Office of Inspector General

AUDIT REPORT

# BETTER PLANNING AND ORGANIZATIONAL CHANGES COULD IMPROVE REGION 8'S TRIBAL PROGRAM

E1XMF4-08-0036-5100141

January 23, 1995

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| Inspector General Division Conducting the Audit: | Central Audit Division Kansas City, Kansas |
| Region Covered: | Region 8 |

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January 23, 1995

MEMORANDUM

SUBJECT: Better Planning and Organizational Changes Could Improve Region 8's Tribal Program
Report Number E1XMF4-08-0036-5100141

FROM: Nikki L. Tinsley
Divisional Inspector General
for Audit

TO: William P. Yellowtail
Regional Administrator
Region 8

Attached is our report entitled "Better Planning and Organizational Changes Could Improve Region 8's Tribal Program." The report contains recommendations on assessing Tribal environmental needs, developing program plans, measuring accomplishments, and effectively organizing the Tribal program. We discussed our findings with you and your staff and issued a draft report. We summarized your comments to the draft report and included your complete response as Appendix II to the report.

Because your response to our draft report agreed with the findings and recommendations and included an action plan with milestone dates, we will close this report in our tracking system upon issuance. Therefore, you need not respond to this final report.

We appreciate the cooperation you and your staff provided throughout the audit. We especially appreciate your personal interest and timely action taken by the region to address many of the issues raised during the audit. I believe the way our offices worked together to identify problems and develop realistic solutions demonstrates a shared commitment to improving program operations and effectiveness.

The purpose of our audit was to determine if Region 8's Tribal program effectively supported the Environmental Protection Agency's (EPA) policy to enhance environmental protection on Tribal lands. Our specific objectives were to determine whether Region 8:

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-- and EPA Headquarters policies and goals were consistent,

-- had an effective means of measuring program accomplishments,

-- had provided adequate resources to protect the environment on Tribal lands, and

-- was organized to efficiently and effectively provide technical assistance and oversight of Tribal environmental programs.

This audit report contains findings that describe problems the Office of Inspector General (OIG) has identified and corrective actions the OIG recommends. This audit report represents the opinion of the OIG. Final determinations on matters in this audit report will be made by EPA managers in accordance with established EPA audit resolution procedures. Accordingly, the findings described in this audit report do not necessarily represent the final EPA position.

We have no objections to the release of this report to the public.

If you or your staff have any questions, please contact me at (913) 551-7824 or Jeff Hart, Audit Manager in our Denver office, at 294-7520.

Attachment

## EXECUTIVE SUMMARY

### PURPOSE

The Environmental Protection Agency (EPA) issued its Policy for the Administration of Environmental Programs on Indian Reservations (Indian Policy) in 1984. In 1991, Tribal representatives in Region 8 were concerned that EPA had not developed a road map to guide Tribal environmental program implementation. In 1992, EPA's National Program Manager for Tribal activities recognized the potential for problems with EPA's Tribal program in his Federal Managers' Financial Integrity Act Annual Assurance Letter. In 1992, Region 8 reported its Tribal program as vulnerable and in 1993 it still had concerns because it could not provide Indian Tribes (Tribes) with adequate technical assistance to manage their environmental programs.

The purpose of our audit was to determine if Region 8's Tribal program effectively supported EPA's policy to enhance environmental protection on Tribal lands. Our specific objectives were to determine whether Region 8:

- -- and EPA Headquarters policies and goals were consistent,
- -- had an effective means of measuring program accomplishments,
- -- had provided adequate resources to protect the environment on Tribal lands, and
- -- was organized to effectively and efficiently provide technical assistance and oversight of Tribal environmental programs.

Region 8's Regional Administrator and program managers supported our audit and have been enthusiastic about improving the effectiveness of the Region's Tribal program. They have worked with us to clarify issues and identify reasonable and implementable solutions to improve the program.

## BACKGROUND

There are 27 Indian reservations in Region 8 covering an estimated 25 million acres, about 6.8 percent of Region 8's total land area. In fiscal 1994, Region 8 invested an estimated 26 staff years to implement Tribal programs. In August 1994, the Regional Administrator established the Region's Tribal program as one of the Region's top three program priorities. The Regional Administrator and senior managers are considering organizational options that would focus staff resources on Tribal programs, consolidate staff that work with Tribes into a single unit, and establish overall program management responsibility. While detailed planning for a Region-wide reorganization continued, the Region created an interim work group headed by the interim Regional Tribal Coordinator to implement the Tribal program.

Important underlying principles of EPA's Indian Policy are the Federal Government's trust responsibility to Tribes, and State and Tribal jurisdictional issues regarding authority to implement environmental programs on Tribal lands. The Federal Government's general trust relationship with Tribes requires Federal agencies to consider the best interest of Tribes when establishing policies and making decisions that affect Tribes. Jurisdictional issues often require that EPA work with States and Tribes in a mediative fashion for environmental protection on reservations. EPA's Indian Policy stated it would give special consideration to Tribal interests in making EPA policy, and ensure the close involvement of Tribal governments in making decisions and managing environmental programs affecting Tribal lands.

## RESULTS IN BRIEF

During our audit, EPA Headquarters and Region 8 took significant steps toward implementing a Tribal program that supported EPA's policy to enhance environmental protection on Tribal lands. Appointing a Regional Tribal Coordinator, establishing a Regional Tribal Work Group, initiating Tribal policy papers, considering reorganization options, and investing an estimated 26 staff years in Tribal environmental programs indicated a serious commitment to improve Tribal programs. However, Region 8's efforts were not as effective as they could have been because it had not developed a comprehensive Tribal environmental needs assessment or a Regional workplan to address Tribal environmental needs,

efficiently organized its Tribal staff, allocated adequate travel or grant resources to support Regional priorities and Tribal goals, or developed specific and quantifiable performance measures to evaluate program accomplishments. As a result, the Region did not have a road map for the efficient and effective use of Regional resources. Also, Region 8's organizational structure did not focus adequate attention on Tribal issues or permit sufficient technical assistance and oversight.

## PRINCIPAL FINDINGS

### REGION 8 SHOULD IDENTIFY ENVIRONMENTAL NEEDS, DEVELOP PROGRAM PLANS, AND MEASURE ACCOMPLISHMENTS

Region 8's strategic plan and draft policy papers were consistent with and supported EPA's Indian Policy but the Region had not performed a comprehensive Tribal environmental needs assessment, established a Regional workplan, provided sufficient travel or grant resources, or developed meaningful performance measures. Region 8's strategic plan and policy papers were not supported by a workplan that described how it would accomplish its goals for Tribal environmental programs. Regional staff could not accomplish program goals because the Region had not provided sufficient travel funds for technical assistance and had not provided adequate grant funds. Also, Region 8 had not identified time specific, quantifiable performance measures. Without clear, measurable goals, the Region could not effectively evaluate progress toward protecting the environment on reservations.

### ORGANIZATIONAL CHANGES COULD IMPROVE TRIBAL PROGRAM EFFECTIVENESS

Organizational changes could improve the efficiency and effectiveness of Region 8's Tribal program. Region 8's organizational structure did not focus adequate attention on Tribal issues or permit efficient and effective Tribal program technical assistance and oversight. Even though the Region appointed a Tribal Coordinator and established a Regional Tribal Work Group, it had not clearly identified who had responsibility to carry out EPA's Indian Policy. In addition, the Region did not have a focal point for Tribes or a central point of program and resource accountability that was adequately familiar with Tribal issues, operations, and

environmental needs. Tribal representatives were frustrated with the Region's organization and the limited amount of time Regional staff had to provide technical assistance.

## RECOMMENDATIONS

Region 8's Tribal program requires improvements to more effectively support EPA's policy to enhance environmental protection on Tribal lands. The Regional Administrator needs to take steps to assess Tribal environmental needs, develop Tribal workplans, and establish time specific and quantifiable performance measures. The Regional Administrator should allocate travel resources, grant funds, and full-time staff to provide Tribal technical assistance commensurate with the Region's priority for Tribes. Also, the Regional Administrator needs to establish a central point of management accountability for the Tribal program.

## EPA COMMENTS AND OIG EVALUATION

The Region agreed with all our findings and had implemented or had specific plans to implement all our recommendations. The Office of Inspector General agreed with the Region's response.

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# CHAPTER 1

# INTRODUCTION

## PURPOSE

The Environmental Protection Agency's (EPA) Policy for the Administration of Environmental Programs on Indian Reservations (Indian Policy), issued on November 8, 1984, and included as Appendix I, committed EPA to work with Indian Tribes (Tribes) on a "government-to-government" basis. Even so, progress on Tribal lands has been slow. In 1991, Tribal representatives in Region 8 reported that they were concerned about EPA's progress because EPA had not developed a road map to guide environmental protection programs for Tribes. In 1992, both Region 8 and EPA's National Program Manager for Tribal activities reported potential problems with EPA's Tribal program in their Federal Managers' Financial Integrity Act Annual Assurance Letters. In 1993, Region 8 again reported it had concerns about its Tribal program because it could not conduct management assistance reviews or provide Tribes with adequate technical assistance to manage their environmental programs. During our audit, EPA Headquarters and Region 8 took significant steps toward improving Tribal environmental protection.

The purpose of our audit was to determine if Region 8's Tribal program effectively supported EPA's policy to enhance environmental protection on Tribal lands. Our specific objectives were to determine whether Region 8:

- -- and EPA Headquarters policies and goals were consistent,
- -- had an effective means of measuring program accomplishments,
- -- had provided adequate resources to protect the environment on Tribal lands, and
- -- was organized to efficiently and effectively provide technical assistance and oversight of Tribal environmental programs.

BACKGROUND

EPA administers Federal statutes that provide for the protection of public health, welfare and the environment on all lands of the United States. Under major environmental statutes, EPA has established a national system for pollution prevention, abatement, and control. It has established regulatory procedures for setting standards, permitting, gathering information including inspections, and enforcement for facilities and operations that may impact environmental quality.

There are over 500 Tribes in the United States, including 226 Alaskan Tribes. Tribal governments have responsibility for managing and/or regulating about 100 million acres of Tribal-owned and individual trust land, about 4.4 percent of the United States land area. In fiscal 1993, EPA expenditures to implement its Tribal program totaled approximately $33 million.

There are 27 Indian reservations in Region 8 covering an estimated 25 million acres, about 6.8 percent of Region 8's total land area. In fiscal 1993, Region 8 invested about $4 million in grant funds to implement Tribal programs. In fiscal 1994, the Region invested an estimated 26 staff years working with Tribes.

The purpose of Region 8's strategic plan is to identify the Region's priorities, bring cohesion and common direction to the programs the Region administers; and guide planning, resource allocation, and decision making processes toward achieving program goals. Building Tribal expertise was one of the Region's fiscals 1992-1996 strategic plan priority areas. Region 8's goal was to place a Tribal or Federal environmental program at each reservation. In August 1994, the Regional Administrator established the Region's Tribal program as one of the Region's top three program priorities.

Region 8's work with Tribes has been guided by EPA's Indian Policy and EPA's Indian Policy Implementation Guidance (Implementation Guidance), both issued on November 8, 1984. In carrying out its responsibilities on Tribal reservations, the fundamental objective of EPA is to protect human health and the environment. The Indian Policy is based on the principles of Indian "self-government" and "government-to-government" relations between the Federal Government and Tribal governments. The Indian Policy states that EPA will:

-- work directly with Tribal governments and recognize Tribal governments as the primary parties for setting standards, making environmental policy decisions, and managing programs for reservations; and

-- take affirmative and appropriate steps to encourage and assist Tribes in assuming regulatory and program management responsibilities and to remove legal and procedural impediments to working directly with Tribal governments.

The Implementation Guidance established nine steps and activities that regions and program offices should implement to accomplish EPA goals. The Implementation Guidance recognized that EPA must allocate resources to meet Tribal environmental needs and encouraged Tribal involvement in setting environmental standards, making policy, determining Tribal environmental needs, and establishing long-term goals. It stated that EPA must work cooperatively with Tribes to achieve Tribal compliance with environmental laws and regulations. The Implementation Guidance recognized that much of the same work EPA did with States to create regulatory and management capabilities must now be done with Tribes.

Although EPA's Indian Policy recognized Tribal governments as sovereign entities with primary authority and responsibility for the reservation, environmental statutes in 1984 generally did not explicitly address the role of Tribes in environmental management. Subsequently, three of these statutes (the Clean Water Act, the Safe Drinking Water Act, and the Clean Air Act) had been amended to authorize Tribes to manage environmental programs that affect the reservation and its people. The Resource Conservation and Recovery Act treats Tribes as municipalities while other environmental statutes describe a limited Tribal role in environmental management.

Federal Government's Trust Responsibility

The Federal Government has a general trust relationship with Tribes that shapes Federal policy and requires that Federal Government decisions consider the best interests of the Tribes. EPA's responsibilities for Tribes are defined by the statutes EPA administers, according to EPA's Office of General Counsel. The statutes require that EPA ensure that

Federal environmental programs are implemented and enforced in a manner that will satisfy the statutory goals of protecting public health and the environment.

Jurisdiction on Reservations

Both the Federal Government and the Tribal government have jurisdiction on Tribal lands although Tribal governments are commonly the governing authority. States generally have no authority over Tribal governments unless expressly granted by Congress and consented to by Tribes. However, jurisdiction over non-Indians and non-Indian land within the boundaries of reservations is a difficult political and legal issue. Because many reservations contain parcels of land owned by non-Indians, EPA recognized that jurisdictional disputes between Tribes and States could be complex and difficult. In some circumstances, EPA recognized it would need to address disputes between Tribes and States by attempting to work with the parties in a mediative fashion. Because most environmental problems are mobile (e.g., air, water), jurisdictional authorities are interdependent. As a result, it is imperative that all parties work cooperatively for environmental protection. Region 8 recognized the importance of settling jurisdictional disputes and drafted a policy defining the Region's position on these difficult jurisdictional issues. At the conclusion of our audit, EPA Headquarters, Tribes, States and other interested parties were reviewing the draft policy.

Initiatives to Strengthen Tribal Environmental Protection

During 1994, EPA took significant steps toward improving Tribal environmental protection and its communications with Tribes. In February, EPA's Administrator directed a group of senior EPA managers to work with Tribal representatives to develop ways to strengthen EPA's Tribal environmental programs and daily operations. In March, the Administrator reaffirmed EPA's Indian Policy and made a commitment to fully institutionalize the Indian Policy into EPA's planning and management activities. In May, at the Second National Tribal Conference on Environmental Management, the Administrator announced her intent to create a new Office of Indian Affairs. In July, the Administrator issued a Tribal Operations Action Memorandum stating that each Assistant and Regional Administrator needed to make difficult resource allocation decisions in order to promptly implement the nine actions outlined in the memorandum. In October, EPA

Headquarters transferred Tribal program management to its new Office of Indian Affairs located in the Office of Water.

Regional Tribal Program Structure

During our audit, Region 8 embarked on a plan to reorganize the entire Regional office including a restructuring to facilitate working with Tribes. The Region was considering organizational options that would focus staff resources on Tribal programs and align its Tribal program organization better with that of EPA Headquarters. One of the options it was considering consolidates personnel that work with Tribes into a single unit with overall program management responsibility.

Region 8's Tribal Coordinator and General Assistance Program project officer are located in the Office of External Affairs. Responsibility for administering specific programs such as water, air, and waste are managed by Regional program officials who provide technical assistance, direct Federal implementation and program development, and oversee grants Tribes use to develop and manage their own environmental programs. In October 1994, while detailed planning for the Region-wide reorganization continued, the Region created an interim work group headed by an interim Regional Tribal Coordinator. The group is responsible for implementing the Tribal program until the Region makes final reorganization decisions.

SCOPE AND METHODOLOGY

We performed our fieldwork from January 1994, through October 1994. We evaluated Region 8's Tribal program policies and plans, organizational structure, Tribal resource commitment, and general Tribal program management activities primarily during fiscals 1991 through 1994.

To determine whether Region 8 and EPA Headquarters had consistent policies and goals and a means for measuring accomplishments, we compared EPA's Indian Policy with the Region's fiscals 1992-1996 and fiscals 1995-1999 strategic plans and three draft Tribal policy papers. We reviewed strategic plans and draft policy papers to determine whether the Region developed specific and quantifiable performance measures based on goals and objectives. We interviewed Region 8 managers and project officers with responsibilities

related to Tribes to determine whether the Region had conducted environmental assessments and prepared workplans to address Tribal environmental needs.

To determine whether Region 8 provided adequate financial resources to protect the environment on Tribal lands, we obtained and consolidated data from Region 8's grants administration personnel and project officers on the number, type, and amount of environmental grants awarded to Tribes in Region 8 for fiscals 1988 through 1994. We obtained some of our information from the Grants Information Control System and from the Integrated Financial Management System. We did not assess controls over these automated systems because the information obtained did not significantly impact our audit results. We evaluated information from Region 8 project officers on how Regional programs awarded grants and the selection process that they used to distribute grant funds. We interviewed EPA Headquarters and Regional budget staff to obtain information on how the budget process worked including limitations, restrictions, and options for the Regional Administrator regarding distribution of travel, grant, and personnel funds.

To determine whether Region 8 was organized to efficiently and effectively provide technical assistance and oversight of environmental programs on Tribal lands, we interviewed 8 Region 8 managers and 12 project officers to obtain information on their duties and activities. We reviewed fiscal 1994 performance agreements for 4 supervisors, 24 project officers, and 5 grants specialists to identify Tribal activities for which these individuals were responsible and accountable. We reviewed Region 8's and Tribes' performance reports and evaluations to determine if Tribes were accomplishing the goals and tasks set out in their grant agreements.

We visited four reservations in Region 8 to obtain information on Region 8's oversight and technical assistance. We selected the four Tribes because together they included a variety of grant types, were geographically dispersed, and were at different stages of program development. We interviewed Tribal representatives at the four reservations and obtained information on their progress in implementingenvironmental programs and the Region's efforts to facilitate program development.

We reviewed Regional project files and Tribal project files to determine the effectiveness of communication with the Region. We also reviewed Region 8 grants administration files and project officers' files to obtain fiscals 1992 through 1994 Regional evaluations, and fiscals 1991 through 1994 Tribal status reports. We interviewed Tribal and Region 8 representatives and reviewed correspondence from Tribal and Regional files to assess whether Tribes were obtaining sufficient technical assistance, guidance, and feedback from the Region. We surveyed Regional staff to determine the number of staff that worked with Tribes and the amount of time each spent on Tribal activities.

We reviewed Region 8's Federal Managers' Financial Integrity Act documentation to determine whether the Region identified any vulnerabilities or weaknesses with its Tribal program and the actions it took to reduce vulnerabilities. We reviewed the Region's fiscals 1992 and 1993 Reports on Management Controls, fiscals 1992 and 1993 management control reviews, and the Region's plan to conduct management assistance program/oversight reviews of selected Tribes through fiscal 1995. We reviewed EPA's fiscal 1994 Management Integrity Guidance to determine if Region 8 managers applied EPA's Management Integrity Principles to the Region's Tribal program. One of the Integrity Principles states that managers should develop strategies, policies, guidance, procedures, and performance measures. This report includes recommendations directed toward weaknesses in Region 8's plans, policies, and performance measures supporting Tribal program implementation.

We conducted the audit in accordance with Government Auditing Standards (1988 Revision) issued by the Comptroller General of the United States. No other issues came to our attention that we believed were significant enough to warrant expanding the scope of the audit.

## PRIOR AUDIT COVERAGE

Neither Office of Inspector General (OIG) nor the U.S. General Accounting Office issued any reports addressing EPA's Tribal program. However, a September 1994 OIG report entitled, "Implementation of the Leaking Underground Storage Tank Program on American Indian Lands," reported that EPA's leaking underground storage tank program on Tribal lands had not been effectively implemented on a nationwide basis. The

report recommended that EPA establish a consistent leaking underground storage tank program on Tribal lands that included national goals, priorities, policies, and performance measures.

## CHAPTER 2

## REGION 8 SHOULD IDENTIFY ENVIRONMENTAL NEEDS, DEVELOP PROGRAM PLANS, AND MEASURE ACCOMPLISHMENTS

Region 8's strategic plan and draft policy papers were consistent with and supported EPA's Indian Policy but the Region had not performed a comprehensive Tribal environmental needs assessment, established a Regional workplan, provided sufficient travel or grant resources, or developed meaningful performance measures. The Region needed to identify Tribal environmental problems so it could establish realistic environmental goals and strategies for achieving goals. EPA's Indian Policy and its Implementation Guidance provided a basis for Region 8 to develop a workplan that would provide a road map for the consistent and efficient implementation of its Tribal program. However, Regional plans and policies were not supported by a workplan that described how it would accomplish its goals for Tribal environmental programs. Regional staff could not accomplish program goals because the Region had not provided sufficient travel funds for technical assistance and had not provided sufficient grant funds. Also, the Region had not identified time specific, quantifiable performance measures. Without clear, measurable goals the Region could not effectively evaluate progress toward protecting the environment on reservations.

### EPA HEADQUARTERS PROVIDED TRIBAL PROGRAM DIRECTION

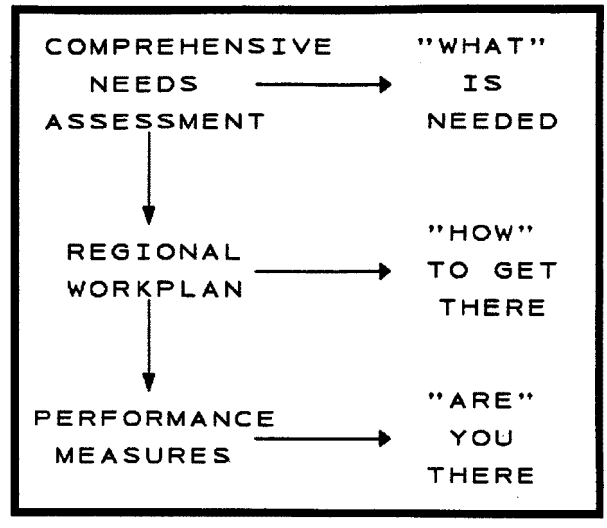
Both the Indian Policy and Implementation Guidance provided clear principles and actions to address environmental problems on Indian reservations. The Indian Policy consolidated and expanded on existing EPA Indian policy statements and required that managers work on priority problems on reservations. The Implementation Guidance required that Regional Administrators assist Tribal governments in program development and to consider Tribal concerns and needs. The Indian Policy stated that EPA would incorporate Indian Policy goals into its planning and management activities including its budget, operating guidance, legislative initiatives, management accountability system and ongoing policy and regulation development processes. In order to implement the Indian Policy, each Regional office needed to develop specific plans and procedures to accomplish EPA goals for Tribes.

The Administrator's Action Memorandum guides Tribal program development. The Administrator's first action item requires Regional Administrators to work with Tribes to:

> establish a base description of the types of environmental problems and priorities Tribes face and then formulate specific workplans for responding to the problems.

The second action item requires that Assistant and Regional Administrators establish strategies for achieving the goals outlined in the Tribal environmental workplans and that workplans include "...specific program implementation and management activities, technical assistance and education...."

EPA's Management Integrity Principles, dated June 6, 1994, require that each National Program Manager and Regional Administrator develop written strategies, policies, guidance, procedures, and performance measures to reasonably assure the integrity of EPA programs.




PROGRAM MANAGEMENT PROCESS

The figure depicts a three step program management process the Region could follow to address Tribal environmental protection. First, the Region should assemble a comprehensive environmental needs assessment to identify the extent of Tribal environmental problems. Second, the Region should develop a workplan to address solving the problems. The workplan should identify priority areas and provide a road map to accomplish environmental goals. Third, the Region should develop specific performance measures to evaluate progress in achieving goals.

## REGION 8 NEEDED TO DEVELOP A COMPREHENSIVE TRIBAL ENVIRONMENTAL NEEDS ASSESSMENT

Neither Tribes nor Region 8 had an accurate assessment of Tribal environmental needs. Region 8 had not developed a comprehensive Tribal environmental needs assessment that consolidated the environmental needs of all Tribes in the Region. Some Tribal environmental needs have been identified in several different assessments, studies, and reports; and Regional project officers were knowledgeable of Tribal needs within specific programs. However, prior assessments were not complete, objective, up-to-date, or comprehensive and the Region had not compiled the information into a comprehensive environmental needs assessment.

Tribal representatives needed Region 8's help to determine environmental priorities on reservations. Tribes needed the Region's help to sort out issues and set priorities for Tribal action on environmental matters, according to one Tribal environmental needs assessment report. In another evaluation report, the Tribe wrote that, "we need to sit down with EPA officers and develop a broad scale strategic plan for environmental protection...." A 1994 memorandum summarizing comments to a draft Federal Register notice on improving EPA's Tribal program operations identified that a needs assessment would provide a foundation of information upon which Tribal workplans could be built.

EPA's General Assistance Program provided a vehicle for Tribes to conduct environmental needs assessments for their reservations. Tribes can perform comprehensive assessments with General Assistance Program funds (called the multi-media assistance program prior to fiscal 1994). The General Assistance Program's primary purpose was to provide funds to help Tribes develop a core environmental program. One Tribe used its multi-media program funds to conduct a comprehensive assessment and begin a plan of action. The Tribe's Comprehensive Environmental Protection Program report identified its most significant environmental problems, developed a plan to address them, and established timeframes to accomplish its plan. Other Tribes could use General Assistance Program funds in a similar way to form the basis for a comprehensive environmental needs assessment.

Region 8 acknowledged that it needed a comprehensive Tribal environmental needs assessment and an action plan to estimate future resource requirements. Project officers stated that

to ensure Region 8 addressed the highest priorities first, it needed to assess problems on reservations and develop action plans to correct any problems found. The Regional Tribal Coordinator acknowledged Region 8 did not have an accurate inventory of environmental needs and priorities on reservations.

## REGION 8 NEEDED A WORKPLAN AND SUFFICIENT TRAVEL AND GRANT RESOURCES

Without a comprehensive environmental needs assessment for each reservation, the Region could not effectively develop a workplan or determine its resource requirements. While the Region established goals, objectives, and actions it had not developed a workplan to address its Tribal program goals or provided sufficient travel or grant resources to achieve its goals. It needed a workplan that included specific program implementation and management activities and established strategies for achieving goals and addressing Tribal environmental problems. Region 8's three draft policy papers supported EPA's Indian Policy but did not provide a road map describing how the Region would solve specific Tribal environmental problems. Tribes did not receive adequate technical assistance to build Tribal expertise because Regional staff did not have sufficient travel funds to visit reservations. The Region recognized that Tribes could not adequately implement some environmental programs because the Region did not provide sufficient grant funds.

### Region 8 Needed a Workplan to Implement Its Tribal Goals

While Region 8 did not have a workplan to direct how it would build Tribal expertise, it did draft three policy papers to provide consistency among the Regional program divisions and offices for implementing the Indian Policy. According to the Region 8 Senior Policy Analyst working on Tribal issues, the draft policy papers were also intended to help coordinate activities between the Regional Tribal Coordinator and the program offices. The policy papers did not alleviate the need for a Regional workplan. While individual Tribal projects addressed individual environmental concerns, this approach was inefficient without comprehensive environmental planning and coordination among program offices, according to one project officer. A workplan should comprehensively describe how to address environmental concerns at each

reservation, prioritize tasks, and describe how program managers would work efficiently as a team.

The Regional policy papers addressed three issues: (1) building Tribal government capacity to manage environmental programs, (2) protocol when working with Tribes, and (3) environmental program responsibilities and jurisdiction. The draft policy papers supported EPA's Indian Policy and were an important step in providing effective overall program management. However, the Region had not issued these policy papers because it was awaiting review by EPA Headquarters, Tribes, and States. As a result, Regional staff lacked needed direction to implement Tribal programs. While issuing the policy papers was necessary to clarify overall program direction, the policy papers will not alleviate the need for a Regional workplan.

Travel Resources Did Not Adequately Support The Region's Goal to Build Tribal Expertise

The Region did not provide sufficient travel resources to adequately support EPA or Regional priorities for building Tribal expertise. Without a comprehensive environmental needs assessment or a workplan, the Region could not effectively allocate its travel resources to address the most significant problems. Region 8 project officers and Tribal representatives were concerned that travel funds were not sufficient to permit travel to reservations to help Tribes develop environmental programs Tribal activities. Tribal status reports and Regional evaluations indicated that Tribes needed project officers, technical advisors, and grants specialists to visit the reservation to provide more meaningful assistance.

Project officers were concerned that they did not have sufficient funds to help Tribes develop environmental programs. Site visits were necessary to provide technical assistance to Tribes; however, site visits were "rare", according to one project officer, because the Region allocated inadequate travel resources. The greatest need was for the Region to spend the time to properly train Tribal staff and, according to another project officer, the greatest successes came when they could work one-on-one with Tribal environmental staff. A third project officer said that site visits were done when travel funds were available, but her program did not get travel funds specifically to work with Tribes.

Spending time in Tribes' offices and accompanying Tribal environmental staff in the field was important to understand and appreciate the difficult field conditions in which Tribal staff worked, according to some Tribal officials. Only by fully appreciating these factors could Regional staff help determine needs, develop realistic workplans, and suggest realistic solutions to problems. Without visiting the reservation, project officers could not recognize all the variables that affected the Tribes' performance. In a Tribal year-end evaluation, one Tribe reported that the Region did not realistically comprehend Tribal operations and needed to spend some time on reservations. One Tribal official added that mid-year reviews by telephone did not provide much value or assistance to the Tribe. Another Tribal representative stated that advice over the phone was good but what he needed was "real help"--someone that could visit the Tribe and go over a written product with him or get out in the field to help resolve a problem.

To illustrate the Tribe's point, the Region helped write a workplan for sampling lakes on a reservation that, according to the Tribal Environmental Director, could not possibly be completed within the grant period. According to the Tribe's Environmental Specialist, the EPA project officer had not visited the reservation and did not realize how difficult it was to get to the lakes or how long the lakes remained frozen. The Director stated that without Regional assistance the Tribe worked on one grant for 2 years but did not accomplish all workplan tasks. Stronger Regional assistance would have ensured the Tribe met its goals, according to the Director. He was concerned that the Tribe still had important environmental work to do but minimal grant funds left to accomplish remaining work.

Region 8 Could Better Meet Tribal Environmental Needs

EPA Headquarters, Region 8, and Tribes recognized that Tribes have not received adequate grant funding to support Tribal environmental program management. Because of inadequate funding, the Region could not fulfill its strategic plan goal to have a meaningful environmental presence on all reservations. Region 8 did not fund all Tribes' grant requests and discouraged Tribes from applying for some program grants because it knew it would not fund the requests. Although the Region had flexibility to reallocate funds for some programs, it had not fully utilized its authority. In some cases the Regional Administrator provided

additional funds from the Region's discretionary fund. The Region could provide even more grant funds to Tribes and better reflect its strategic plan priority.

The Administrator's Action Memorandum required that Regional Administrators allocate resources within their discretion and authority to constitute a significant commitment to strengthening Tribal environmental protection. EPA Headquarters Budget Division policy provides Regional Administrators the authority to use Regional discretionary funds and reallocate other funds for Tribal programs. For example, the 1994 General Assistance Program Guidance stated that some program-specific funds and other discretionary funds may be reprogrammed for the General Assistance Program.

The Region 8 fiscals 1992-1996 strategic plan committed that the Region would increase funding to accomplish its Tribal program goals. The Regional Administrator received $416,000 in fiscal 1994 discretionary funds and budgeted $148,000 for Tribal related activities. The remainder of the discretionary funds were spent on other Regional priorities. In addition, the Region received about $1.2 million for geographic initiatives. The Region could have used these funds for qualifying Tribal projects.

Some Tribes' grant requests were not funded and other Tribes did not apply for grants because the Region did not provide sufficient grant resources to fund all programs. A Regional air program project officer reported that the Region's air program did not fund new Tribal assistance programs because the air program budget had been constant for 10 years. In the pesticides program, 5 of the 27 Tribes in the Region had begun programs and 2 others that expressed interest had been told that funding for additional Tribal pesticide programs was not available. Another Tribe began a water quality management program, but according to Tribal representatives, the Region ended its support because of a lack of funds. The Tribe wrote in its year-end report that it was unfortunate that it did not receive additional funding to continue this important program. The Region's Tribal Environmental Liaison wrote that as far as she knew, Region 8 was the only Region that had discontinued funding Tribal water quality grantees. The funding available to Tribes was an insult, according to one Water Management Division project officer.

Region 8 received 18 applications for its General Assistance Program in fiscal 1994 but could only fund 14 requests. To

fund the 14 grants the Region funded some grants for less than the Tribe had expected. One Tribe we visited expected to receive and obtained approval from its Tribal Council to accept a $75,000 General Assistance Program grant in fiscal 1994. However, without notifying the Tribe's Environmental Director, the Region funded the grant at only $37,503. The Region had reduced funding levels for continuing program grants and shortened the grant period for the majority of Tribes so General Assistance Program grants would end on the same date. The Tribe's Environmental Director told us that, because the grant amount changed, he had to rewrite his workplan and again obtain approval from the Tribal Council to accept the grant at a reduced funding level. Although Office of Management and Budget's Circular A-11, "Preparation and Submission of Budget Estimates," prohibits the release of budget development documentation, the Region could have explained to the Tribes that their grant awards may be less than their applications so Tribes would be better prepared to rewrite their workplans and obtain additional Tribal Council approval as necessary.

Some program discretionary funds were available to support Tribal environmental programs. In fiscal 1994, the Hazardous Waste Management Division expended about $2 million in discretionary funds for its Resource Conservation and Recovery Act program. It used $40,000 for grants to Tribes. Similarly, the Water Management Division expended about $2 million in discretionary funds for fiscal 1994. It used all of its discretionary funds for special projects and Senior Environmental Employment program staff. Senior Environmental Employment staff perform various duties, ranging from clerical to professional and technical assistance, to support EPA staff. Tribes did not directly receive any Water Management Division discretionary funds in fiscal 1994 but may have benefitted from the work of Senior Environmental Employment staff.

## REGION 8 NEEDED SPECIFIC AND QUANTIFIABLE PERFORMANCE GOALS

Without a comprehensive assessment of Tribal environmental needs and a workplan, the Region could not establish quantifiable goals and develop meaningful performance measures to know when Regional goals had been met. Although Region 8 identified performance measures for building Tribal expertise in its strategic plan, its measures were not time

specific and quantifiable. As a result, these performance measures did not help program managers evaluate progress in achieving program goals, or help determine what program adjustments might be necessary.

Performance measures should provide managers with information to detect problems with program performance and a means to determine when they have reached their goals. The Region established two valuable performance measures--the number of Tribes in Region 8 that have initiated the development of an environmental program, and the number of Federal direct implementation programs in place where Tribes have not yet developed media specific programs. These performance measures were good because they could be measured. However, the Region had not identified a specific number of programs as a goal because it had not assessed Tribal environmental needs and could not determine how many Tribes required an environmental presence. Also, neither performance measure identified how many accomplishments the Region expected to complete in a given time period.

Another Region 8 performance measure (improved health, welfare, and environmental conditions) was not a time specific or a quantifiable performance measure. The strategic plan did not identify how such improvements could be realistically measured. As a result, the measure was of little value in helping program managers evaluate the success of their programs.

Region 8 project officers agreed that the Tribal program did not have very good, if any, performance measures. In general, they identified performance measures as they applied to individual Tribal grants and indicated that they did not track overall program success. For example, project officers would measure a Tribe's success under a grant by how timely the Tribe accomplished workplan goals or by comparing the projections in the workplan to actual achievements, such as number of inspections completed. Project officers could not identify any measures used to assess the Region's success regarding its overall Tribal program.

## CONCLUSIONS

Region 8 has taken important first steps toward developing goals, policies, and performance measures for implementing EPA's Indian Policy. It established a goal of building

Tribal expertise as one of its strategic priority areas, initiated policy papers to guide its work with Tribes, and established "measures of progress." However, Region 8 had not developed a comprehensive assessment of Tribal environmental needs or a Regional workplan. This adversely impacted the Region's ability to adequately estimate and allocate travel or grant resources to support Regional priorities and Tribal goals. Also, the Region had not developed specific and quantifiable performance measures to evaluate program accomplishments. As a result, Regional staff did not have a good road map for the efficient and effective use of Regional resources or to determine the success of their program.

RECOMMENDATIONS

We recommend that the Regional Administrator:

1. work with Tribes to conduct a comprehensive assessment of Tribal environmental needs, develop Tribal workplans, and formulate an overall Regional strategy;

2. allocate travel funds for Regional project officers, technical advisors, and Tribal liaison staff to provide technical assistance consistent with the overall Regional strategy;

3. evaluate Tribal grant funding options to determine if the Region's resource commitment supports the Region's priority for Tribes; and

4. establish quantifiable and time specific performance measures that provide a means to measure how well the Region's Tribal program is operating.

EPA COMMENTS AND OIG EVALUATION

The Region agreed with all our findings and had implemented or had specific plans to implement all our recommendations. (See Appendix II for the Region's complete response.) OIG agreed with the Region's response.

The interim Regional Tribal Program Coordinator has begun working with Region 8 Tribes to develop an inventory of

Tribal environmental needs. The Region expects to complete the needs assessment by the end of January 1995. The Region expects to complete Tribal and Regional workplans based on the needs assessment by March 1995. The Region stated it would identify the resources required by the workplans, include the necessary resources in its strategic plan, and allocate funding accordingly.

Also, the Region requested additional General Assistance Program funds from Headquarters in November 1994 to meet growing Tribal environmental program demands. The Region stated it would evaluate the use of Regional discretionary funds, geographical initiative funds, and other funding sources to supplement the Tribal program.

The Region plans to complete a draft Tribal program strategic plan by February 1995 including mission, scope, goals, objectives, workplan, and performance measures.

## CHAPTER 3

## ORGANIZATIONAL CHANGES COULD IMPROVE TRIBAL PROGRAM EFFECTIVENESS

Organizational changes could improve the effectiveness of Region 8's Tribal program. Since 1984, EPA's policy has been to remove procedural impediments to working with Tribes. EPA's Implementation Guidance states that EPA should undertake extensive outreach programs and assist Tribes as it had States in the past. In 1994, the Administrator announced the creation of an Office of Indian Affairs and instructed Assistant and Regional Administrators to reevaluate their organizational structures to strengthen Tribal programs. Region 8's organizational structure did not focus adequate attention on Tribal issues or permit efficient and effective Tribal program development. Even though the Region appointed a Tribal Coordinator and established a Regional Tribal Work Group, it had not clearly identified who had responsibility to carry out EPA's Indian Policy. In addition, the Region did not have a focal point for Tribes or a central point of management accountability for the Region's Tribal expenditures. Tribal representatives were frustrated with the Region's organization and the limited amount of time Regional staff had to provide technical assistance. As a result, internal and external communication was poor and Regional staff could not gain a comprehensive understanding of Tribal environmental needs and operations. In October 1994, Region 8 implemented interim improvements to consolidate Tribal program responsibilities.

### EPA AND REGION 8 RECOGNIZED THE NEED FOR ORGANIZATIONAL IMPROVEMENTS

The Administrator's July 14, 1994, Action Memorandum specifically directed Regional Administrators to review, and where necessary, modify their organization to strengthen Tribal programs. Also, organizational improvements will permit Region 8 to improve the field assistance it provides Tribes, focus training its staff in Tribal matters, and improve communication with Tribes--three other action items in the Administrator's memorandum.

Region 8 recognized the need to make organizational changes to improve the Region's Tribal program. The Regional Tribal Work Group developed options for reorganizing the Region to

allow a portion of the Region's staff to devote full-time attention to Tribes. The Region could then provide more training and technical assistance to Tribes, and improve communication and working relationships. In October 1994, the Region created a work group that is responsible for implementing the Tribal program until the Region makes decisions about overall Regional reorganization. The work group's team leader is the interim Regional Tribal Coordinator. As of January 1995, each program division or office had appointed a primary Tribal coordinator to work on the group. The group is responsible for implementing the Administrator's memorandum, coordinating internal and external communication, and developing the Region's strategic plan for Tribal programs.

## REGION 8'S ORGANIZATIONAL STRUCTURE SHOULD FOCUS ATTENTION ON TRIBAL ENVIRONMENTAL NEEDS

Region 8 had not designated who was responsible to ensure it effectively implemented EPA's Indian Policy. The Region's organization did not focus attention on Tribal environmental needs, permit efficient and effective oversight of Tribal program development, or provide a point of contact for Tribes and Regional staff. The Regional Tribal Coordinator's responsibilities exceeded the time she had available to effectively perform those duties. We surveyed Regional staff and found responsibility for managing Tribal programs during fiscal 1994 was spread throughout the Region and involved over 100 Region 8 staff who spent an estimated 26 staff years on the Tribal program. (Appendix III provides detailed information concerning how many staff in each division worked on Tribal issues, how much time they spent, and the number of staff years invested working with Tribes.) Most Region 8 staff spent only a fraction of their time on Tribal issues and felt they did not have sufficient time to devote to Tribes. The organization did not facilitate effective communication within the Region or between the Region and Tribes, and there was no single point of contact that was familiar with Tribes' governmental structures and needs.

### Competing Demands Drew Attention Away From the Tribal Program

The Regional Tribal Coordinator was responsible for communicating and coordinating information between senior Regional managers and the staff and assisting in developing

Regional Tribal policies, plans, and guidance. Her responsibilities included developing guidance, policies, program initiatives, and an internal administrative management system for Regional Tribal program information; conducting customer surveys on Tribal environmental needs; and keeping all appropriate parties informed on a timely basis. However, the Regional Tribal Coordinator was unable to effectively carry out these duties because she spent a significant amount of her time participating on a national task force on improving Tribal operations.

Most Regional staff that worked with Tribes spent less than 50 percent of their time working on Tribal related activities. One hundred three of the 116 Regional staff (about 90 percent) that indicated they worked with Tribes spent 50 percent or more of their time working in other areas. Even though the Region invested an estimated 26 staff years in Tribal programs, only 5 Region 8 staff (4 percent) worked full-time on Tribal issues. With their primary job duties in other areas, the majority of Region 8 staff were unable to adequately monitor Tribal programs or provide the specialized technical assistance Tribes wanted and needed.

Project officers were frustrated because competing priorities made it difficult to provide adequate Tribal technical assistance. Project officers' performance agreements indicated that project officers had clear objectives, individual performance measures, and specific duties related to Tribes. Project officers knew how to develop an environmental program on reservations and understood their roles and responsibilities for the Tribal program. However, they expressed frustration over not having the time to provide the technical assistance that they believed Tribes needed. Working with Tribes required a huge time commitment; yet, Tribes were squeezed into everybody's existing work and were not a priority, according to one project officer. Another project officer stated that assistance was very brief and shallow. Project officers monitored performance through monthly and quarterly Tribal grant performance reports, telephone calls, and rare site visits.

Recognizing the vulnerability of Tribal programs, the Grants, Audits and Contracts Branch developed a plan to increase oversight of Tribal grant management. In its fiscal 1994 third quarter priorities review proposal, the Branch Chief explained that Tribal program management was declared a potential material weakness by the Region largely because the

Region was not able to conduct management assistance reviews and provide the Tribes with technical assistance to better manage their EPA grants. The proposal identified a timeframe, staff, and resource requirements necessary to address potential material weaknesses in Tribal grant program oversight and technical assistance.

Tribes had difficulty managing environmental programs because Regional staff did not provide sufficient technical assistance. Tribal status reports, Regional evaluations, and our discussions with Tribal representatives indicated the need for increased assistance. For example, one report stated that the Tribe had problems accomplishing what the Region expected under the grant because the Tribe was not receiving the amount of technical assistance it needed. In another report a Tribe reported that it had difficulty accomplishing its tasks under its Clean Water Act grants because it was confused about what a water quality management program consisted of and needed the Region's assistance. The Tribal Environmental Director added that the Region did not provide comments and guidance to establish realistic workplans, did not monitor grant activity, and did not provide enough hands-on technical assistance. The Director would rather have additional technical assistance than additional funding. He explained that without the technical assistance, he could not effectively use additional funds.

Although Regional staff visited Tribes, they did not provide sufficient technical assistance. One Tribal Environmental Coordinator told us that the Region would try to work with the Tribes if it had the time, but Tribes were not a high priority. Another Tribe was struggling to develop a report for 2 years and did not request help from the Region. However, the Region did not ask for status reports or question why the Tribe had not developed the report during the 2 years, according to the Tribe's Environmental Director. Still another Tribal representative told us that he relied on contractors to provide technical assistance because he could not depend on the Region to be there when needed. One Tribal official said that Region 8 staff were very helpful when they visited but were not available as often as needed.

## Region 8 Needed Centralized Tribal Program Accountability

Region 8 did not have a single point of contact for Tribes or a central point of management accountability for the Region's Tribal expenditures. With more than 100 Region 8 staff working with the Tribal program, Tribes were frustrated and confused about who could provide assistance or respond to their questions, and wanted their contact to be familiar with Tribal operations. When they contacted the Region, they had to repeatedly explain who they were, what their questions were, and who they had talked to in prior contacts with the Region. As a result, the Region and the Tribes did not communicate well.

Tribes had to contact several individuals before reaching someone who could answer their questions. In a 1994 Tribal evaluation of the Region's performance, one Tribal representative rated EPA's technical assistance low because the Tribe's needs were not met. The Tribal representative wrote that it often took 5 to 10 phone calls to reach EPA staff and few had more than 5 to 10 minutes to spare to answer questions. Other Tribal representatives said that they had to contact three to four people before they could get to the "right person." In addition, they had to leave messages and explain the entire situation to each person they talked to which consumed additional time.

At the Region's Annual Tribal Air Programs conference in 1993, Tribal representatives specifically identified that each Tribe needed one EPA contact person who is familiar with all of their programs and can help them coordinate and work more effectively with EPA. The Tribal representatives also identified that, at the very least, they needed an EPA liaison to help coordinate every program on each reservation and requested that project officers play a greater role in coordinating and assisting Tribal programs. They also requested a mechanism to improve Regional and Tribal communication and a liaison that understood a Tribe's government structure, Tribal processes, the needs of the Tribe, and viable options for meeting those needs.

Because Region 8 staff were not always aware of Tribal political structures and sovereignty issues, they sometimes made suggestions that Tribal staff could not implement. For example, one Tribal official stated that a Region 8 project officer advised him to call a State official that had a similar program and could help solve a problem. The official

said that while that the project officer's suggestion may have seemed like a logical approach, if he called the State without obtaining Tribal Council approval (a potentially lengthy process), he would probably be fired.

Regional program divisions and offices could not readily identify funds spent on Tribal activities and the Region did not have a central point of accountability for Tribal programs. Region 8, through its budget and accounting data, could not identify its investment in Tribal programs or make informed decisions about future resource requirements.

In some respects it was advantageous that the Region had many staff from every division working with Tribes. Having a broad employee awareness of Tribal issues and involving all divisions in Tribal matters helps institutionalize the Tribal program and ensures that the protection of Tribal environments is not at one person's discretion. However, without a focal point that effectively coordinated Tribal issues, Region 8's Tribal program became disjointed and was not as effective as it could have been.

## CONCLUSIONS

Region 8's organizational structure did not focus adequate attention on Tribal issues or permit efficient and effective technical assistance. Although the Region appointed a Tribal Coordinator and established a Regional Tribal Work Group, the Region did not have adequate management accountability over its Tribal program. About 90 percent of the 116 Regional staff that worked with Tribes estimated that they spent less than 50 percent of their time working on Tribal environmental protection. Cumulatively, the 116 staff spent an estimated 26 staff years on Tribal issues. However, because of the way the Region was organized, it could not effectively implement important provisions of EPA's Indian Policy or the Region's strategic plan. Without organizational changes, the Region will have difficulty implementing the Administrator's Action Memorandum.

## RECOMMENDATIONS

We recommend that the Regional Administrator:

1. assign a single Tribal program manager the responsibility and authority to implement the Tribal policies and monitor the program to ensure that the Region accomplishes the action items in the Administrator's July 1994 memorandum;

2. provide the Tribal program manager with sufficient staff to establish a small core Tribal program office responsible for developing Regional policies, goals, and an action plan for coordinating work with Tribes; monitor program implementation to ensure Tribes receive adequate technical assistance; maintain data on Tribal environmental needs, the status of Tribal programs, and Regional expenditures for Tribal activities; and coordinate other aspects of the Region's Tribal program; and

3. identify primary Tribal coordinators within each Regional program division or office and require each office to provide sufficient staff resources to adequately address Tribal issues.

## EPA COMMENTS AND OIG EVALUATION

The Region agreed with our findings and had implemented or had specific plans to implement all our recommendations. (See Appendix II for the Region's complete response.) OIG agreed with the Region's response.

The Region selected an interim Regional Tribal Program Coordinator in October 1994, and planned to select a permanent Coordinator by the end of March 1995. The Region is reorganizing the entire Regional office and the model organization includes a Tribal Operations Office to centralize Tribal program responsibilities. The reorganization plan will be completed by March 1995, and implemented in fiscal 1996.

The Region is developing a Management Assistance Program review plan for Tribes and OIG has agreed to assist the Region in planning these reviews. The Region plans to conduct eight reviews this fiscal year and OIG has agreed to assist the Region in conducting at least one review.

As of January 1995, each Regional program division or office had consolidated staff so that a minimum of one person was identified to attend to Tribal program requirements.

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

MAR 1 4 1994

MEMORANDUM

THE ADMINISTRATOR

SUBJECT: EPA Indian Policy

TO: All Employees

In 1984, EPA became the first Federal agency to adopt a formal Indian Policy (copy attached). EPA is proud of that Policy, which has provided the framework for our developing partnership with Tribes. Since 1984 Agency programs have changed and several of our statutes have been amended to address Tribal needs. Nevertheless, the core principle of the Policy, a commitment to working with Federally recognized tribes on a government-to-government basis to enhance environmental protection, has been reaffirmed by President Clinton and remains the cornerstone of EPA's Indian program. Accordingly, therefore, I formally reaffirm the EPA Indian Policy.

The challenge for EPA today is to implement its Policy effectively. Previous administrations have addressed implementation, both in a 1984 Policy Implementation Guidance and a 1991 Concept Paper. We must now update and strengthen these documents and our implementation programs to reflect the goals and values of our long-term vision and strategic agenda. A key element for successfully implementing the Indian Policy must be a commitment to fully institutionalize the Policy into the Agency's planning and management activities.

On March 7, Martha Prothro, formerly Deputy Assistant Administrator for Water, joined my staff to assist in developing our Tribal Programs. I have asked Martha and Bill Yellowtail, Regional Administrator, EPA Region VIII, to form a team of Agency leaders to make recommendations on EPA/Tribal relations and the implementation of the Policy. The work of this group should help the Agency develop the best structure and adopt the best strategies for implementing the goals of the Policy. The team will work with Tribal representatives, including the Tribal Operations Committee and others, in drafting new implementation guidance. This guidance will provide a blueprint for transforming the Policy's vision into a reality for federally recognized Indian Tribes, including Alaskan Tribes.

This is an exciting opportunity for us to develop a stronger partnership with Tribal governments in protecting the environment. I ask all of you to help make this effort a great success.

Carol M. Browner

Attachment

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# EPA POLICY FOR THE ADMINISTRATION OF ENVIRONMENTAL PROGRAMS ON INDIAN RESERVATIONS

## INTRODUCTION

The President published a Federal Indian Policy on January 24, 1983, supporting the primary role of Tribal Governments in matters affecting American Indian reservations. That policy stressed two related themes: (1) that the Federal Government will pursue the principle of Indian "self-government" and (2) that it will work directly with Tribal Governments on a "government-to-government" basis.

The Environmental Protection Agency (EPA) has previously issued general statements of policy which recognize the importance of Tribal Governments in regulatory activities that impact reservation environments. It is the purpose of this statement to consolidate and expand on existing EPA Indian Policy statements in a manner consistent with the overall Federal position in support of Tribal "self-government" and "government-to-government" relations between Federal and Tribal Governments. This statement sets forth the principles that will guide the Agency in dealing with Tribal Governments and in responding to the problems of environmental management on American Indian reservations in order to protect human health and the environment. The Policy is intended to provide guidance for EPA program managers in the conduct of the Agency's congressionally mandated responsibilities. As such, it applies to EPA only and does not articulate policy for other Agencies in the conduct of their respective responsibilities.

It is important to emphasize that the implementation of regulatory programs which will realize these principles on Indian Reservations cannot be accomplished immediately. Effective implementation will take careful and conscientious work by EPA, the Tribes and many others. In many cases, it will require changes in applicable statutory authorities and regulations. It will be necessary to proceed in a carefully phased way, to learn from successes and failures, and to gain experience. Nonetheless, by beginning work on the priority problems that exist now and continuing in the direction established under these principles, over time we can significantly enhance environmental quality on reservation lands.

## POLICY

In carrying out our responsibilities on Indian reservations, the fundamental objective of the Environmental Protection Agency is to protect human health and the environment. The keynote of this effort will be to give special consideration to Tribal interests in making Agency policy, and to insure the close involvement of Tribal Governments in making decisions and managing environmental programs affecting reservation lands. To meet this objective, the Agency will pursue the following principles:

1. THE AGENCY STANDS READY TO WORK DIRECTLY WITH INDIAN TRIBAL GOVERNMENTS ON A ONE-TO-ONE BASIS (THE "GOVERNMENT-TO-GOVERNMENT" RELATIONSHIP), RATHER THAN AS SUBDIVISIONS OF OTHER GOVERNMENTS.

EPA recognizes Tribal Governments as sovereign entities with primary authority and responsibility for the reservation populace. Accordingly, EPA will work directly with Tribal Governments as the independent authority for reservation affairs, and not as political subdivisions of States or other governmental units.

2. THE AGENCY WILL RECOGNIZE TRIBAL GOVERNMENTS AS THE PRIMARY PARTIES FOR SETTING STANDARDS, MAKING ENVIRONMENTAL POLICY DECISIONS AND MANAGING PROGRAMS FOR RESERVATIONS, CONSISTENT WITH AGENCY STANDARDS AND REGULATIONS.

In keeping with the principle of Indian self-government, the Agency will view Tribal Governments as the appropriate non-Federal parties for making decisions and carrying out program responsibilities affecting Indian reservations, their environments, and the health and welfare of the reservation populace. Just as EPA's deliberations and activities have traditionally involved the interests and/or participation of State Governments, EPA will look directly to Tribal Governments to play this lead role for matters affecting reservation environments.

3. THE AGENCY WILL TAKE AFFIRMATIVE STEPS TO ENCOURAGE AND ASSIST TRIBES IN ASSUMING REGULATORY AND PROGRAM MANAGEMENT RESPONSIBILITIES FOR RESERVATION LANDS.

The Agency will assist interested Tribal Governments in developing programs and in preparing to assume regulatory and program management responsibilities for reservation lands. Within the constraints of EPA's authority and resources, this aid will include providing grants and other assistance to Tribes similar to that we provide State Governments. The Agency will encourage Tribes to assume delegable responsibilities, (i.e. responsibilities which the Agency has traditionally delegated to State Governments for non-reservation lands) under terms similar to those governing delegations to States.

Until Tribal Governments are willing and able to assume full responsibility for delegable programs, the Agency will retain responsibility for managing programs for reservations (unless the State has an express grant of jurisdiction from Congress sufficient to support delegation to the State Government). Where EPA retains such responsibility, the Agency will encourage the Tribe to participate in policy-making and to assume appropriate lesser or partial roles in the management of reservation programs.

4. THE AGENCY WILL TAKE APPROPRIATE STEPS TO REMOVE EXISTING LEGAL AND PROCEDURAL IMPEDIMENTS TO WORKING DIRECTLY AND EFFECTIVELY WITH TRIBAL GOVERNMENTS ON RESERVATION PROGRAMS.

A number of serious constraints and uncertainties in the language of our statutes and regulations have limited our ability to work directly and effectively with Tribal Governments on reservation problems. As impediments in our procedures, regulations or statutes are identified which limit our ability to work effectively with Tribes consistent with this Policy, we will seek to remove those impediments.

5. THE AGENCY, IN KEEPING WITH THE FEDERAL TRUST RESPONSIBILITY, WILL ASSURE THAT TRIBAL CONCERNS AND INTERESTS ARE CONSIDERED WHENEVER EPA'S ACTIONS AND/OR DECISIONS MAY AFFECT RESERVATION ENVIRONMENTS.

EPA recognizes that a trust responsibility derives from the historical relationship between the Federal Government and Indian Tribes as expressed in certain treaties and Federal Indian Law. In keeping with that trust responsibility, the Agency will endeavor to protect the environmental interests of Indian Tribes when carrying out its responsibilities that may affect the reservations.

6. THE AGENCY WILL ENCOURAGE COOPERATION BETWEEN TRIBAL, STATE AND LOCAL GOVERNMENTS TO RESOLVE ENVIRONMENTAL PROBLEMS OF MUTUAL CONCERN.

Sound environmental planning and management require the cooperation and mutual consideration of neighboring governments, whether those governments be neighboring States, Tribes, or local units of government. Accordingly, EPA will encourage early communication and cooperation among Tribes, States and local governments. This is not intended to lend Federal support to any one party to the jeopardy of the interests of the other. Rather, it recognizes that in the field of environmental regulation, problems are often shared and the principle of comity between equals and neighbors often serves the best interests of both.

7. THE AGENCY WILL WORK WITH OTHER FEDERAL AGENCIES WHICH HAVE RELATED RESPONSIBILITIES ON INDIAN RESERVATIONS TO ENLIST THEIR INTEREST AND SUPPORT IN COOPERATIVE EFFORTS TO HELP TRIBES ASSUME ENVIRONMENTAL PROGRAM RESPONSIBILITIES FOR RESERVATIONS.

EPA will seek and promote cooperation between Federal agencies to protect human health and the environment on reservations. We will work with other agencies to clearly identify and delineate the roles, responsibilities and relationships of our respective organizations and to assist Tribes in developing and managing environmental programs for reservation lands.

8. THE AGENCY WILL STRIVE TO ASSURE COMPLIANCE WITH ENVIRONMENTAL STATUTES AND REGULATIONS ON INDIAN RESERVATIONS.

In those cases where facilities owned or managed by Tribal Governments are not in compliance with Federal environmental statutes, EPA will work cooperatively with Tribal leadership to develop means to achieve compliance, providing technical support and consultation as necessary to enable Tribal facilities to comply. Because of the distinct status of Indian Tribes and the complex legal issues involved, direct EPA action through the judicial or administrative process will be considered where the Agency determines, in its judgment, that: (1) a significant threat to human health or the environment exists, (2) such action would reasonably be expected to achieve effective results in a timely manner, and (3) the Federal Government cannot utilize other alternatives to correct the problem in a timely fashion.

In those cases where reservation facilities are clearly owned or managed by private parties and there is no substantial Tribal interest or control involved, the Agency will endeavor to act in cooperation with the affected Tribal Government, but will otherwise respond to noncompliance by private parties on Indian reservations as the Agency would to noncompliance by the private sector elsewhere in the country. Where the Tribe has a substantial proprietary interest in, or control over, the privately owned or managed facility, EPA will respond as described in the first paragraph above.

9. THE AGENCY WILL INCORPORATE THESE INDIAN POLICY GOALS INTO ITS PLANNING AND MANAGEMENT ACTIVITIES, INCLUDING ITS BUDGET, OPERATING GUIDANCE, LEGISLATIVE INITIATIVES, MANAGEMENT ACCOUNTABILITY SYSTEM AND ONGOING POLICY AND REGULATION DEVELOPMENT PROCESSES.

It is a central purpose of this effort to ensure that the principles of this Policy are effectively institutionalized by incorporating them into the Agency's ongoing and long-term planning and management processes. Agency managers will include specific programmatic actions designed to resolve problems on Indian reservations in the Agency's existing fiscal year and long-term planning and management processes.

William D. Ruckelshaus

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII
999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2466

JAN - 9 1995

RECEIVED JAN 1995

Ref: 8PM-GAC

**MEMORANDUM**

SUBJECT: Draft Report Number E1XMF4-08-0036-
Better Planning and Organizational Changes Could
Improve Region 8's Tribal Program

FROM: William P. Yellowtail
Regional Administrator Wm Yellowtail

TO: Nikki Tinsley
Divisional Inspector General
Central Audit Division

Thank you for the opportunity to review and comment on the findings and recommendations contained in the draft report on, "Better Planning and Organizational Changes Could Improve Region VIII's Tribal Program." As we have stated previously in our comments to your position papers and in our discussions with Jeff Hart and his staff regarding this draft report, we agree with your findings as described in this draft report.

**Response and Action Plans**

**REGION VIII SHOULD IDENTIFY ENVIRONMENTAL NEEDS, DEVELOP PROGRAM PLANS, AND MEASURE ACCOMPLISHMENTS**

Recommendation #1: The Regional Administrator should work with Tribes to conduct a comprehensive assessment of Tribal environmental needs, develop Tribal workplans, and formulate an overall Regional strategy that fulfills the requirements of the Administrator's Action Memorandum.

Region's Response: We agree with this recommendation and have been actively working towards this goal with the establishment of a Regional Tribal Program Coordinator position. The Coordinator is working with Region 8's Tribes to complete an inventory of tribal environmental needs. Preliminary results will be available by the end of December 1994, with final results compiled by January 15, 1995.

Tribal and Regional Workplans are being developed, as outlined in the Administrator's Announcement of Actions memorandum dated July 14, 1994, based on the direction of the



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Senior Leadership Team (SLT) by the Interim Team for organizing the region's Tribal Environmental Program Implementation Plan. Organization of the Tribal Program is occurring in conjunction with the overall redesign of Region VIII. These workplans are projected to be completed by March 1995.

This workplan development is reliant on the needs assessment. The SLT has directed each division and office program to consolidate FTE's so that a minimum of one person is identified to attend to tribal program requirements. This action was accomplished at the end of November 1994, they now constitute the Interim Team for organizing the Region's Tribal Program. They meet weekly with regular work assignments on the Strategic Plan and the Region's response to the Administrators Memorandum. The Strategic Plan is in development with a draft expected by March 1995.

Recommendation #2: The Regional Administrator should allocate sufficient travel funds for Regional Project Officers, Technical Advisors and Tribal Liaison Staff to provide adequate technical assistance and oversight.

Region's Response: The planning process identified in our response to recommendation #1 above should allow the interim team to identify resource requirements. These requirements will be identified in the Strategic Plan, which the SLT will then allocate based on needs. With the Region's reorganization and development of a Tribal Office (see responses to chapter 3, Organizational Changes) these requirements will be more readily identifiable with funding allocated accordingly.

Recommendation #3: The Regional Administrator should evaluate Tribal grant funding options and ensure the Region's resource commitment supports the Region's priority of Tribes.

Region's Response: Grant Flexibility and Streamlining is step number 8 in the Administrators Actions Memorandum. This action is under review and evaluation by the Regional Tribal Workgroup and the Interim Team. A proposal for streamlining the Grants Administration process will be completed by February 1995. Regional resource commitments will be identified during the needs assessment phase, which will be presented to the SLT by March 1995.

For the General Assistance Program (GAP), the Region submitted a funding plan to Headquarters in November 1994. This plan requests additional funds to meet growing Tribal Environmental Program demands, which included three funding options (see attachment I, memo dated 11/23/94);

1. Maintain FY-94 funding levels
2. Increase funding levels by making an allowance for indirect costs as example by Department of Indian Affairs.
3. Funding three new tribes over the FY-94 level.

Media specific programs (CAA, CWA, RCRA, etc.) may not be able to increase funding levels or add new tribes due to statutory constraints. The CWA 106 Program already has experienced a decrease. The Regional Administrator and the SLT will need to evaluate on a program needs bases, if the use of other funding sources (Regional Discretionary, Geographical Initiative, etc.) will be used to supplement these tribal needs.

Recommendation #4: The Regional Administrator should establish quantifiable and time specific performance measures that provide a means to measure how well the Region's Tribal Program is operating.

Region's Response: By the end of February 1995, the Tribal Program Coordinator, the Interim Team and the Tribal Workgroup will have a Strategic Plan to present to the SLT inclusive of a program mission scope, goals, objectives and workplan. The plan will contain quantifiable measures to be implemented by the new Tribal Environmental Office. (see regional reorganization plan)

**ORGANIZATIONAL CHANGES COULD IMPROVE TRIBAL PROGRAM EFFECTIVENESS**

Recommendation #1: The Regional Administrator should assign a single Tribal program manager the responsibility and authority to implement the Tribal policies and ensure that the Region accomplishes the action items in the Administrator's July 1994 memorandum.

Region's Response: An interim Regional Tribal Program Coordinator was selected in October 1994. The responsibilities of the Coordinator include response to the Administrator's Memorandum and to organize the Region's Tribal Environmental Program. (see attachment II, objectives)

Recommendation #2: The Regional Administrator should provide Tribal Program Manager with sufficient staff to establish a small core Tribal Program office responsible for developing Regional policies, goals, and an action plan for coordinating work with Tribes; ensure Tribes receive adequate oversight and technical assistance; maintain data on Tribal environmental needs, the status of Tribal programs, and Regional expenditures for Tribal activities; and coordinate other aspects of the Region's Tribal program.

Region's Response: Region VIII is currently undergoing a reorganization to handle more effectively the ecological problems of today. The proposed change (see attachment III, model) will help the Region fulfill is mission to restore and protect the ecological integrity of the Rocky Mountains and Plains along with the health of its inhabitants. The model is set up to establish a Pollution Prevention, State, and Tribal Operations Office that will incorporate and centralize the Tribal Program responsibilities and activities. This will ensure that we will be able to coordinate the oversight and technical assistance, manage data and track expenditures for Tribal activities in one location within the Region. This plan will be available for review by the SLT by March 1995 for implementation in FY-96.

The Region is also working on a project to evaluate and design a more effective and efficient Management Assistance Program (MAP) review structure for Tribal Governments. This project is being conducted with the joint cooperation of Inspector General's Office, Office of Policy and Management, and the Program Offices to develop a system to provide a more economical and equitable assistance program to the Tribes. Under the present system and structure, we have only been able to offer assistance to five of twenty-seven tribes over a period of five years. To get the Tribes up to full capacity this service needs to be done annually. The project is funded through FY-95 with the reviews beginning January 1995, there will be eight reviews with an evaluation, analysis and recommendations being presented to the SLT September 1995.

Recommendation #3: The Regional Administrator should identify primary Tribal Coordinators within each Regional Program Division or Office and require each office to provide sufficient staff resources to adequately address Tribal issues.

Region's Response: The SLT directed each division/program office to consolidate FTE's so that a minimum of one person is identified to attend to Tribal program requirements. This directive was accomplished November 1994.

The Region requests an exit conference after your staff has had an opportunity to review our response to the findings and recommendations. Please contact Phillip Elbeck at 293-1671 to schedule the meeting or if you have any questions or concerns regarding this response.

Attachments

cc: Division/Office Directors
Jeff Hart, OIG
Al Vigil, 8PM-GAC
Paul Riederer, 8PM

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII
999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2466

Ref: 8OEA

NOV 23 1994

MEMORANDUM

SUBJECT: General Assistance Program
Regional Funding Plan

FROM: William P. Yellowtail Wm Yellowtail
Regional Administrator

TO: Terrence R. Williams, Director
American Indian Environmental Office

Region VIII requests approval of the following Funding Plan for General Assistance Program (GAP) cooperative agreements for its Indian tribes in FY95. Three options are shown because distribution of all available FY95 GAP funds are undetermined.

The tribes have expressed concern for significant reductions that are taken out of the award funds because of required negotiated indirect costs (IDC). The American Indian Environmental Office should recognize and address this problem.

Pertinent information is indicated in three attachments:

**Attachment 1A** is the GAP Funding Chart showing spreadsheet funding for FY94 (existing) and FY95 (proposed) showing three options (A, B and C).

Option A is a request for funds **totaling $700,000** whereby each continuing GAP tribe is awarded $50,000. IDC deductions (up to 27.4% from the award) may leave as little as $36,300 for an operational yearly budget. Funding for new tribes is not included in Option A.

Option B is a request for funds **totaling $843,158** whereby each continuing GAP tribe is awarded funds to allow credit for Indirect Costs with a remaining, but equitable, $50,000 for an operational yearly budget. Funding for new tribes is not included in Option B.

Option C is the preferred request for funds **totaling $1,143,158** and is Option B with the addition of funding for four new tribes without IDC.

**Attachment 1B** is the GAP Funding Chart showing Region VIII spreadsheet funding for fiscal years FY94 (existing), requested FY95 (Option C) and proposed FY96, FY97 and FY98 not including IDC for new tribes.



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**Attachment** 2 provides the detailed information necessary to issue a commitment notice for each of 14 existing tribal GAP cooperative agreements for FY95, funded on an anticipated $50,000 (IDC added on) annual cooperative agreement.

**Attachment** 3 provides the detailed information necessary to issue commitment notices for funding four new tribes at $75,000 (not including IDC).

This funding plan includes the following considerations:

1. funding for the General Assistance Program will increase annually, to meet the $15 million authorization by the U.S. Congress. Although Region VIII may not be able to recommend any new tribes for FY95 funding, it will attempt to secure relief from the impact of Indirect Costs;

2. all Region VIII awards will be made as cooperative agreements rather than "grants" in order to meet the spirit of the General Assistance Program legislation, which is to work cooperatively with Indian tribes in developing technical, administrative, and fiscal environmental capacity;

3. Region VIII has given priority consideration to currently funded tribes that are making satisfactory progress toward development of an environmental management program, and these existing grantees will be funded before new grantees (if any) are considered;

4. funding/project periods for cooperative agreements will be April 1 to March 31 to insure that funding is provided through the end of the second quarter of each fiscal year.

In order to insure that GAP funds are used effectively and efficiently in helping additional tribes receive new awards while maintaining a functional level of funding for continuing tribal programs, Region VIII has made a decision to provide annual funds to new tribes (if any) at the required $75,000 minimum and on-going programs at a $50,000 minimum. The start up costs associated with developing a program and establishing an environmental office should be absorbed in the first year of funding. Major costs for continuing programs are focused on personnel and contractual services. Region VIII will advise tribes to seek program specific funding for implementing environmental protection and abatement projects on a media-by-media basis.

If the GAP program appropriation reaches the authorization level anticipated by Congress, we believe that this approach to funding provides a realistic opportunity to have an environmental program initiated on each reservation in Region VIII by 1998.

Thank you for the opportunity to participate in this innovative program. By providing Indian tribes with a flexible and substantial approach to establish strong environmental programs, we can work together in partnership to see that all the lands of the U.S. are included in our mission to protect the environment and human health.

Please feel free to contact Gary Davis at 303/294-7094 if you have questions or concerns about this Regional Funding Plan.

attachments(3)

cc: Nola Y. Cooke, OEA
Wanda Taunton, OEA
Lee Roberts, OEA
Gary Davis, OEA
Alfred Vigil, PM-GAC
Vickie Wilson, PM-GAC

# Region VIII GAP Funding Chart

| | Region VIII GAP FY 94 & FY 95 | | | | | | | Option A | | | | Option B |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | State | Reservations/Tribes | Months in FY 94 | FY 94 Award Month | Approved FY 94 GAP | Months in FY 95* | Indirect Cost (IDC) % | Minimum Avail. FY 95 $ | Amount IDC $ Deducted | GAP $ After IDC Deducted | IDC Total $ Added | Requested FY95 GAP $ |
| 1 | ND | Standing Rock Sioux Tribe | 12 | April | 75,000 | 12 | 13.10% | 50,000 | 6,550 | 43,450 | 7,537 | [illegible] |
| 2 | SD | Crow Creek Sioux | 12 | April | 75,000 | 12 | 27.40% | 50,000 | 13,700 | 36,300 | 18,871 | [illegible] |
| 3 | SD | Lower Brule Sioux | 12 | April | 75,000 | 12 | 13.60% | 50,000 | 6,800 | 43,200 | 7,870 | [illegible] |
| 4 | MT | Fort Belknap | 12 | April | 50,004 | 12 | 27.50% | 50,000 | 13,750 | 36,250 | 18,966 | [illegible] |
| 5 | MT | Flathead Confed. Salish & Kootenai | 10 | June | 41,670 | 12 | 14.20% | 50,000 | 7,100 | 42,900 | 8,275 | [illegible] |
| 6 | MT | Crow Tribe | 9 | July | 37,503 | 12 | 10.00% | 50,000 | 5,000 | 45,000 | 5,556 | [illegible] |
| 7 | ND | Turtle Mt. Band of Chippewa | 9 | July | 37,503 | 12 | 12.75% | 50,000 | 6,375 | 43,625 | 7,307 | [illegible] |
| 8 | SD | Cheyenne River Sioux | 9 | July | 37,503 | 12 | 16.30% | 50,000 | 8,150 | 41,850 | 9,737 | [illegible] |
| 9 | SD | Pine Ridge Oglala Sioux Tribe | 9 | July | 89,503 | 12 | 27.30% | 50,000 | 13,650 | 36,350 | 18,776 | [illegible] |
| 10 | SD | Yankton Sioux | 7 | Sept | 29,169 | 12 | 21.00% | 50,000 | 10,500 | 39,500 | 13,291 | [illegible] |
| 11 | MT | Blackfeet Tribal Business | 6 | Oct | 25,002 | 12 | 9.00% | 50,000 | 4,500 | 45,500 | 4,945 | [illegible] |
| 12 | MT | Fort Peck Assiniboine & Sioux | 6 | Oct | 25,002 | 12 | 17.70% | 50,000 | 8,850 | 41,150 | 10,753 | [illegible] |
| 13 | CO | Southern Ute Indian Tribe | 5 | Nov | 55,835 | 12 | 0.00% | 50,000 | 0 | 50,000 | 0 | [illegible] |
| 14 | WY | Wind River | 7 | Sept | 29,169 | 12 | 18.40% | 50,000 | 9,200 | 40,800 | 11,275 | [illegible] |
| | | FY94 and Option A Totals | | | 682,863 | | | 700,000 | 114,125 | 585,875 | 143,158 | [illegible] |
| 15 | SD | Lake Traverse Sisseton Wahpeton | | | 0 | | 23.00% | 75,000 | 17,250 | 57,750 | 0 | [illegible] |
| 16 | ND | Fort Totten Devils Lake Sioux | | | 0 | | 0.00% | 75,000 | 0 | 75,000 | 0 | [illegible] |
| 17 | ND | Fort Berthold Three Affiliated Tribes | | | 0 | | 33.10% | 75,000 | 24,825 | 50,175 | 0 | [illegible] |
| 18 | MT | Rocky Boy's Chippewa Cree | | | 0 | | 0.00% | 75,000 | 0 | 75,000 | 0 | [illegible] |
| | | Option A Totals | | | | | | 1,000,000 | 0 | 843,800 | 143,158 | [illegible] |

*Note: FY 95 funding begins 1 April '95 for all GAP tribes in Region VIII whereas previous funding schedule was not consolidated.

Attachment #1A

U.S.E.P.A. Region VIII Office of External Affairs

# Region VIII GAP Funding Chart

| | Region VIII GAP FY 94 - FY 98 | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | State | Reservations/Tribes | Indirect Cost (IDC) % | Approved FY 94 GAP | Equitable Base Program | Recommend FY94 GAP | Recommend FY95 GAP | Recommend FY96 GAP | Recommend FY97 GAP | Totals per Tribe |
| 1 | ND | Standing Rock Sioux Tribe | 13.10% | 75,000 | 50,000 | 57,537 | 57,537 | 57,537 | 57,537 | |
| 2 | SD | Crow Creek Sioux | 27.40% | 75,000 | 50,000 | 68,871 | 68,871 | 68,871 | 68,871 | 350,482 |
| 3 | SD | Lower Brule Sioux | 13.60% | 75,000 | 50,000 | 57,470 | 57,470 | 57,470 | 57,470 | 306,481 |
| 4 | MT | Fort Belknap | 27.50% | 50,004 | 50,000 | 68,966 | 68,966 | 68,966 | 68,966 | 325,866 |
| 5 | MT | Flathead Confed. Salish & Kootenai | 14.20% | 41,670 | 50,000 | 58,275 | 58,275 | 58,275 | 58,275 | 274,770 |
| 6 | MT | Crow Tribe | 10.00% | 37,503 | 50,000 | 55,556 | 55,556 | 55,556 | 55,556 | 259,725 |
| 7 | ND | Turtle Mt. Band of Chippewa | 12.75% | 37,503 | 50,000 | 57,307 | 57,307 | 57,307 | 57,307 | 266,729 |
| 8 | SD | Cheyenne River Sioux | 16.30% | 37,503 | 50,000 | 59,737 | 59,737 | 59,737 | 59,737 | 276,452 |
| 9 | SD | Pine Ridge Oglala Sioux Tribe | 27.30% | 89,503 | 50,000 | 68,276 | 68,276 | 68,276 | 68,276 | 364,606 |
| 10 | SD | Yankton Sioux | 21.00% | 29,169 | 50,000 | 63,291 | 63,291 | 63,291 | 63,291 | 282,334 |
| 11 | MT | Blackfeet Tribal Business | 9.00% | 25,002 | 50,000 | 61,945 | 61,945 | 61,945 | 61,945 | 244,782 |
| 12 | MT | Fort Peck Assiniboine & Sioux | 17.70% | 25,002 | 50,000 | 60,753 | 60,753 | 60,753 | 60,753 | 268,015 |
| 13 | CO | Southern Ute Indian Tribe | 0.00% | 55,835 | 50,000 | 50,000 | 50,000 | 50,000 | 50,000 | 255,835 |
| 14 | WY | Wind River Arapaho & Shoshoni | 18.40% | 29,169 | 50,000 | 61,275 | 61,275 | 61,275 | 61,275 | 274,267 |
| | | FY 94 and Options ATB Totals | | 682,863 | 700,000 | [illegible] | | | | |
| 15 | SD | Lake Traverse Sisseton Wahpeton | 23.00% | 0 | 75,000 | 67,453 | 67,453 | 67,453 | 67,453 | 269,805 |
| 16 | ND | Fort Totten Devils Lake Sioux | 0.00% | 0 | 75,000 | 50,000 | 50,000 | 50,000 | 50,000 | 225,000 |
| 17 | ND | Fort Berthold Three Affiliated Tribes | 33.10% | 0 | 75,000 | 74,804 | 74,804 | 74,804 | 74,804 | 299,215 |
| 18 | MT | Rocky Boy's Chippewa Cree | 0.00% | 0 | 75,000 | 50,000 | 50,000 | 50,000 | 50,000 | 225,000 |
| | | FY95 Totals | | | 1,000,000 | 1,143,158 | | | | |
| 19 | SD | Rosebud | | | | | 50,000 | 50,000 | 50,000 | 175,000 |
| 20 | CO | Ute Mountain Ute | | | | | 50,000 | 50,000 | 50,000 | 175,000 |
| 21 | MT | Northern Cheyenne Tribe | | | | | 50,000 | 50,000 | 50,000 | 175,000 |
| | | FY96 Totals | | | | | 1,307,831 | | | |
| 22 | UT | Northern Ute Uintah & Ouray | | | | | | 50,000 | 50,000 | 125,000 |
| 23 | UT | NW Band of Shoshoni Nation | | | | | | 50,000 | 50,000 | 125,000 |
| 24 | UT | 5 Affiliated Paiute Bands | | | | | | 50,000 | 50,000 | 125,000 |
| | | FY97 Totals | | | | | | 1,457,831 | | |
| 25 | UT | Skull Valley Executive Committee | | | | | | | | 75,000 |
| 26 | SD | Flandreau Santee Sioux Exec. Comm. | | | | | | | | 75,000 |
| | | FY98 Totals | | | | | | | 1,532,831 | 5,819,365 |

**Attachment #1B**

| OBJECTIVE: | (1) By the end of 11/94, the Interim Tribal Program Coordinator will have reactivated the Regional Tribal Workgroup for organizing the RO8 Tribal Environmental Program. | | | |
|---|---|---|---|---|
| **TASKS** | **ACTIVITIES** | **LEAD RESP.** | **BY** | **EVALUATION (Products)** |
| 1. Redefine the role of the RTWG. | a. Meetings/discussions with Nola & Wanda. | Lee | 11/30/94 | RTWG/IT Meetings. |
| | b. Review transition file. | Lee | | Follow–up with IT. |
| | c. Develop discussion papers. | | | |
| | d. Arrange facilitator | | | Bert Garcia |
| | e.. Arrange/hold meetings. | | | Met on 11/3 11/17 11/23 |
| | f. Summarize results. | | | Minutes prepared at each mtg. |
| | g. Request Senior Staff action, as needed. | | | Met with Senior Staff on Interim team. |
| 2. Define the role of the Interim Team | a. Encourage Senior Staff to make selections. | Lee/Nola | 11/28 | All divisions execpt Air. |
| | b. Integrate Interim Team into RTWG. | Lee | 11/28 | Meeting set for every Monday morning. |
| | c. Arr./hold IT organizing meeting. | | | Met 11/28 12/1 |
| | d. Set working schedule and workplan. | Lee | 12/5 | Draft workplan for discussion with IT. |
| | e. Interaction with Design Team, as needed. | IT | as needed | |
| | f. Define work products and schedule. | IT | 12/15 | |
| | g.. Brief Senior Staff on progress as needed. | | | |
| | h. Review final workplan with Interim Team. | Lee | 12/15 | Workplan was discussed with IT; Lee given go–ahead to make assignments. |

*OBJECTIVE:* *(2) By the end of 12/94, the Interim Team will have completed an inventory of Region 8 Indian reservation environmental program requirements.*

| TASKS | ACTIVITIES | LEAD RESP. | BY | EVALUATION (Products) |
|---|---|---|---|---|
| 1. Provide support to the OST–ROC* inventory. | a. Complete GAP Grant workplan approval | Gary | 11/15 | Workplan approved for Rapid City meeting. |
| | b. Inventory in–house data. | Gary/ Barbara | 12/31 | |
| | c. Construct data collection instrument.<br>–Meet with OST consultant<br>–Conference call with OST–ROC reps. | Lee | 11/23 | Data colection instrument completed–OST sent to tribes. |
| | d. Confer with OST on Rapid City agenda. | Gary/Lee | 11/29 | Agenda out to Tribal meeting on 12/6–7/94. |
| 2. Attend OST–ROC meeting in Rapid City. | a. Arrange travel. | Carole | 12/7 | |
| | b. Get commitments from EPA Senior and program staff to attend meeting. | Lee/ Nola | | Kerry Clough to represent Bill Yellowtail. |
| | c. Preparations for meeting presentations. | | | Met with OST consultant. |
| | d. Preparation for technical assistance | | | OST consultant identified Emma Featherman–Sam. |
| | e. EPA staff participate in the Rapid City meetings. | EPA mtg. partici–pants | | |
| | f. Feedback to RTWG, Design team, others. | IT mtg. | | Meetings, as needed. |
| 3. Provide analytical support to OST following the meeting. | a. Define products that will be expected. | Gary | 11/23 | 1) Summary report from inventory forms. |

* ROC – Region 8 Operations Committee.

*OBJECTIVE:* *(2) CONTINUED*

| TASKS | ACTIVITIES | LEAD RESP. | BY | EVALUATION (Products) |
|---|---|---|---|---|
| | b. Write workplan for intern from OST.* | see footnote | 1/95 | a) TOC purposes.<br>b) RO8 purposes. |
| | c. Define level of analysis needed for RO8 response to B–9. | Lee | | 2) This task will requirre follow-up. G. Davis to initiate as P.O. |
| | d. Volunteers to work with OST consultant. | | | |
| | e. Complete analysis. | | | |
| 4. Assist OST–ROC with inventory summary. | This should be on IT effort, dividing the work as seem fit. Also, the intern from OST can assist as needed. | See note on page 2 | | |
| 5. Write assessment report. | a. Obtain guidance from headquarters. | Lee | 12/95 | |
| | b. Brief design team and Senior Staff. | Interim team | | Coordinate with Wanda. |
| | c.. Draft report/reviews. | | | |
| | d. Finalize report. | | | |

Dave Livermont was scheduled to be aboard in January '95. This may not happen since there is a possible disciplinary action against him. We will be informed by John Mousseau of the outcome & possible alternatives.

*OBJECTIVE:* *(3) By mid–January 1995, the interim team will have met the reporting requirements as stated in the July 1994 memorandum of the Administrator.*

| TASKS | ACTIVITIES | LEAD RESP. | BY | EVALUATION (Products) |
|---|---|---|---|---|
| 1. Evaluate the content of the memorandum. | a. Interim team review. | Eric/Lee | 12/21 | Partially done. Need to put into shell to illustrate duplications. |
| | b. Secure HQs guidance. | | | |
| | c. Develop format & substance requirements for 1/95 report.<br>–TOC interactions<br>–Rapid City meeting<br>–NIWG interactions | Barbara | | |
| 2. From task 2 above, design RO8 response to the Browner memo. | a. Identify writing team. | Lee/ Larry | 1/95 | |
| | b. Develop writing "action plan" | vols. | 1/95 | |
| | c. Write draft response. | Lee | 1/95 | |
| | d. Elicit input<br>–Senior Staff<br>–RTWG | Lee | 1/95 | |
| | e. Integrate input into final response. | Lee/Teri Larry | 2/95 | |
| | f. Concurrence chain. | | 2/95 | |
| 3. Write Region 8 report to Administrator. | a. Form writing team | Lee | 12/94 | |
| | b. Writing team action plan. | team membs. | 12/94 | |
| | c. Develop draft strategy report using information from preceding tasks. | team membs. | 1/95 | |

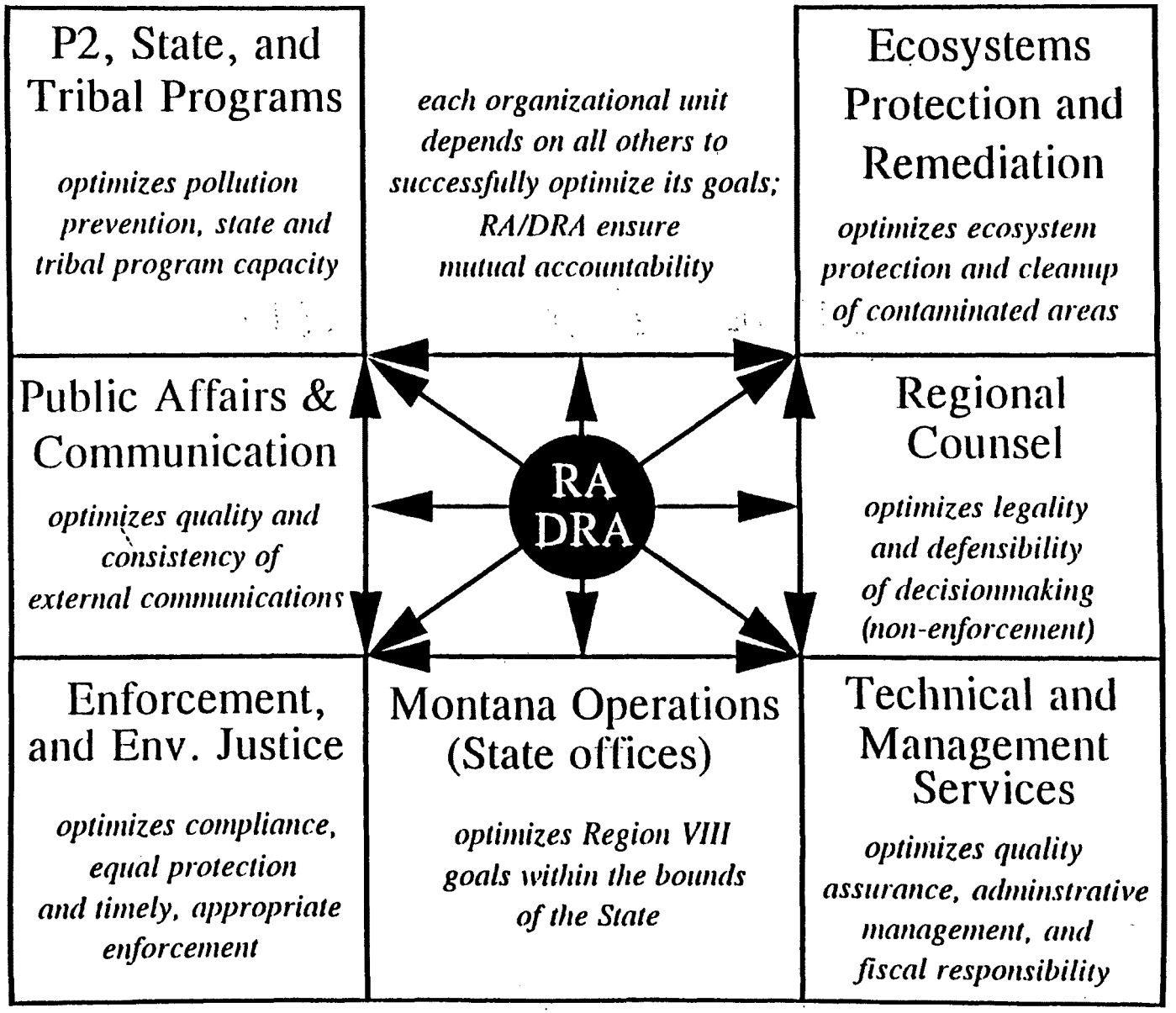
*OBJECTIVE:* *(3) CONTINUED*

| TASKS | ACTIVITIES | LEAD RESP. | BY | EVALUATION (Products) |
|---|---|---|---|---|
| | d. Circulate for review and input. | Gary | | |
| | e. Finalize for submission to the Administrator. | Lee/ Larry | | |
| 4. Region 8 Tribal Environmental Strategy | a. Supplementry piece on how RO8 implements Tribal Workplan. | team membs. | 2/95 | |

| OBJECTIVE: | *(4) By mid–February 1995, the IT will have completed a draft strategic plan for Region 8 entitled, Indian Country Environmental Priority Implementation Plan."* | | | |
|---|---|---|---|---|
| **TASKS** | **ACTIVITIES** | **LEAD RESP.** | **BY** | **EVLUATION (Products)** |
| 1. RTWG/IT review and integration of prior work products. | a. Consider tribal expressions under task 2. | Barbara | 1/95 | |
| | b. Consider consultation with design team. | | | |
| | c. Consider RIWG options papers (2a & 2b) | IT | | |
| | d. Complete RTWG/IT subgroup reviews. | | | Organize at 12/14 meeting. |
| | –Govt to Govt relations. | Lee | | |
| | –Tribal capacity building | Larry | | |
| | –Grant simplification | Vicki | | |
| | –Direct implementation | Barbara | | |
| | –Affirmative action | Gary | | |
| 2. Refine format and substance requirements. | a. RTWG/IT meeting | Lee | 1/6 | |
| | b. Brief Senior Staff and Design Team. | Lee | 12/14 | |
| | c. Assign writers, reviewers, editors. | | | |
| 3. Write the strategic plan. | a. Interim team work as a group with frequent reviews/checks. | writing team | 1/31 | |
| | b. Follow agreed upon format. | | | |
| | c. Circulate completed products – reviews/edits. | Lee | 2/10 | |
| | d. Present completed package to design team | Lee | 2/15 | |

# Region VIII Interdependence Model

*All Can Succeed Together; Nobody Succeeds Alone*



## ESTIMATED TIME REGION 8 SPENT ON TRIBAL ACTIVITIES IN FISCAL 1994

| DIVISION/OFFICE | NUMBER OF EMPLOYEES WHO SPENT: | | ESTIMATED STAFF YEARS |
|---|---|---|---|
| | Over 50 Percent of Their Time | Under 50 Percent of Their Time | |
| Air, Radiation, and Toxics | 0 | 17 | 2.65 |
| Hazardous Waste Management | 1 | 16 | 2.87 |
| Montana Operations | 2 | 13 | 3.61 |
| External Affairs | 2 | 0 | 1.95 |
| Policy and Management | 0 | 12 | 1.44 |
| Regional Council | 1 | N/A[1] | 2.00 |
| Water Management | 7 | 45 | 11.57 |
| Total | 13 | 103 | 26.09 |

[1] Not Available: Regional Council estimated that its full-time Tribal staff member and "others" invested a total of 2 staff years in Tribal issues but did not estimate how many "other" staff worked on Tribal issues. Total staff who worked less than 50 percent on Tribal issues does not include Regional Council staff.

Source: OIG survey of Region 8 staff estimates of time spent working on Tribal programs.

## ABBREVIATIONS

| | |
|---|---|
| EPA | Environmental Protection Agency |
| OIG | Office of Inspector General |
| Indian Policy | EPA Policy for the Administration of Environmental Programs on Indian Reservations |
| Implementation Guidance | EPA Indian Policy Implementation Guidance |
| Tribes | Indian Tribes |

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