bidders or proposers preference over other bidders or proposers in evaluating bids or proposals; or
 - (5) Placing unreasonable requirements on firms in order for them to qualify to do business.
- (c) The recipient may use a prequalification list(s) of persons, firms or products if it:
 - (1) Updates its prequalified list(s) at least every six months;
 - (2) Reviews and acts on each request for prequalification made more than 30 days before the closing date for receipt of proposals or bid opening; and
 - (3) Gives adequate public notice of its prequalification procedure in accordance with the public notice procedures in § 33.410 or § 33.510.
- (d) A recipient may not use a pre-qualified list(s) of persons or firms if the procedure unnecessarily restricts competition. However, this restriction does not apply to § 33.525 "Optional selection procedure for negotiation and award of subagreements for architectural and engineering services."

EDITORIAL NOTE: For a class deviation document affecting § 33.230(b) (1) and (2), see 50 FR 24876, June 13, 1985.

§ 33.235 Profit.

- (a) Recipients must assure that only fair and reasonable profits are paid to contractors awarded subagreements under EPA assistance agreements.
- (b) The recipient shall negotiate profit as a separate element of price for each subagreement in which there is no price competition, or where price is based on cost analysis.

Explanation of Key Provisions

Recipients must encourage the maximum possible competition among potential contractors. Practices that are excessively restrictive or eliminate competition, as listed in section 33.230(b), must be avoided.

Section 33.230(c) and (d) apply to the use of prequalification lists. Technical assistance grant recipients will probably not use prequalification lists.

Only fair and reasonable profits may be paid to contractors under EPA assistance agreements. Profit must be negotiated separately in certain instances outlined in section 33.235(b). Profit shall be considered reasonable when included in a formally advertised, competitively bid, fixed price subagreement if two or more bids are received.

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(c) Where the recipient receives two or more bids, profit included in a formally advertised, competitively bid, fixed price subagreement shall be considered reasonable.

(d) Off-the-shelf or catalog supplies are exempt from this section.

§ 33.240 Small, minority, women's, and labor surplus area businesses.

(a) It is EPA policy to award a fair share of subagreements to small, minority, and women's businesses. The recipient must take affirmative steps to assure that small, minority, and women's businesses are used when possible as sources of supplies, construction and services. Affirmative steps shall include the following:

(1) Including qualified small, minority, and women's businesses on solicitation lists;

(2) Assuring that small, minority, and women's businesses are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation of small, minority, and women's businesses;

(4) Establishing delivery schedules, where the requirements of the work permit, which will encourage participation by small, minority, and women's businesses;

(5) Using the services and assistance of the Small Business Administration and the Office of Minority Business Enterprise of the U.S. Department of Commerce, as appropriate; and

(6) If the contractor awards subagreements, requiring the contractor to take the affirmative steps in paragraphs (a) (1) through (5) of this section.

(b) (Reserved)

(c) EPA encourages recipients to procure supplies and services from labor surplus area firms.

§ 33.245 Privity of subagreement.

Neither EPA nor the United States shall be a party to any subagreement nor to any solicitation or request for proposals.

Explanation of Key Provisions

Recipients of technical assistance grants are not required to comply with section 33.240. Instead, they must comply with the requirements of 40 CFR 33.815(f)(2).

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§ 33.250 Documentation.

(a) Procurement records and files for procurements in excess of \$10,000 shall include the following:

- (1) Basis for contractor selection;
- (2) Written justification for selection of the procurement method;
- (3) Written justification for use of any specification which does not provide for maximum free and open competition;
- (4) Written justification for the type of subagreement;
- (5) Basis for award cost or price, including a copy of the cost or price analysis made in accordance with § 33.290 and documentation of negotiations; and
- (6) Written justification for rejecting bids.

(b) Recipients must state the reasons for rejecting any or all bids and the justification for procurements on a noncompetitively negotiated basis and make them available for public inspection.

EDITORIAL NOTE: For a class deviation document affecting § 33.250, see 50 FR 24876, June 13, 1985.

§ 33.255 Specifications.

(a) Recipients must incorporate in their specifications a clear and accurate description of the technical requirements for the material, product or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition, unless the features are necessary to test or demonstrate a specific thing or to provide for necessary interchangeability of parts and equipment or to promote innovative technologies. The description shall include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.

(b) The recipient shall avoid the use of detailed product specifications if at all possible.

(c) When in the judgment of the recipient it is impractical or uneconomical to make a clear and accurate description of the technical requirements, recipients may use a "brand

Explanation of Key Provisions

The minimum contract amount for the purposes of this section is \$25,000 for the Technical Assistance Grant Program. All technical assistance grant recipients whose procurements exceed \$25,000 must comply with this section.

Section 33.255(a) requires that the recipient's specifications for materials, products, or services not be written to unduly restrict competition.

Section 33.255(b), (c) pertains primarily to product specifications. Technical assistance grant recipients will generally not use grant funds for purchase of products.

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name or equal" description as a means to define the performance or other salient requirements of a procurement. The recipient need not establish the existence of any source other than the named brand. Recipients must clearly state in the specification the salient requirements of the named brand which must be met by offerors. (An additional specification requirement for recipients of assistance for the construction of treatment works under 40 CFR Part 35, Subparts E and I is contained in § 33.710.)

§ 33.260 Intergovernmental agreements.

§ 33.265 Bonding and insurance.

§ 33.270 Code of conduct.

(a) Recipients shall maintain a written code or standards of conduct which shall govern the performance of its officers, employees, or agents engaged in the award and administration of subagreements supported by EPA funds. No employee, officer, or agent of the recipient shall participate in the selection, award or administration of a subagreement supported by EPA funds if a conflict of interest, real or apparent, would be involved.

(b) Such a conflict would arise when:

- (1) Any employee, officer or agent of the recipient, any member of their immediate families, or their partners have a financial or other interest in the firm selected for award, or
- (2) An organization which may receive or has been awarded a subagreement employs, or is about to employ, any person under paragraph (b)(1) of this section.

Explanation of Key Provisions

Section 33.260 addresses State and local intergovernmental agreements and does not apply to the technical assistance grant program (text deleted).

Section 33.265 applies to construction subagreements. Construction activities will not be funded by technical assistance grants (text deleted).

Technical assistance grant recipients need not have a written code of conduct. See 40 CFR 33.815(e). Instead, recipients must comply with the conflict of interest provisions in 40 CFR 33.270 and other conflict of interest requirements in 40 CFR 30.613.

Section 33.270 specifies a potential conflict of interest among the grant recipient or their families and an employee, officer, or agent and forbids their participation in the selection, award, or administration of a subagreement.

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(c) The recipient's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors or other parties to subagreements.

(d) Recipients may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

(e) To the extent permitted by State or local law or regulations, the recipient's code of conduct shall provide for penalties, sanctions or other disciplinary actions for violations of the code by the recipient's officers, employees or agents or by contractors or their agents.

§ 33.275 Federal cost principles.

The following cost principles apply to assistance agreements and subagreements:

(a) State and local governments must comply with OMB Circular A-87 to determine allowable costs.

(b) Educational institutions must comply with OMB Circular A-21 to determine allowable costs and with OMB Circular A-88 for indirect cost rates.

(c) Nonprofit institutions must comply with OMB Circular A-122 to determine allowable costs.

(d) All other recipients, contractors and subcontractors must comply with the cost principles contained in the Federal Procurement Regulations (41 CFR 1-15.4 and, if appropriate, § 1-15.4) to determine allowable costs.

§ 33.280 Payment to consultants.

(a) For all EPA assistance agreements, EPA will limit its participation in the salary rate (excluding overhead) paid to individual consultants retained

Explanation of Key Provisions

Section 33.275 lists the cost principles, that apply to the different types of recipients. A summary of the cost principles in OMB Circular A-122 is provided at the end of this Appendix.

This provision will seldom be applicable to technical assistance grant recipients.

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by recipients or by a recipient's contractors or subcontractors to the maximum daily rate for a GS-18. (Recipients may, however, pay consultants more than this amount.) This limitation applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed; recipients will pay these in accordance with their normal travel reimbursement practices.

(b) Subagreements with firms for services which are awarded using the procurement requirements in this part are not affected by this limitation.

(48 FR 12928, Mar. 28, 1983; 48 FR 30364, July 1, 1983)

§ 33.285 Prohibited types of subagreements.

The cost-plus-percentage-of-cost (e.g., a multiplier which includes profit) and the percentage-of-construction-cost types of subagreements shall not be used.

§ 33.290 Cost and price considerations.

(a) The recipient shall conduct a cost analysis of all negotiated change orders and all negotiated subagreements estimated to exceed \$10,000.

(b) The recipient shall conduct a price analysis of all formally advertised procurements estimated to exceed \$10,000 if there are fewer than three bidders.

(c) For negotiated procurement, contractors and subcontractors shall submit cost or pricing data in support of their proposals to the recipient.

§ 33.295 Subagreements awarded by a contractor.

A contractor must comply with the following provisions in its award of subagreements. (This section does not apply to a supplier's procurement of materials to produce equipment, materials and catalog, off-the-shelf, or manufactured items.)

(a) 40 CFR Part 32 (Debarment and Suspension Under EPA Assistance Programs);

(b) The limitations on subagreement award in § 33.220(a) (1) through (5);

Explanation of Key Provisions

These are two types of subagreements which cannot be used. EPA will not pay any costs associated with either of these two subagreements.

Cost analysis is discussed in greater detail in Chapter 5 and Appendix A of this manual. Recipients who cannot certify their procurement systems must ensure that cost data is submitted on EPA Form 5700-41 (see Appendix A of Part 33).

Section 33.295 applies to contractors who elect to subcontract some of their work out to other firms or individuals.

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- (c) The profit requirements in § 33.235;
- (d) The requirements for small, minority, women's and labor surplus area businesses in § 33.240;
- (e) The specification requirements of § 33.255;
- (f) The requirements of Subpart C of this part, if appropriate;
- (g) The Federal cost principles in § 33.275;
- (h) The prohibited types of subagreements in § 33.285;
- (i) The cost and price considerations in § 33.290, and
- (j) The applicable subagreement provisions in Subpart F of this part.

SMALL PURCHASES

§ 33.305 Small purchase procurement.

If the aggregate amount involved in any one procurement transaction does not exceed \$10,000, including estimated handling and freight charges, overhead and profit, the recipient may use small purchase procedures.

EDITORIAL NOTE: For a class deviation document affecting § 33.305, see 50 FR 24876, June 13, 1985.

§ 33.310 Small purchase procedures.

Small purchase procedures are relatively simple procurement methods that are sound and appropriate for a procurement of services, supplies or other property costing in the aggregate not more than \$10,000.

EDITORIAL NOTE: For a class deviation document affecting § 33.310, see 50 FR 24876, June 13, 1985.

§ 33.315 Requirements for competition.

- (a) Recipients shall not divide a procurement into smaller parts to avoid the dollar limitation for competitive procurement.
- (b) Recipients shall obtain price or rate quotations from an adequate number of qualified sources.

Explanation of Key Provisions

Procurements of \$25,000 or less may use the small purchase procurement method. (This amount has been raised to \$25,000 for the Technical Assistance Grants Program.)

Recipients must ensure competition in the procurement process. "An adequate number of qualified sources" from whom recipients must obtain price or rate quotations is usually three.

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FORMAL ADVERTISING

§ 33.405 Formal advertising procurement method.

(a) The requirements in §§ 33.405 through 33.430 apply to all formally advertised subagreements in excess of \$10,000. Formal advertising means the public solicitation of sealed bids and the award of a subagreement based on a fixed price (lump sum, unit price, or a combination of the two) to the lowest, responsive, responsible bidder.

(b) Formal advertising requires at a minimum:

- (1) A complete, adequate and realistic specification or purchase description of what is required;
- (2) Two or more responsible bidders which are willing and able to compete effectively for the recipient's business;
- (3) A procurement that lends itself to the award of a fixed-price subagreement; and
- (4) That the selection of the successful bidder be made principally on the basis of price.

§ 33.410 Public notice and solicitation of bids.

The recipient shall give adequate public notice of the solicitation, inviting bids and stating when and how the bidding documents may be obtained or examined.

§ 33.415 Time for preparing bids.

The recipient must allow adequate time between the date the public notice is first published and the date by which bids must be submitted.

§ 33.420 Adequate bidding documents.

Recipient's bidding documents shall include:

- (a) A complete statement of work to be performed including, where appropriate, design drawings and specifications and the required performance schedule;
- (b) The terms and conditions of the subagreement to be awarded, including payment, delivery schedules, point of delivery and acceptance criteria;
- (c) A clear explanation of the recipient's method of bidding and the method of evaluating bid prices, and its basis and method for awarding the subagreement;

Explanation of Key Provisions

Formal advertising is used when the recipient knows exactly what it needs and is able to convey its needs to prospective bidders. Awards must be based on price. Technical assistance grant recipients are not required to use this method (40 CFR 33.815 (b)).

Adequate public notice requires advertising in professional journals, newspapers, or publications of general circulation over a reasonable area for at least 30 days (see Appendix A of Part 33).

At least 30 days is required between the date of public notice and the date bids are due (see Appendix A of Part 33).

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(d) Any other responsibility requirements or evaluation criteria which the recipient will use in evaluating bidders;

(e) The prevailing wage determination, made under the Davis-Bacon Act, if applicable; and

(f) The deadline and place to submit bids and a copy of § 33.295, Subparts F and G and, if appropriate, EPA Form 5720-4 "Labor Standard Provisions for Federally Assisted Construction Contracts."

(46 FR 12926, Mar. 28, 1983; 46 FR 30364, July 1, 1983)

§ 33.423 Public opening of bids.

The recipient shall publicly open bids at the place, date and time announced in the bidding documents.

§ 33.430 Award to the lowest, responsive, responsible bidder.

(a) The recipient shall evaluate all bids in accordance with the methods and criteria in the bidding documents.

(b) The recipient shall award a fixed-price subagreement to the lowest, responsive, responsible bidder. Where specified in the bidding documents, recipients shall consider factors such as discounts, transportation costs and life cycle costs to determine the low bid. Payments discounts may be used to determine the low bid only when prior experience of the recipient indicates that it generally accepts such discounts.

(c) The recipient may reject all bids only when it has sound, documented business reasons which are in the best interest of the program for which EPA assistance is awarded (see § 33.290 "Documentation").

COMPETITIVE NEGOTIATION

§ 33.505 Competitive negotiation procurement method.

(a) The requirements in §§ 33.508 through 33.525 apply to all competitively negotiated subagreements in excess of \$10,000.

(b) Recipients may use competitive negotiation only if conditions are not appropriate for the use of the formal advertising method of procurement (see § 33.405).

Explanation of Key Provisions

Competitive negotiation may be used if the formal advertising method is not feasible (see Chapter 5). In most instances, technical assistance grant recipients will use this method to hire contractors.

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§ 33.510 Public notice.

(a) The recipient must give adequate public notice for competitively negotiated procurements.

(b) The notice of a request for proposals must state how to obtain associated documents, including a copy of 133.295, Subparts F and G, the basis for subagreement award, and, if appropriate, EPA Form 8720-4 "Labor Standard Provisions for Federally Assisted Construction Contracts."

(c) Requests for proposals must be written, contain enough information to enable a prospective offeror to prepare a proposal, contain all evaluation criteria and the relative importance attached to each, and clearly state the deadline and place to submit proposals.

[48 FR 12926, Mar. 28, 1983; 48 FR 30364, July 1, 1983]

§ 33.515 Evaluation of proposals.

(a) Recipients must uniformly and objectively evaluate all proposals submitted in response to the request for proposals.

(b) Recipients must base their determinations of qualified offerors and acceptable proposals solely on the evaluation criteria stated in the request for proposals.

§ 33.520 Negotiation and award of sub-agreement.

(a) Unless the request for proposals states that award may be based on initial offers alone, the recipient must conduct meaningful negotiations with the best qualified offerors with acceptable proposals within the competitive range, and permit revisions to obtain best and final offers. The best qualified offerors must have equal opportunities to negotiate or revise their proposals. During negotiations, the recipient must not disclose the identity of competing offerors or any information from competing proposals.

(b) The recipient must award the subagreement to the responsible offeror whose proposal is determined in writing to be the most advantageous to the recipient, taking into consideration price and other evaluation criteria set forth in the request for proposals.

Explanation of Key Provisions

Grant recipients must provide documents which identify the criteria for the subagreement award.

Grant recipients can use only the evaluation criteria stated in the request for proposals to determine the most qualified contractor.

The best qualified contractors must have equal opportunities to negotiate or revise their proposals. Grant recipients shall not disclose the identity of applicants nor disclose any information from competing proposals during negotiations.

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(c) The recipient must promptly notify unsuccessful offerors that their proposals were rejected.

(d) The recipient must document its procurement file to indicate how proposals were evaluated, what factors were used to determine the best qualified offerors within the competitive range, and what factors were used to determine the subagreement award.

(48 FR 12926, Mar. 28, 1983; 48 FR 30364, July 1, 1983)

§ 33.525 Optional selection procedure for negotiation and award of subagreements for architectural and engineering services.

(a) The recipient may evaluate and select an architect or engineer using the procedures in this section in place of the procedures in § 33.520, "Negotiation and award of subagreement."

(b) The recipient may use either a prequalified list developed in accordance with § 33.230(c) or responses to requests for statement of qualifications to determine the most technically qualified architects or engineers.

(c) After selecting and ranking the most qualified architects or engineers, the recipient will request technical proposals from those architects or engineers and inform them of the evaluation criteria the recipient will use to rank the proposals.

(d) The recipient shall then select and determine, in writing, the best technical proposal.

(e) After selecting the best proposal, the recipient shall attempt to negotiate fair and reasonable compensation with that offeror.

(f) If the recipient and the offeror of the best proposal cannot agree on the amount of compensation, the recipient shall formally terminate negotiations with that offeror. The recipient shall then negotiate with the offeror with the next best proposal. This process will continue until the recipient reaches agreement on compensation with an offeror with an acceptable proposal. Once the recipient terminates negotiations with an offeror, the recipient cannot go back and renegotiate with that offeror.

(48 FR 12926, Mar. 28, 1983; 48 FR 30364, July 1, 1983)

Explanation of Key Provisions

The grant recipient must promptly notify unsuccessful applicants that their proposals were rejected. The grant recipient must document how proposals were evaluated, what factors were used to determine the best qualified contractor, and what factors were used to determine the subagreement award.

Architecture and engineering (A/E) firms may be among those firms bidding on subagreements with technical assistance grant recipients. However, recipients are not likely to develop the prequalification lists discussed in section 33.525(b). Because A/E firms are unlikely to be the only applicants, this optional method may not be used.

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NONCOMPETITIVE NEGOTIATION

§ 33.605 Noncompetitive negotiation procurement method.

Recipients may use noncompetitive negotiation to award a subagreement if the other three procurement methods are inappropriate because:

- (a) The item is available only from a single source;
- (b) A public exigency or emergency exists and the urgency for the requirement will not permit a delay incident to competitive procurement;
- (c) After solicitation from a number of sources, competition is inadequate; or
- (d) The EPA award official authorizes noncompetitive negotiation, subject to the limitation in § 33.715(a)(2).

Subpart C—Requirements for Recipients of Assistance Agreements for the Construction of Treatment Works

§ 33.705 Applicability and scope of this subpart.

§ 33.710 Buy American.

§ 33.715 Use of the same architect or engineer during construction.

Subpart D—Requirements for Institutions of Higher Education and Other Nonprofit Organizations

§ 33.805 Applicability and scope of this subpart.

Recipients who are subject to the provisions of OMB Circular A-110, "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations" are not subject to all of the requirements in this part.

§ 33.810 Nonapplicable subagreement clauses.

The following clauses in Subpart F of this part do not apply to institutions of higher education and other nonprofit organizations:

- (a) Energy efficiency (§ 33.1021);
- (b) Changes (§ 33.1030.3);
- (c) Differing site conditions (§ 33.1030.4); and

Explanation of Key Provisions

The noncompetitive negotiation method is allowed only in the limited circumstances outlined in section 33.605(a,b,c,d). Noncompetitive negotiation is unlikely to be an appropriate method for most technical assistance grant recipients to apply in hiring a contractor.

This subpart applies to EPA's Wastewater Treatment Construction Grants Program and does not apply to Superfund (text deleted).

Technical assistance grant recipients meet the definition of "Other Non-Profit Organizations" in Subpart D and thus are not subject to all of the requirements in Part 33 Subpart D.

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(d) Price reduction for defective cost or pricing data (§ 33.1030,8).
(46 FR 12926, Mar. 28, 1991; 46 FR 30385, July 1, 1991)

§ 33.815 Nonapplicable procurement provisions.

The following procurement provisions do not apply to institutions of higher education and other nonprofit organizations:

- (a) Subparts C and E;
- (b) Sections 33.405 through 33.430 "Formal advertising";
- (c) Sections 33.505 through 33.525 "Competitive negotiation";
- (d) Section 33.605 "Noncompetitive negotiation" (see § 33.820(b));
- (e) The requirement in § 33.270(a) "Code of conduct" to have a written code of conduct;

(f) The provisions of § 33.240 "Small, minority, women's, and labor surplus area businesses" which:

- (1) Encourage the award of a fair share of contracts to women's and labor surplus area businesses;

(2) Require the specific affirmative action steps in § 33.240(a)(1) through (a)(6); however, nonprofit organizations are required to make positive efforts to use small businesses and minority owned businesses as sources of supplies and services;

(g) Subpart G "Protests."

§ 33.820 Additional procurement requirements.

(a) Recipients must exclude contractors that develop or draft specifications, requirements, statements of work, invitation for bids, or requests for proposals from competing for awards resulting from the prior effort.

(b) For all proposed sole source subagreements and where only one bid or proposal is received, the recipient must request the award official's prior approval to award the subagreement if the aggregate expenditure is expected to exceed \$10,000.

Explanation of Key Provisions

Technical assistance grant recipients must make positive efforts to use small and minority-owned businesses as sources of supplies and services. To meet this requirement, recipients must file EPA Form SF 334 (see Chapter 6) to ensure that EPA is in compliance with congressional reporting requirements.

In cases where there is only one bid or proposal received and for subagreements originating from one source, the recipient must obtain approval from the Award Official prior to awarding the subagreement if the total expenditure is expected to exceed \$25,000.

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Subpart E—Requirements for Recipients of Remedial Action Cooperative Agreements Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

§ 33.905 Applicability and scope of this subpart.

§ 33.910 Preference for formal advertising.

§ 33.915 Award official approval.

Subpart F—Subagreement Provisions

§ 33.1005 Applicability and scope of this subpart.

(a) This subpart applies to all EPA recipients and describes the minimum content of each subagreement (contract and subcontract).

(b) Nothing in this subpart prohibits a recipient from requiring more assurances, guarantees, or indemnity or other contractual requirements from any party to a subagreement.

§ 33.1010 Requirements for subagreement clauses.

Recipients shall include clauses that meet the requirements of §§ 33.1015 through 33.1021, and the appropriate clauses in § 33.1030, in each procurement subagreement.

§ 33.1015 Subagreement provisions clause.

Each subagreement must include provisions defining a sound and complete agreement, including the:

- (a) Nature, scope, and extent of work to be performed;
- (b) Timeframe for performance;
- (c) Total cost of the subagreement; and
- (d) Payment provisions.

§ 33.1016 Labor standards provisions.

§ 33.1019 Patents, data and copyrights clause.

Except for construction grant subagreements, all subagreements shall include notice of EPA requirements and regulations pertaining to reporting and patent rights under any sub-

Explanation of Key Provisions

Subpart E applies to construction subagreements. Construction subagreements will not be funded by technical assistance grants (text deleted).

Subpart F describes clauses that must be contained in all subagreements between technical assistance grant recipients and their contractors.

Section 33.1016 does not apply to technical assistance grants (text deleted).

Section 33.1019 applies to patents and copyrights involving research, development, experimental, or demonstration work. Technical assistance grants will usually not be used to pay for the kind of work that might result in patentable or copyrighted information or products.

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agreement involving research, developmental, experimental or demonstration work with respect to any discovery or invention which arises or is developed in the conduct of work under a subagreement. This notice shall also include EPA requirements and regulations pertaining to copyrights and rights in data contained in 40 CFR Part 30.

§ 33.1020 Violating facilities clause.

Subagreements in excess of \$100,000 shall contain a provision which requires contractor compliance with all applicable standards, orders or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and EPA regulations (40 CFR Part 18) which prohibit the use under nonexempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities.

§ 33.1021 Energy efficiency clause.

Subagreements shall comply with mandatory standards and policies on energy efficiency contained in the State's energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

§ 33.1030 Model subagreement clauses.

Recipients must include, when appropriate, the following clauses or their equivalent in each subagreement. Recipients may substitute other terms for "recipient" and "contractor" in their subagreements.

1. SUPERSESSION

The recipient and the contractor agree that this and other appropriate clauses in 40 CFR 33.1030 apply to that work eligible for EPA assistance to be performed under this subagreement and that these clauses supersede any conflicting provisions of this subagreement.

2. PRIVACY OF SUBAGREEMENTS

This subagreement is expected to be funded in part with funds from the U.S. Environmental Protection Agency. Neither the United States nor any of its departments, agencies or employees is, or will be, a party to this subagreement or any lower tier sub-

Explanation of Key Provisions

Section 33.1020 applies to subagreements in excess of \$100,000. Subagreements under technical assistance grants will not exceed \$100,000, except in very rare circumstances (see Chapter 3 of this manual).

Some States require energy efficiency clauses. Section 33.1021 is unlikely to apply to most technical assistance subagreements.

Technical assistance grant recipients must include in any subagreements, the clauses (or their equivalents) numbered 1, 2, 6, 7, 9, 10, 11, 13, and 14 in section 33.1030. Clauses 3(b), (c) and 13(a) must also be included in subagreements. Clauses 3(a), 4, 5, 12, and 13(b) apply only to construction subagreements. Clause 8 applies only to subagreements involving \$100,000 or more. Subagreements under technical assistance grants will not exceed \$100,000, except in very rare circumstances (see Chapter 3 of this manual).

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Agreement. This subagreement is subject to regulations contained in 40 CFR Part 33 in effect on the date of the assistance award for this project.

3. Changes

(b) The following clause applies only to subagreements for services. (1) The recipient may at any time, by written order, make changes within the general scope of this subagreement in the services or work to be performed. If such changes cause an increase or decrease in the contractor's cost or time required to perform any services under this subagreement, whether or not changed by any order, the recipient shall make an equitable adjustment and modify this subagreement in writing. The contractor must assert any claim for adjustment under this clause in writing within 30 days from the date it receives the recipient's notification of change, unless the recipient grants additional time before the date of final payment.

(2) No services for which the contractor will charge an additional compensation shall be furnished without the written authorization of the recipient.

(c) The following clause applies only to subagreements for supplies. (1) The recipient may at any time, by written order and without notice to the sureties, change the general scope of this subagreement in any one or more of the following:

(i) Drawings, designs or specifications where the supplies to be furnished are specifically manufactured for the recipient;

(ii) Method of shipment or packing; and

(iii) Place of delivery.

(2) If any change causes an increase or decrease in the cost or the time required to perform any part of the work under this subagreement, whether or not changed by any such order, the recipient shall make an equitable adjustment in the subagreement agreement price or delivery schedule, or both, and modify the subagreement in writing. The contractor must assert any claim for adjustment under this clause within 30 days from the date the contractor receives the recipient's notification of change. If the recipient decides that the facts justify such action, the recipient may receive and act upon any such claim asserted at any time before final payment under this subagreement. Where the cost of property made obsolete or excess as a result of a change is included in the contractor's claim for adjustment, the recipient has the right to prescribe the manner of a return of such

Explanation of Key Provisions

Clause 3(a) applies only to construction subagreements and, therefore, does not apply to technical assistance grants (text deleted).

While the recipient of a technical assistance grant may, at any time, change the scope of services to be performed by a contractor, the recipient must equitably adjust the subagreement's provisions for paying the contractor if these changes alter the costs or time required by the contractor to do work. The contractor may initiate a request for such an adjustment, but must do so within 30 days of notification of changes in the scope of work. The contractor may not perform services that will require compensation in excess of what is provided in the subagreement unless he or she has written authorization.

The recipient of a technical assistance grant may change certain aspects (i - iii) of the products expected from a contractor by written order at any time. However, equitable compensation must be provided if costs or time required of the contractor change. The contractor's requirements for requesting such an adjustment are also the same as in 3(a).

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property. Nothing in this clause shall excuse the contractor from proceeding with the subagreement as changed.

4. DIFFERING SITE CONDITIONS

5. SUSPENSION OF WORK

6. TERMINATION

(a) This subagreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this subagreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given (1) not less than ten (10) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination.

(b) This subagreement may be terminated in whole or in part in writing by the recipient for its convenience, provided that the contractor is given (1) not less than ten (10) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination.

(c) If termination for default is effected by the recipient, an equitable adjustment in the price provided for in this subagreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to the contractor at the time of termination may be adjusted to cover any additional costs to the recipient because of the contractor's default. If termination for default is effected by the contractor, or if termination for convenience is effected by the recipient, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the contractor for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the contractor relating to commitments which had become firm prior to the termination.

Explanation of Key Provisions

Clause 4, differing site conditions for construction subagreements, does not apply to technical assistance grants (text deleted).

Clause 5, suspension of work under construction subagreements, does not apply to technical assistance grants (text deleted).

The subagreement may be terminated by the grant recipient or contractor if the other party fails to fulfill its obligations, provided that just cause for termination is established and notification requirements are observed.

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(d) Upon receipt of a termination action under paragraphs (a) or (b) above, the contractor shall (1) promptly discontinue all affected work (unless the notice directs otherwise), and (2) deliver or otherwise make available to the recipient all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the contractor in performing this subagreement, whether completed or in process.

(e) Upon termination under paragraphs (a) or (b) above, the recipient may take over the work and may award another party a subagreement to complete the work under this subagreement.

(f) If, after termination for failure of the contractor to fulfill contractual obligations, it is determined that the contractor had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the recipient. In such event, adjustment of the subagreement price shall be made as provided in paragraph (c) of this clause.

7. Remedies

Unless otherwise provided in this subagreement, all claims, counter-claims, disputes and other matters in question between the recipient and the contractor arising out of, or relating to, this subagreement or the breach of it will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the recipient is located.

8. Price Reduction for Defective Cost or Pricing Data

(Note: The following clause applies to (1) any subagreement negotiated between the recipient and the contractor in excess of \$100,000; (2) negotiated subagreement amendments or change orders in excess of \$100,000 affecting the price of formally advertised, competitively awarded, fixed price subagreement, or (3) any lower tier subagreement or purchase order in excess of \$100,000 under a subagreement other than a formally advertised, competitively awarded, fixed price subagreement. This clause does not apply to subagreements awarded on the basis of effective price competition.)

(a) The contractor and subcontractor, where appropriate, assure that the cost and pricing data submitted for evaluation with respect to negotiation of prices for negotiated subagreements, lower tier subagreements and change orders is based on current, accurate and complete data supported by their books and records. If the recipient or EPA determines that any price (including profit) negotiated in connection with this subagreement, lower tier subagreement or amendment thereunder was increased by any significant sum because the data provided was

Explanation of Key Provisions

Clause 8, price reduction for defective cost on pricing data, does not apply to technical assistance grants which do not exceed \$100,000.

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Incomplete, inaccurate or not current at the time of submission, then such price or cost or profit shall be reduced accordingly and the recipient shall modify the subagreement in writing to reflect such action.

(b) Failure to agree on a reduction shall be subject to the remedies clause of this subagreement.

(Note: Since the subagreement is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with lower tier subagreements, the contractor may wish to include a clause in each lower tier subagreement requiring the lower tier subcontractor to appropriately indemnify the contractor. It is also expected that any lower tier subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data submitted by lower tier contractors.)

9. Audit; Access to Records

(a) The contractor shall maintain books, records, documents and other evidence directly pertinent to performance on EPA funded work under this subagreement in accordance with generally accepted accounting principles and practices consistently applied, and 40 CFR Part 30 in effect on the date of execution of this subagreement. The contractor shall also maintain the financial information and data used in the preparation or support of the cost submission required under 40 CFR 33.290 for any negotiated subagreement or change order and a copy of the cost summary submitted to the recipient. The United States Environmental Protection Agency, the Comptroller General of the United States, the United States Department of Labor, the recipient, and (the State) or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. The contractor will provide proper facilities for such access and inspection.

(b) If this is a formally advertised, competitively awarded, fixed price subagreement, the contractor agrees to make paragraphs (a) through (g) of this clause applicable to all negotiated change orders and subagreement amendments affecting the subagreement price. In the case of all other types of prime subagreements, the contractor agrees to make paragraphs (a) through (g) applicable to all subagreements he awards in excess of \$10,000, at any tier, and to make paragraphs (a) through (g) of this clause applicable to all change orders directly related to project performance.

(c) Audits conducted under this provision shall be in accordance with generally accepted auditing standards and with established procedures and guidelines of the reviewing or audit agencies(s).

Explanation of Key Provisions

The grant recipient shall maintain financial information and data pertinent to the subagreement as required under 40 CFR Part 30, generally, and under 40 CFR 33.290 for cost submission requirements. The grant recipient shall provide authorized agencies or their representatives access to financial documents.

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(d) The contractor agrees to disclose all information and reports resulting from access to records under paragraphs (a) and (b) of this clause to any of the agencies referred to in paragraph (a).

(e) Records under paragraphs (a) and (b) above shall be maintained by the contractor during performance on EPA assisted work under this subagreement and for the time periods specified in 40 CFR Part 30. In addition, those records which relate to any controversy arising under an EPA assistance agreement, litigation, the settlement of claims arising out of such performance or to costs or items to which an audit exception has been taken shall be maintained by the contractor for the time periods specified in 40 CFR Part 30.

(f) Access to records is not limited to the required retention periods. The authorized representatives designated in paragraph (a) of this clause shall have access to records at any reasonable time for as long as the records are maintained.

(g) This right of access clause applies to financial records pertaining to all subagreements (except formally advertised, competitively awarded, fixed price subagreements) and all subagreement change orders regardless of the type of subagreement, and all subagreement amendments regardless of the type of subagreement. In addition this right of access applies to all records pertaining to all subagreements, subagreement change orders and subagreement amendments.

(h) To the extent the records pertain directly to subagreement performance;

(i) If there any indication that fraud, gross abuse or corrupt practices may be involved; or

(j) If the subagreement is terminated for default or for convenience.

10. COVENANT AGAINST CONTINGENT FEES

The contractor assures that no person or selling agency has been employed or retained to solicit or secure this subagreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee excepting bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business. For breach or violation of this assurance, the recipient shall have the right to annul this agreement without liability or, at its discretion, to deduct from the subagreement price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

Explanation of Key Provisions

The grant recipient must assure that no one has been employed to secure this subagreement for contingent fees. If this assurance is violated, recipients shall have the right to annul the agreement without liability, or recover the contingent fee.

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11. GRATUITIES

(a) If the recipient finds after a notice and hearing that the contractor or any of the contractor's agents or representatives offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of the recipient, the State or EPA in an attempt to secure a sub-agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this sub-agreement, the recipient may, by written notice to the contractor, terminate this sub-agreement. The recipient may also pursue other rights and remedies that the law or this sub-agreement provides. However, the existence of the facts on which the recipient bases such findings shall be in issue and may be reviewed in proceedings under the Remedies clause of this sub-agreement.

(b) In the event this sub-agreement is terminated as provided in paragraph (a), the recipient may pursue the same remedies against the contractor as it could pursue in the event of a breach of the sub-agreement, by the contractor, and as a penalty, in addition to any other damages to which it may be entitled by law, be entitled to exemplary damages in an amount (as determined by the recipient) which shall be not less than three nor more than ten times the costs the contractor incurs in providing any such gratuities to any such officer or employee.

12. BUY AMERICAN

13. Responsibility of the Contractor

(a) The following clause applies only to sub-agreements for services: (1) The contractor is responsible for the professional quality, technical accuracy, timely completion and coordination of all designs, drawings, specifications, reports and other services furnished by the contractor under this sub-agreement. If the sub-agreement involves environmental measurements or data generation, the contractor shall comply with EPA quality assurance requirements in 40 CFR 30.003. The contractor shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in his designs, drawings, specifications, reports and other services.

(2) The contractor shall perform the professional services necessary to accomplish the work specified in this sub-agreement in accordance with this sub-agreement and applicable EPA requirements in effect on the date of execution of the assistance agreement for this project.

(3) The owner's or EPA's approval of drawings, designs, specifications, reports and incidental work or materials furnished hereunder shall not in any way relieve the contractor of responsibility for the technical adequacy of his work. Neither the

Explanation of Key Provisions

The recipient may terminate this sub-agreement if it is determined that the contractor offered gratuities in an attempt to secure favorable treatment related to the performance of the sub-agreement.

Clause 12, Buy American, is not applicable to Subfund (text deleted).

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owner's nor EPA's review, approval, acceptance or payment for any of the services shall be construed as a waiver of any rights under this agreement or of any cause for action arising out of the performance of this subagreement.

(4) The contractor shall be, and shall remain, liable in accordance with applicable law for all damages to the owner or EPA caused by the contractor's negligent performance of any of the services furnished under this subagreement, except for errors, omissions or other deficiencies to the extent attributable to the owner, owner-furnished data, or any third party. The contractor shall not be responsible for any time delays in the project caused by circumstances beyond the contractor's control.

(5) The contractor's obligations under this clause are in addition to the contractor's other express or implied assurances under this subagreement or State law and in no way diminish any other rights that the owner may have against the contractor for faulty materials, equipment or work.

(b) *The following clause applies only to subagreements for construction.*

14. FINAL PAYMENT

Upon satisfactory completion of the work performed under this subagreement, as a condition before final payment under this subagreement or as a termination settlement under this subagreement the contractor shall execute and deliver to the owner a *release of all claims* against the owner arising under, or by virtue of, this subagreement, except claims which are specifically exempted by the contractor to be set forth therein. Unless otherwise provided in this subagreement, by State law or otherwise expressly agreed to by the parties to this subagreement, final payment under this subagreement or settlement upon termination of this subagreement shall not constitute a waiver of the owner's claims against the contractor or his sureties under this subagreement or applicable performance and payment bonds.

(40 FR 12926, Mar. 28, 1983; 48 FR 30365, July 1, 1983)

Subpart G—Protests

§ 33.1105 Applicability and scope of this subpart.

This subpart sets forth EPA's administrative process for the rapid resolution of protest appeals filed with the award official.

Explanation of Key Provisions

Clause 13(b) does not apply to technical assistance grants since construction activities will not be undertaken (text deleted).

The contractor shall provide to the grant recipient a *release of all claims* against the recipient as a condition of final payment.

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§ 33.1110 Recipient protest procedures.

(a) Recipients must establish their own procedures for prompt consideration of initial protests concerning their solicitations or subagreement awards. A "protest" is a written complaint concerning the recipient's solicitation or award of a subagreement. It must be filed with the recipient by a party with a direct financial interest adversely affected by a recipient's procurement action (see § 33.1130 "Review of protest appeal").

(b) The recipient should review each protest received to determine whether it is appropriate to defer the protested procurement action.

(c) If the recipient does not defer the procurement action, it assumes the risk that the award official may disallow the cost of the protested procurement action if the protest appeal is upheld.

(48 FR 12926, Mar. 28, 1983; 48 FR 30386, July 1, 1983)

§ 33.1115 Protest appeal.

(a) A party with a financial interest which is adversely affected by the recipient's decision on the initial protest may file a "protest appeal" with the award official.

(b) A "protest appeal" is a written complaint filed with the award official regarding the recipient's determination of a protest.

§ 33.1120 Limitations on protest appeals.

(a) The award official shall not accept a protest appeal until the protester has exhausted all administrative remedies at the recipient level.

(b) A protest appeal is limited to the following:

(1) Issues arising under the procurement provisions of this part, or

(2) Alleged violations of State or local law or ordinances where the award official determines that there is an overriding Federal requirement.

(c) A recipient of a lower tier sub-agreement (subcontract) may only file a protest appeal for issues which relate to the award of a subagreement by a contractor (see § 33.285 "Subagreements awarded by a contractor").

Explanation of Key Provisions

Although not required to do so, technical assistance grant recipients generally should defer awards of subagreements until they can make determinations on any protests.

The Award Official will not accept any protest appeals until the grant recipient has ruled on the protest.

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§ 33.1125 Filing requirements.

(a) Protest appeals must be filed with the Assistant General Counsel for Grants for headquarters-awarded assistance agreements and with the Office of Regional Counsel for regionally awarded assistance agreements.

(b) A protest appeal must:

(1) Be written;

(2) Include a copy of the recipient's determination of the protest;

(3) State the basis for the appeal; and

(4) Request a determination under this subpart.

(c) Upon filing a protest appeal with the Regional Counsel or Assistant General Counsel for Grants, as appropriate, the party filing the protest appeal must concurrently transmit a copy of all protest documents and any attachments to all other parties with a direct financial interest which may be adversely affected by the determination of the protest appeal.

(d) The award official will only consider written protest appeals received by the appropriate Counsel's office within seven calendar days after the adversely affected party receives the recipient's determination of protest. However, the adversely affected party can meet the seven-day notice requirement by telegraphing the Counsel within the seven-calendar-day period of its intent to file a protest appeal, provided the adversely affected party submits a complete protest appeal within seven calendar days of the date it sends the telegram. If the seventh day falls on a Saturday, Sunday or holiday, the next working day shall be the last day to submit a protest appeal.

(e) Any party which submits a document to the award official during the course of a protest appeal must simultaneously furnish all other affected parties with a copy of the document.

(40 FR 12926, Mar. 26, 1983; 40 FR 30865, July 1, 1983)

§ 33.1130 Review of protest appeal.

(a) If the recipient does not receive the initial protest before bid opening or the closing date for receipt of proposals, the award official may dismiss

Explanation of Key Provisions

Section 33.1125 describes the administrative process involved in filing a protest appeal.

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as untimely any protest appeal based upon alleged improprieties in the solicitation which were clearly apparent before bid opening or before the deadline for receipt of initial proposals. In negotiated procurements, protests of alleged improprieties which were incorporated in a new solicitation must have been received by the recipient by the closing date for receipt of proposals for the new solicitation.

(b) In cases not involving improprieties in the solicitation, the award official may dismiss an untimely a protest appeal if the adversely affected party did not file the initial protest with the recipient within seven calendar days of the date the basis for the protest was known or should have been known, whichever is earlier.

§ 33.1140 Deferral of procurement action.

When the award official receives a protest appeal and the recipient has not deferred the procurement action under § 33.1110(b), the award official must promptly request that the recipient defer the protested procurement action until the award official notifies the recipient of the formal or informal resolution of the appeal. The request shall be limited to the award of the subagreement or subitem which is the basis of the protest appeal.

§ 33.1145 Award official's review.

(a) The award official may establish rules of procedures or deadlines for the submission of materials or the arrangement of protest appeal conferences.

(b) The award official may summarily dismiss an appeal without proceedings under this subpart if:

(1) The protest appeal is not reviewable, see § 33.1130, or addresses issues other than those allowed under § 33.1120(b);

(2) The protester substantially fails to comply with the procedural requirements of this subpart; or

(3) The protester does not agree to the recipient's request for a reasonable extension of the bid and bond period.

(c) The award official may summarily deny a protest appeal without proceedings under this subpart if, after considering the facts in a light most

Explanation of Key Provisions

The Award Official, after receiving a protest appeal, will request the grant recipient to defer awarding the subagreement until the appeal is reviewed.

Section 33.1145 describes the administrative process conducted by the Award Official in reviewing a protest appeal.

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favorable to the protester, the award official believes that the protest lacks merit.

(d) The award official will give both the recipient and the protester, as well as any other party with a financial interest which may be adversely affected by the determination of protest, an opportunity to present arguments in support of their views in writing or at a conference.

(e) After the announced date for receipt of written arguments, the record shall be closed.

(f) The award official shall review the record considered by the recipient and any other documents or arguments presented by the parties to determine whether the recipient has complied with the procurement requirements of this part and has a rational basis for its determination of protest.

(g) The award official's determination shall constitute final EPA action from which there shall be no further administrative appeal. No party may appeal an award official's determination of appeal to the EPA Board of Assistance Appeals.

(h) Nothing in this subpart precludes the award official from reviewing the recipient's procurement action. (See § 33.115.)

(i) Noncompliance with the award official's determination of protest shall be cause for an action against the recipient under 40 CFR Part 30 or 32.

(j) If an appeal involves legal issues not explicitly addressed by this part, the award official shall resolve the issue by referring to other protest determinations under this section and decisions of the Comptroller General of the United States or of the Federal courts addressing Federal requirements comparable to procurement requirements of this part.

Explanation of Key Provisions

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APPENDIX A—PROCEDURAL REQUIREMENTS FOR RECIPIENTS WHO DO NOT CERTIFY THEIR PROCUREMENT SYSTEMS, OR FOR RECIPIENTS WHO HAVE THEIR PROCUREMENT CERTIFICATIONS REVOKED BY EPA

(a) The following procedural requirements apply to recipients who:

(1) Do not certify to EPA that their procurement system meets the minimum procurement requirements in this part, or

(2) Have their procurement certification revoked by the award official, as stated in § 33.115(c).

(b) Those recipients must comply with the requirements in this part plus the following procedural requirements. These procedural requirements supplement the requirements in the sections cited.

(1) To comply with § 33.280, "Documentation," the recipient must submit to the award official, unless he instructs otherwise, the records required by this section.

(2) To comply with § 33.290, "Cost and price considerations," the recipient's contractors and subcontractors must submit their cost or price data on EPA Form 5700-41, "Cost or Price Summary Format for Subagreements Under U.S. EPA Grants," or in another format which provides information similar to that required by EPA Form 5700-41.

(3) To comply with § 33.415, "Time for preparing bids," the recipient must allow at least 30 days between the date when it first publishes the public notice and the date by which bids must be submitted.

(4) To comply with § 33.410, "Public notice and solicitation of bids," the recipient must publish the notice in professional journals, newspapers, or publications of general circulation over a reasonable area for at least 30 days before the deadline for receipt of proposals.

The recipient may use posted public notices or written notification directed to interested persons, firms or professional organizations.

[40 FR 12926, Mar. 28, 1983; 48 FR 30365, July 1, 1983]

EDITORIAL NOTE: For a class deviation document affecting Appendix A paragraphs (b) (3) and (4) to this Part 33, see 50 FR 24874, June 13, 1985.

Explanation of Key Provisions

Applicants must follow the procedures outlined in this Appendix if they do not have a procurement system as indicated on the "Procurement System Certification" form (EPA Form 5700-48). The majority of technical assistance grants recipients will have to meet the applicable requirements of this Appendix.

Recipients must submit EPA Form 5700-41 "Cost and Price Summary" to their TAG Project Officer, if requested. Otherwise, recipients should keep this form in their files.

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OFFICE OF MANAGEMENT AND BUDGET - Circular A-122
Selected Excerpts - Cost Principles

Text of OMB Circular A-122

OFFICE OF MANAGEMENT AND BUDGET

Circular A-122, "Cost Principles for Nonprofit Organizations"

[Note: This reprint incorporates corrections published at 46 FR 17185, Tuesday, March 17, 1981.]

AGENCY: Office of Management and Budget.

I. Background of Circular A-122

Circular A-122, "Cost Principles for Nonprofit Organizations," establishes uniform rules for determining the costs of grants, contracts, and other agreements.

In general, the Circular provides that, to be recoverable from the Federal government, costs incurred by grantees and contractors must be necessary, reasonable, and related to the federally-sponsored activity. In addition, costs must be legal, proper, and consistent with the policies that govern the organization's other expenditures.

The disallowance of lobbying costs in this revision is comparable to the disallowance by Circular A-122 of other costs which are not reimbursed on grounds of public policy, such as advertising, fundraising expenses and entertainment. In each of these instances, a determination has been made that it would not be appropriate or cost-efficient to permit Federal tax dollars to be used for these purposes. In any event, it should be noted that lobbying costs are currently allowable; as indicated throughout this revision, it is intended to clarify and make more uniform the meaning and application of that bar.

II. General Principles

A. Basic Considerations.

1. **Composition of total costs.** The total cost of an award is the sum of the allowable direct and allocable indirect costs less any applicable credits.

Explanation of Key Provisions

This text includes excerpts from Circular A-122. Sections relevant to cost principles for nonprofit organizations have been included.

This text is taken from the preamble of the revision to Circular A-122.

This text is taken from Attachment A of Circular A-122.

Appendix D

Text of OMB Circular A-122

2. Factors affecting allowability of costs. To be allowable under an award, costs must meet the following general criteria:

- a. Be reasonable for the performance of the award and be allocable thereto under these principles.
- b. Conform to any limitations or exclusions set forth in these principles or in the award as to types or amount of cost items.
- c. Be consistent with policies and procedures that apply uniformly to both federally financed and other activities of the organization.
- d. Be accorded consistent treatment.
- e. Be determined in accordance with generally accepted accounting principles.
- f. Not be included as a cost or used to meet cost sharing or matching requirements of any other federally financed program in either the current or a prior period.
- g. Be adequately documented.

3. Reasonable costs. A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the costs. The question of the reasonableness of specific costs must be scrutinized with particular care in connection with organizations or separate divisions thereof which receive the preponderance of their support from awards made by Federal agencies. In determining the reasonableness of a given cost, consideration shall be given to:

- a. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the organization or the performance of the award.
- b. The restraints or requirements imposed by such factors as generally accepted sound business practices, arms length bargaining, Federal and State laws and regulations, and terms and conditions of the award.
- c. Whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the organization, its members, employees, and clients, the public at large, and the Government.
- d. Significant deviations from the established practices of the organization which may unjustifiably increase the award costs.

4. Allocable costs.

- a. A cost is allocable to a particular cost objective, such as a grant, project, service, or other activity, in accordance with the relative benefits received. A cost is allocable to a Government award if it is treated consistently with other costs incurred for the same purpose in like circumstances and if it:

Explanation of Key Provisions

The Citizens' Guidance Manual for the Technical Assistance Grant Program

Text of OMB Circular A-122

(1) Is incurred specifically for the award.
(2) Benefits both the award and other work and can be distributed in reasonable proportion to the benefits received, or
(3) Is necessary to the overall operation of the organization, although a direct relationship to any particular cost objective cannot be shown.

b. Any cost allocable to a particular award or other cost objective under these principles may not be shifted to other Federal awards to overcome funding deficiencies, or to avoid restrictions imposed by law or by the terms of the award.

Explanation of Key Provisions

Appendix D

OFFICE OF MANAGEMENT AND BUDGET - Circular A-122 Selected Excerpts - Lobbying

Text of OMB Circular A-122

OFFICE OF MANAGEMENT AND BUDGET

Circular A-122; Cost Principles for Nonprofit Organizations—"Lobbying" Revision

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Publication of Revision to the Circular.

SUMMARY: This notice sets forth the final version of the Office of Management and Budget's (OMB) "Lobbying" revision to Circular A-122, "Cost Principles for Nonprofit Organizations." The revision makes unallowable for Federal reimbursement the costs associated with most kinds of lobbying and political activities, but does not restrict lobbying or political activities paid for with non-Federal funds.

III. Summary of the Revision

Explanation of Key Provisions

This text includes excerpts from the revision of Circular A-122. Sections relevant to lobbying procedures for nonprofit organizations have been included.

Part III, "Summary of the Revision" is taken from the preamble of the revision to Circular A-122. The most significant revisions include the following:

- Federal, state or local electioneering and support of such entities as campaign and political action committees;
- Most direct lobbying of Congress and, with the exceptions noted below, State legislation, to influence legislation;
- Lobbying of the Executive Branch in connection with decisions to sign or veto enrolled legislation;
- Efforts to utilize state or local officials to lobby Congress or State legislatures;
- Grassroots lobbying concerning either Federal or State legislation; and
- Legislative liaison activities in support of unallowable lobbying activities.

The Citizen's Guidance Manual for the Technical Assistance Grant Program

Text of OMB Circular A-122

1. Insert a new paragraph in attachment B, as follows: "B21
Lobbying"
a. Notwithstanding other provisions of this Circular, costs associated with the following activities are unallowable:
a.(1) Attempts to influence the outcome of any Federal, State, or local election, referendum, initiative, or similar procedure, through in kind or cash contributions, endorsements, publicity, or similar activity;
a.(2) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections;
a.(3) Any attempt to influence: (i) The introduction of Federal or state legislation; or (ii) the enactment or modification of any pending Federal or state legislation through communication with any member or employee of the Congress or state legislature (including efforts to influence State or local officials to engage in similar lobbying activity), or with any government official or employee in connection with a decision to sign or veto enrolled legislation;
a.(4) Any attempt to influence: (i) The introduction of Federal or state legislation; or (ii) the enactment or modification of any pending Federal or state legislation by preparing, distributing or using publicity or propaganda, or by urging members of the general public or any segment thereof to contribute to or participate in any mass demonstration, march, rally, fundraising drive, lobbying campaign or letter writing or telephone campaign; or
a.(5) Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in unallowable lobbying.
b. The following activities are excepted from the coverage of subparagraph a:

Explanation of Key Provisions

The actual revisions to Circular A-122 relevant to lobbying are included below.

APPENDIX E

CHECKLISTS FOR TECHNICAL ASSISTANCE GRANT

APPLICANTS AND RECIPIENTS

Checklist for Technical Assistance Grant Applicants and Recipients

APPLYING FOR A GRANT:

- _____ (1) File a letter of intent with EPA.
- _____ (2) Complete the grant application package:
 - ◆ EPA Form 5700-33, "State and Local Nonconstruction Programs," the grant application form;
 - ◆ Part IV of EPA Form 5700-33 form;
 - Qualifications of the Applicant;
 - Scope of Services; and
 - ◆ EPA Form 5700-48, "Procurement System Certification."
- _____ (3) Contact the appropriate State office (see Appendix C) to comply with the intergovernmental review process, if appropriate.
- _____ (4) Send a completed and signed grant application to EPA.
- _____ (5) If the grant is awarded, sign and return the grant agreement to EPA within three calendar weeks.
- _____ (6) If necessary, file the necessary documents for incorporation with the appropriate State agency upon receipt of notification of award and prior to signing the grant agreement.

HIRING A TECHNICAL ADVISOR:

- _____ (1) Select a procurement method:
 - ◆ Small purchase;
 - ◆ Competitive negotiation;
 - ◆ Formal advertising; or
 - ◆ Noncompetitive negotiation.

Prepare for the files a memorandum outlining the reasons for selecting the chosen procurement method.

- _____ (2) Prepare a Request for Proposals (RFP) if using competitive negotiation.
- _____ (3) Publish public notice advertising for technical advisor or distribute information to interested parties.
- _____ (4) Send out RFP.

Appendix E

- _____ (5) Evaluate all proposals:
 - ◆ Require all prospective advisors to provide a conflict of interest/disclosure statement.
 - ◆ Determine whether applicants are listed on EPA's master list of suspended or debarred contractors.
- _____ (6) Negotiate with technical advisor candidates if using competitive negotiation and select the technical advisor.
 - ◆ Prepare a written record summarizing all negotiations for the file.
 - ◆ Obtain all cost data from applicants on an EPA Form 5700-41 and perform a cost analysis if the procurement exceeds \$25,000.
 - ◆ Document for the files the reasons for selecting the successful proposal and the reasons for rejecting others.
- _____ (7) Prepare the subagreement. Document for the files all reasons for selecting a particular type of contract.

MANAGING A GRANT:

- _____ (1) Establish and maintain a financial management system (ongoing).
- _____ (2) Set up a recordkeeping system for the grant award (ongoing).
- _____ (3) Establish a property management system, if necessary (ongoing).
- _____ (4) Submit EPA Form 6005-1, "Reporting Requirements on Minority and Women Business Enterprise Utilization" (quarterly until all grant monies spent).
- _____ (5) Submit EPA Form SF 270, "Request for Reimbursement" (at least quarterly).
- _____ (6) Submit progress reports (quarterly).
- _____ (7) Submit EPA Form SF 269, "Financial Status Report" (annually).
- _____ (8) Submit final report for review 90 days prior to end of approved project period.
- _____ (9) Submit final report within 90 days of the end of the project.
- _____ (10) Compile equipment report listing all items acquired with grant funds at completion of project.

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STATE OF DELAWARE

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF AIR & WASTE MANAGEMENT

SUBJECT: WILDCAT LANDFILL

The following hearing was held on June 16, 1988, at 7:00 p.m., in the Auditorium, 89 Kings Highway, Dover, Delaware.

The following hearing was recorded by Andrew S. Davidson, a Notary Public and Shorthand Reporter.

APPEARANCES:

Kathleen Jamison, DNREC

John Barndt, DNREC

Andrew Palestini, U.S. EPA

Audience speakers; Michael Parkowski

An audience was also in attendance

AR500352