



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

9375.1-08

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

JUN 22 1987

MEMORANDUM

SUBJECT: Role of EPA Personnel in the State Contractor Selection Process Under a Cooperative Agreement

FROM: Henry L. Longest II, Director *Walter W. VanLier Jr*
Office of Emergency and Remedial Response *for*

TO: Waste Management Division Directors
Regions I through X

Based on frequent inquiries from the Regions and States concerning the proper role of EPA personnel in the State contractor selection process under State-lead cooperative agreements, we have determined the need for a written statement that would clarify this subject. We have had discussions with the Office of General Counsel and have developed the following written guidelines.

Role of EPA Personnel In the State Contractor Selection Process

EPA may offer States technical assistance and respond to requests from States for technical assistance related to the implementation of the regulations governing procurement (40 CFR Part 33).

EPA technical assistance for RI/FS, RD and RA may include:

- Making recommendations on qualified offers and acceptable proposals based on published evaluation criteria. EPA's technical assistance should not be used to evaluate price or contractor responsibility. Although EPA may use REM contracts to provide some types of technical assistance, any support related to procuring a State contractor must be provided by Federal employees, not REM contract staff.


- ° Either directly or through Corps of Engineers make recommendations on bids for RA in accordance with the methods and criteria in the bidding documents. EPA's technical assistance should not, however, be used for contractor responsibility determinations.
- ° Even if the state has a certified procurement system, EPA reserves the right to review the State's procurement action under a cooperative agreement. This includes conducting the bidability/constructability review prior to procurement of the services of a contractor for RA when the project is highly complex or when there are overriding scheduling concerns.

All work assignments that could result in a perception that the Office of Emergency and Remedial Response (OERR) contractors are either making or unduly influencing EPA recommendations or State decisions must be avoided. Contractor personnel must not be used to assist in reviewing technical proposals. This will avoid the perception that EPA contractors are influencing the selection of other contractors. Further, it avoids the problem of allowing EPA contractors the opportunity to review technical proposals submitted by their competitors.

EPA staff providing such technical assistance:

- ° Shall constitute a minority of the selection panel (limited to making recommendations on qualified offers and acceptable proposals based on published evaluation criteria) for the contractor selection process.
- ° Must have fulfilled the training experience and workload limitation requirements in Chapter 7 of the EPA Contracts Management Manual.
- ° Are not permitted to participate in the negotiation and award of subagreements.
- ° Are not permitted to use REM contracts to provide any support related to procuring a State contractor.
- ° Can use the Corps of Engineers for review of State bidding documents, requests for proposals and bids and proposals received.

If you have further questions about this memo, please contact Jan B. Wine of the Hazardous Site Control Division, State and Local Coordination Branch at 382-2455.

		United States Environmental Protection Agency Washington, DC 20460		1. Directive Number 9375.1-08	
OSWER Directive Initiation Request					
2. Originator Information					
Name of Contact Person Bobbie Lively-Diebold		Mail Code WH-548E	Office SRCB/HSCD		Telephone Number 302-7992
3. Title Role of EPA Personnel in the State Contractor Selection Process Under a Cooperative Agreement					
4. Summary of Directive (Include brief statement of purpose) Purpose is to define the role of various EPA personnel in the State contractor selection process during State-lead cooperative agreements for Superfund sites. This directive defines the appropriate technical assistance and oversight as well as limitation and requirements for EPA personnel that are providing this assistance.					
5. Keywords Superfund, CERCLA, State Participation, Cooperative Agreement					
6a. Does this Directive Supersede Previous Directive(s)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No What directive (number, title)					
b. Does It Supplement Previous Directive(s)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No What Directive (number, title) 9375.1-04 State Participation in the Superfund Program					
7. Draft Level <input type="checkbox"/> A — Signed by AA/DAA <input type="checkbox"/> B — Signed by Office Director <input type="checkbox"/> C — For Review & Comment <input type="checkbox"/> In Development					
This Request Meets OSWER Directives System Format					
8. Signature of Lead Office Directives Coordinator				Date	
9. Name and Title of Approving Official Henry L. Longest II, Director, OERR				Date 6/18/87	

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DIRECTIVE DIRECTIVE