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# The Public and Construction Grants

Building  
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for Clean Water



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Early involvement by the local people—those who are most directly affected by a particular water pollution control program—is vital if delays and needless controversies are to be avoided. The U.S.

Environmental Protection Agency (EPA) cannot approve Federal funds for a construction project unless the public has had an adequate opportunity to take part in planning that project.

By law, public participation is required in:

- developing a State priority list of wastewater treatment projects;
- developing an areawide waste treatment management plan;
- developing a river basin waste treatment management plan;
- obtaining a permit for discharging treated wastewater into a stream, river, or lake; and
- preparing a wastewater treatment facility plan.

The purpose of broad public participation in water pollution control is to allow government to be more responsive to public concerns and priorities and to help people understand government programs and actions.

This pamphlet is intended to help local government officials understand and meet Federal requirements for public participation in the construction grant process.

ENVIRONMENTAL PROTECTION AGENCY

A major element in the construction grant program is the need for local governments to comply with the public participation requirements in Federal law. This early local involvement is vital to avoid delay in the processing of a community's application for a Federal grant to build sewage treatment facilities, for EPA cannot approve a grant unless the public has had an adequate opportunity to take part in the formulation of the proposed project. Such local participation also helps to head off needless controversy within a community.

Communities planning to build sewage treatment facilities must, of course, meet the requirements of their own State and local laws. Those varying State and local laws contain their own requirements for public involvement—such as public hearings, voter approval of a project or bond issue to finance it, city or county council approval, etc.

But whatever the specific requirements of your own local and State laws, please note that Federal law sets forth specific requirements for public participation in the grant application process.

### **Why Public Participation?**

Citizen involvement—public participation—in government is the stuff that makes our democratic system work. Without public support and cooperation, government programs and laws cannot be effective. This is especially true in pollution control, which often requires changes in attitudes and values in order to break the pattern of business and pollution as usual.

Congress recognized this and in Section 101(e) of the Federal Water Pollution Control Act Amendments of 1972 (PL 92-500), Congress issued a mandate for public participation in the national water cleanup campaign. That section states:

“Public participation in the development, revision, and enforcement of any regulation, standard, effluent limitation, plan, or program established by the Administrator or any State under this Act *shall* be provided for, encouraged, and assisted by the Administrator and the States. The Administrator, in cooperation with the States, *shall* develop and publish regulations specifying minimum guidelines for



public participation in such processes.” (Emphasis added.)

With those sixty-one words, Congress made public participation an integral part of water pollution control—including the construction grant program. As required by the Act, EPA has issued general guidelines for public participation.

In brief, those general guidelines set forth these policies and objectives:

- “Participation of the public is to be provided for, encouraged, and assisted to the fullest extent practicable in water pollution control activities.”
- “The major objectives of such participation include greater responsiveness of governmental actions to public concerns and priorities, and improved popular understanding of official programs and actions.”
- “Although the primary responsibility for water

quality decision making is vested by law in public agencies at the various levels of government, active public involvement in and scrutiny of the intergovernmental decision-making process is desirable to accomplish those objectives.”

- “Conferring with the public after a final decision has been made will not meet the requirements.”
- “The intent of these regulations is to foster a spirit of openness and a sense of mutual trust between the public” and government “in efforts to restore and maintain the integrity of the Nation’s waters.”

Those general guidelines for public participation apply to all levels of government—local and State agencies, and EPA itself—involved in implementing the 1972 law.

In addition to the general guidelines, EPA has also issued specific public participation requirements for various programs established by the 1972 Act.

### **What's Required?**

Here’s how the requirements apply to the construction grant program.

If your community plans to apply for a Federal grant to build a sewage treatment project, it will be directly affected by several specific public participation regulations issued by EPA. For example:

- In order to be considered for a Federal grant, your community’s proposed project must be on your State’s “priority list” of projects eligible for grants. Before your State approves the priority list and submits it to EPA, your State must hold a public hearing on the proposed list. Thus the need for your community’s proposed project will be subject to public review and comment when your State holds its required public hearing on the priority list. Without that public hearing, EPA cannot approve the priority list.
- Your proposed project must conform with a waste treatment management plan developed by an area-wide planning agency and approved by EPA under Section 208 of the Act. Even if an areawide plan has not yet been developed, your proposed project

must be submitted to the areawide planning agency for comment. Public participation is required in the areawide planning program.

- Your proposed project must also be in conformity with any river basin plan developed under Section 303(e) of the Act. Public participation is required in the basin-wide planning program too.

- Public participation is required in the permit program under which your community will be allowed to discharge treated wastewater into a stream, river, or lake.

- And of most immediate concern to a community applying for a Federal construction grant, public participation is required as your community evaluates alternatives and chooses a specific plan to remedy its municipal wastewater pollution problem.

This is the heart of public participation in the construction grant program. It is here, in the preparation of the facility plan, that your local government must seek to involve the public directly at the earliest possible moment.

Specific public participation requirements in the facility planning process are spelled out in the final construction grant regulations issued by EPA.

In brief, those regulations say that:

- Your local government must carry out a public participation program in the facility planning process that is consistent with the general guidelines for public participation published in the *Federal Register* August 23, 1973.

- You should hold one or more public hearings or meetings to obtain public advice at the beginning of the planning process.

- You must invite all government agencies and others known to be concerned about or interested in the plan to participate.

- You must hold a public hearing before adopting a facility plan.

- You must give at least 30 days' notice in advance of the public hearing.

- You must make available to the public information on the water pollution problem and the alternatives considered in the planning process.

- You should send written notice of public hear-

ings to appropriate local and State agencies, to State and local clearinghouses, to appropriate local officials, and to interested individuals and groups.

- And you must, when submitting your proposed facility plan to EPA for approval, summarize the steps you have taken to encourage public participation, provide documentation that you published a notice of the public hearing in a local newspaper, and briefly describe the views expressed at the public hearing, or in writing, on the proposed project.

Those are *minimum* public participation requirements. EPA encourages all local governments to go beyond those minimums, however, to foster a spirit of mutual trust and cooperation between the public and government agencies responsible for controlling water pollution.

No matter how you choose to meet the public participation requirements, it is important to keep in mind the intent of public participation as well as the specific mandatory steps that must be taken.

The fundamental objective should be public contributions and involvement *before* a decision is made on what sort of treatment plant will be built, where it will be located, where the interceptor and outfall sewer lines will be located, etc. Early public participation is essential to public understanding, acceptance, and support of the project. To achieve that objective, your local government should approach public participation in good faith and with a positive attitude.

To begin with, a sewage treatment project should not be developed in a vacuum. Project planners should be familiar with the community's overall goals and aspirations. That means being familiar with the community's growth plans, its park and recreation plans, its housing, population, economic development, highway projections, and environmentally sensitive areas. In theory, if not always in practice, a community's comprehensive plan reflects a consensus of public values and aspirations and evolves from a public participation process of its own. At the outset, therefore, planners of wastewater treatment projects must be thoroughly familiar with their community's comprehensive plan and its land-use and zoning controls. Your sewage treatment project must be planned within the context of your community's overall long-range goals.

At the same time, you should also identify and try to involve groups and individuals concerned about water pollution and other environmental problems in your community, as well as civic groups, neighborhood associations, and others who will be most affected by the project.

This will give you a head start in meeting the public participation requirements. It will also be invaluable in helping you assess the environmental impact of the proposed action and alternatives as an integral part of your facility plan.

You should thus seek help and counsel from environmental organizations, historical and cultural groups, outdoor groups, and others, on the current condition of the environment. Those groups, as well as appropriate local, State, and Federal agencies and colleges and universities in the area, can help answer a variety of questions:

Are there any unique or vulnerable ecological systems in the area? What about significant archeological and historical sites? Parks, wetlands, and scientifically important areas? Flood plains where development may not be acceptable? Esthetically sensitive areas? Socially sensitive areas? Potential controversies?

By seeking that kind of information early in the planning process, you will not only be opening planning to responsible public participation, but you will also be identifying community goals, environmental constraints, and public values. You will be getting information you will need to measure the environmental effects of alternative plans, to identify any unavoidable adverse environmental and social impacts, and to determine public attitudes toward various alternatives.

This process will also serve as an early warning system. It will bring out potentially controversial issues that you might otherwise not be aware of until after the planning is completed. Early involvement of the public may thus spare both the public and local government officials needless controversy.

In short, citizen involvement can and should be part of the basic data gathering that must be undertaken before you can prepare a facility plan and the required assessment of the plan's impact on the environment.

The greater the public participation before the required public hearing on alternative plans, the



greater the likelihood that the alternatives will be realistic; that each alternative will be properly weighed against community goals and environmental constraints; that the anticipated benefits and costs and environmental and social effects of each alternative will be properly spelled out; that the concerned public will know the trade-offs involved; and that a proper decision will be made and supported by the public.

### **How Do You Do It?**

Let's assume now that your community is ready to proceed. You've identified your municipal wastewater pollution problem. You've gotten your community on your State's priority list, thus making you eligible to apply for a construction grant. You've retained a qualified consulting firm to help plan the project. You and your consultant have held an informal pre-application conference with State and EPA representatives.

How do you go about getting the public involved?

There are many ways of involving the public in the business of government, which is, after all, the public's business. If you are an elected public official, you undoubtedly are familiar with a variety of techniques to reach the public. And you may well have approaches not covered here.

But as a checklist if nothing else, here are some of the ways communities across the Nation have involved the public in the construction grant process. Note that the public participation steps required by Federal laws are included in the checklist. Note too that some of the techniques that follow—except the required steps, of course—may not be applicable in your community.

Whatever techniques you use, level with the public. Explain the need for the new treatment facilities.

At any rate, here's what the Mayor, the County Executive, or the head of your community's sewage treatment agency can do to encourage and assist public participation in the grant process:

- Identify concerned organizations and individuals.
- Appoint a representative citizen advisory committee to advise you throughout the planning and construction of the project.
- Plan to hold an informal public meeting at which you will outline the water pollution problems of

the community, discuss the planning process, and invite public suggestions.

- Send a press release to your local newspapers, television and radio stations—and to interested groups and individuals—in advance of the public meeting.
- Hold the public meeting. Make note of the names and addresses of all who attend. Make a summary of the meeting.
- As planning progresses, send follow-up releases and other educational material to the press, to concerned groups and individuals, and to those who attended the public meeting.
- Seek invitations to speak at meetings of various civic organizations.
- Prepare a film or slide show on your community's water quality problems and possible solutions.
- Prepare exhibits and display them at city hall, in public libraries, and in other public buildings.
- Invite recommendations from concerned groups, individuals, and the public at large.
- Send out mail questionnaires to determine citizen attitudes on the water pollution cleanup program.
- Hold periodic meetings with your citizen advisory committee to keep members up-to-date on progress and problems.
- Give careful consideration to public suggestions and comments.
- Schedule the public hearing on alternatives presented in the facility plan. Check to avoid conflicts with other events in your community that might attract your potential audience.
- Send out public notice of the hearing at least 30 days in advance of the hearings. (This is required.) Send the hearing notice to all concerned groups and individuals you've identified earlier. (This too is required.) Send the notice to the press. Place an ad or legal notice in the local newspaper announcing the hearing date, time, and place.
- Make information on the alternatives available to the public in advance of the hearing. (This is required. You must make the information available at least 15 days before the hearing; if possible, try to make it available at least 30 days in advance.) At a minimum, the hearing notice must tell the

public where copies of the material to be discussed at the hearing may be examined in advance. If possible, make extra copies and send them to concerned groups and individuals well in advance of the hearing.

- Hold the hearing. (More on this later.)
- After the public hearing—and before you select the alternative to be recommended in the facility plan—carefully study suggestions made by the public at the hearing and in written comments. Keep in mind that public acceptability is vital. That does not mean that total consensus is necessary. It does mean that the plan finally chosen should be generally acceptable to the public, especially to those segments of the public that will be most affected by the project. If any aspects of the project are especially controversial, discuss them with your advisory committee and with the groups or individuals most concerned. (As Abraham Lincoln once said, “public opinion is everything. With public sentiment nothing can fail; without it, nothing can succeed.”) Then make your decision.
- Make a transcript of the public hearing. (This is required; you must make the document available to the public for review, and if anyone wants a copy, you must make it available at cost. It need not be a literal “court reporter” type but it must be an accurate summary of proceedings.)
- Finally—and this too is required—a summary of all public participation steps taken throughout the process must be submitted with the facility plan to the State and to EPA.

By approaching public participation in a positive manner, that will pose no problem, for you will have built an enviable record of public involvement. And while early and continuing public involvement will not guarantee that the plan selected will not be controversial, it will dramatically increase the chances that the plan finally selected will have widespread public support.

It is especially important during the whole process that you explain the benefits, the total and local costs, and the environmental impacts of all alternatives. Seek suggestions from the public on how to minimize or avoid adverse impacts and how to accommodate group and community goals while at the same time achieving the necessary water pollution cleanup.

Throughout this procedure, give the public access to all available information. The better the public is informed, the more responsible it will be. And in public presentations and written materials, avoid technical language and jargon wherever possible. So be sure to translate the complex and technical language of the sewage treatment industry into language that can be understood by intelligent but non-technically trained adults.

### **About Public Meetings and Hearings**

Local and State laws may require a set format for a local government's formal public hearing on a facility plan. If so, the Federal requirement that a public hearing be held before a plan is selected can probably be satisfied by the hearing required under State or local law, providing other Federal requirements are met too.

Federal laws and regulations do not set hard and fast rules for the conduct of the required public hearing, however. As far as EPA is concerned, the required public hearing—and any informal public meetings held earlier—should be informational and educational. Rules and procedures are necessary, of course, to keep order and to expedite the hearing. But the hearing should be as informal as possible to encourage attendance and participation.

Interested persons may well come to the hearing with a prepared statement. But written statements should not be required. Nor should advance notice be required as a condition for attendance or participation. (There's no harm in requesting notice of intention to speak at the hearing, however; that will give you an indication of how much time to allow for the hearing.)

Presentations, speeches, and remarks by local government officials should be complete—but they should also be as brief as possible to allow as much time as necessary for comments, questions, and suggestions from the public. The hearing should be approached and conducted as an opportunity for the public and the local government to learn from each other. Try to respond to all questions. If you don't have the answer at hand, tell the questioner you will get the information and send it along as soon as possible.

If possible, the hearing should be held in the evening or on a weekend to give the greatest number of people an opportunity to attend. Registration fees or other charges must not be levied as a condition for attending and participating. Whenever possible, the hearing should be held in a location accessible by public transportation.

If the project covers a large and heavily populated area, the local government should consider holding more than one hearing in different locations within the project area.

The local government should be well prepared for the public hearings. Make plans in advance. Prepare an agenda. Decide who will chair the hearing, who will present the alternative plans, who will operate the slide projector (if you're using one), who will prepare and set up exhibits, who will record and stenotype the proceedings, etc. Detailed advance planning is essential for a successful public hearing.

Finally, don't be disappointed if only a few people turn out for the hearing. In the absence of controversy, many public hearings on proposed facility plans are attended by only a few dedicated souls. Moreover, a thorough public education and information program may satisfy many members of the public in advance and make them decide not to attend the hearing.

The important point is not how many bodies show up but you well you have given the public an opportunity to get involved from the very beginning.

#### **A Final Note**

Local governments must meet other public participation requirements during the construction grant process.

EPA regulations concerning the procurement by local governments of professional services under a construction grant require communities with a population of more than 25,000 to give public notice before retaining outside consulting services from architects and engineers. These regulations also require formal advertising for bids on the construction of the project and public opening of the bids.

In addition, if a project involves the acquisition of land and the relocation of people, the local gov-

ernment must provide "an opportunity for presentation of information and discussion of relocation services and payments at public hearings, prepare a relocation brochure, and give full and adequate public notice of the relocation program for each project." And in areas where "a language other than English is predominant, public information shall be published in the predominant language as well as in English."

Before issuing a construction grant for a project, EPA requires an environmental assessment as an integral part of the facility plan. EPA then reviews the facility plan to determine whether significant adverse environmental impacts or other factors require preparation of an Environmental Impact Statement. When EPA prepares an EIS, it is made available to the public for review and comments. The Agency may also hold a public hearing in the community on the impact statement.

### **Using Land Disposal?**

If your community's proposed treatment project involves land application of treated wastewater, you should get a copy of EPA's Technical Bulletin 430/9-75-001, issued in 1975, on "Evaluation of Land Application Systems." That bulletin says:

"To ensure that the best system is selected by the decision-makers, all aspects of the alternatives should be made available for public review and evaluation, including the engineer's recommendation. Re-evaluation and modification of the plans may be necessary before a system is selected and general acceptance is received."

The bulletin also says: "The establishment of an extensive public information program at the earliest possible time is wise, especially when alternatives under consideration may be controversial. Public involvement to the maximum possible extent should be sought, with feedback to planners and decisionmakers. In many cases, public opposition to proposed land-applications systems can be related to lack of knowledge or understanding of the fundamentals involved. Consequently, a well-planned information and education program is highly desirable, and in many cases, required."

A copy of Technical Bulletin 430/9-75-001 is available from your EPA Regional Office.

But over and above the minimum legal requirements for public participation imposed on local governments, States, and EPA itself, remember that public participation and water pollution control are continuing processes. To make government responsive to public concerns and priorities, and to improve public understanding and support of government programs and actions to combat water pollution, public participation should be viewed as a continuing, positive process.

Merely paying lip service to public participation is not enough. That would be contrary to the intent of Congress. And it would be self-defeating, for EPA may reject a grant application if the steps taken by a local government to encourage and assist public participation have been inadequate. Or EPA may require the local government to hold additional public hearings if concerned interests have not been given adequate opportunity to present their views.

Inadequate public participation can only delay attainment of the national goal of restoring and maintaining the integrity of the Nation's waters. And it can only further diminish the public's estimate of government credibility.

**Note:** The full text of general regulations concerning public participation in water pollution control was published in the *Federal Register* August 23, 1973. Also, final construction grant regulations, published in the *Register* February 11, 1974, included requirements on public participation (Section 35.917-5). Both these documents are available free upon request from EPA's ten Regional Offices and also from EPA's Public Information Center (PM-215), Washington, D.C. 20460.

Following are the addresses and telephone numbers of the Agency's Regional Offices and the States included in each Region.



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Address	States Covered
<b>EPA Region 1</b> Room 2303 JFK Federal Building Boston, MA 02203	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont
<b>EPA Region 2</b> Room 1005 26 Federal Plaza New York, NY 10007	New Jersey, New York, Puerto Rico, Virgin Islands
<b>EPA Region 3</b> Curtis Building 6th and Walnut Streets Philadelphia, PA 19106	Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia
<b>EPA Region 4</b> 345 Courtland St., NE Atlanta, GA 30308	Alabama, Georgia, Florida, Mississippi, North Carolina, South Carolina, Tennessee, Kentucky
<b>EPA Region 5</b> 230 South Dearborn Street Chicago, IL 60604	Illinois, Indiana, Ohio, Michigan, Wisconsin, Minnesota
<b>EPA Region 6</b> 1201 Elm St. Dallas, TX 75270	Arkansas, Louisiana, Oklahoma, Texas, New Mexico
<b>EPA Region 7</b> 1735 Baltimore Street Kansas City, MO 64108	Iowa, Kansas, Missouri, Nebraska
<b>EPA Region 8</b> Suite 900 1860 Lincoln Street Denver, CO 80203	Colorado, Utah, Wyoming, Montana, North Dakota, South Dakota
<b>EPA Region 9</b> 100 California Street San Francisco, CA 94111	Arizona, California, Nevada, Hawaii
<b>EPA Region 10</b> 1200 Sixth Avenue Seattle, WA 98101	Alaska, Idaho, Oregon, Washington