

Superfund



# The Citizens' Guidance Manual For The Technical Assistance Grant Program



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

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

## **NOTICE**

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## PREFACE

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

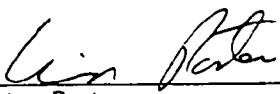
The Superfund Amendments and Reauthorization Act of 1986 (SARA), which amended CERCLA, provides under section 117(e) an important new component of EPA's community relations activities at Superfund sites -- technical assistance grants to affected groups. The purpose of these grants is to assist citizens'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

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

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

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## LIST OF ACRONYMS

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

**CERCLA**

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

**CR**

Community Relations

**FS**

Feasibility Study

**HRS**

Hazard Ranking System

**NCP**

National Oil and Hazardous Substances Pollution Contingency Plan

**NPL**

National Priorities List

**O&M**

Operation and Maintenance

**PRP**

Potentially Responsible Party

**ROD**

Record of Decision

**RA**

Remedial Action

**RD**

Remedial Design

**RFP**

Request for Proposals

**RI**

Remedial Investigation

**RI/FS**

Remedial Investigation/Feasibility Study

**RPM**

Remedial Project Manager

**SI**

Site Inspection

**TAG**

Technical Assistance Grant

## GLOSSARY OF TERMS USED IN THIS MANUAL

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

**Administrative Record:**

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

**Allocable Costs:**

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

**Allowable Costs:**

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

**Applicant:**

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

**Application:**

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

**Award:**

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

**Award Official:**

The official authorized to sign *grant agreements*.

**Budget:**

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

**Budget Period:**

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

## GLOSSARY OF TERMS (continued)

**Cash Contribution:**

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

**Closeout:**

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

**Code of Federal Regulations (CFR):**

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

**Community Relations (CR):**

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

**Community Relations Coordinator (CRC):**

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

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

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

**Continuation:**

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

**Contractor:**

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

## **GLOSSARY OF TERMS (continued)**

**Cost Analysis:**

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

**Debarment:**

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

**Direct Costs:**

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

**Eligible Costs:**

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

**Enforcement:**

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

**EPA:**

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

**Expendable Personal Property:**

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

**Feasibility Study (FS):**

See remedial investigation/feasibility study

**Federal Facility:**

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

**Formal Amendment:**

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

**Grant Agreement:**

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



## GLOSSARY OF TERMS (continued)

### **Hazardous Substance:**

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

### **Health Assessment:**

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

### **Indirect Costs:**

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

### **Information Repository:**

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

### **In-Kind Contribution:**

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

### **Matching Funds:**

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

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

The Federal regulation that guides the *Superfund* program.

### **National Priorities List (NPL):**

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

### **Nonexpendable Personal Property:**

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

### **Nonprofit Organization:**

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

## GLOSSARY OF TERMS (continued)

**Operable Unit:**

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

**Operation and Maintenance (O&M):**

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

**Outlays:**

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

**Personal Property:**

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

**Potentially Responsible Party (PRP):**

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

**Price Analysis:**

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

**Profit:**

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

**Project Costs:**

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

**Project Period:**

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

**Real Property:**

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

## GLOSSARY OF TERMS (continued)

**Responsiveness Summary:**

A summary of oral and/or written public comments received during the comment period on key site documents, and the agency's responses to those comments. As a part of the *record of decision* at a *National Priorities List* site, the responsiveness summary documents agency decision-makers' responses to concerns raised by the community

**Risk Assessment:**

An evaluation performed as part of the *remedial investigation* to assess conditions at a *Superfund* site and determine the risk posed to human health and/or the environment

**Start of Response Action:**

The point in time when there is a guarantee or set-aside of funding either by EPA, other Federal agencies, States, or *PRPs* in order to begin *response actions* at a site. The document, which reflects the set-aside of, or formally guarantees, funding during the coming fiscal year, is EPA's annual Superfund Comprehensive Accomplishments Plan (SCAP)

**Subagreement:**

A written agreement between the technical assistance grant *recipient* and another party (a contractor other than a public agency) for services or supplies necessary to complete the *technical assistance grant project*. Subagreements include contracts and subcontracts for personal and professional services or supplies necessary to complete the *technical assistance grant project*, and agreements with consultants, and purchase orders

**Superfund:**

The common name used for the *Comprehensive Environmental Response, Compensation, and Liability Act of 1980* (CERCLA). Also referred to as the Hazardous Substance Superfund, Superfund was established by CERCLA to help pay for the cleanup of hazardous waste sites and to take legal action to force those responsible for the sites to clean them up

**Technical Advisor:**

A person hired by a technical assistance grant *recipient* to help affected groups and individuals interpret site-related documents regarding the nature of the hazard at the *Superfund* site for which the grant has been received

**Technical Assistance Grant Project:**

The activities or tasks identified in the *grant agreement*, which comprise a *recipient's* technical assistance project

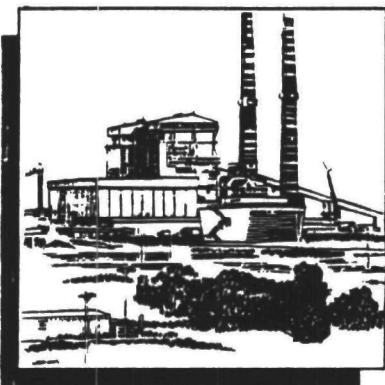
**Technical Assistance Grant (TAG) Project Officer:**

The official designated in the *grant agreement* as EPA's Technical Assistance Grant Program contact with the *recipient*. TAG Project Officers are responsible for monitoring the project

## CHAPTER 1

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### OVERVIEW



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

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

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

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

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

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

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### **The Grant Application Process**



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



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

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

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

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

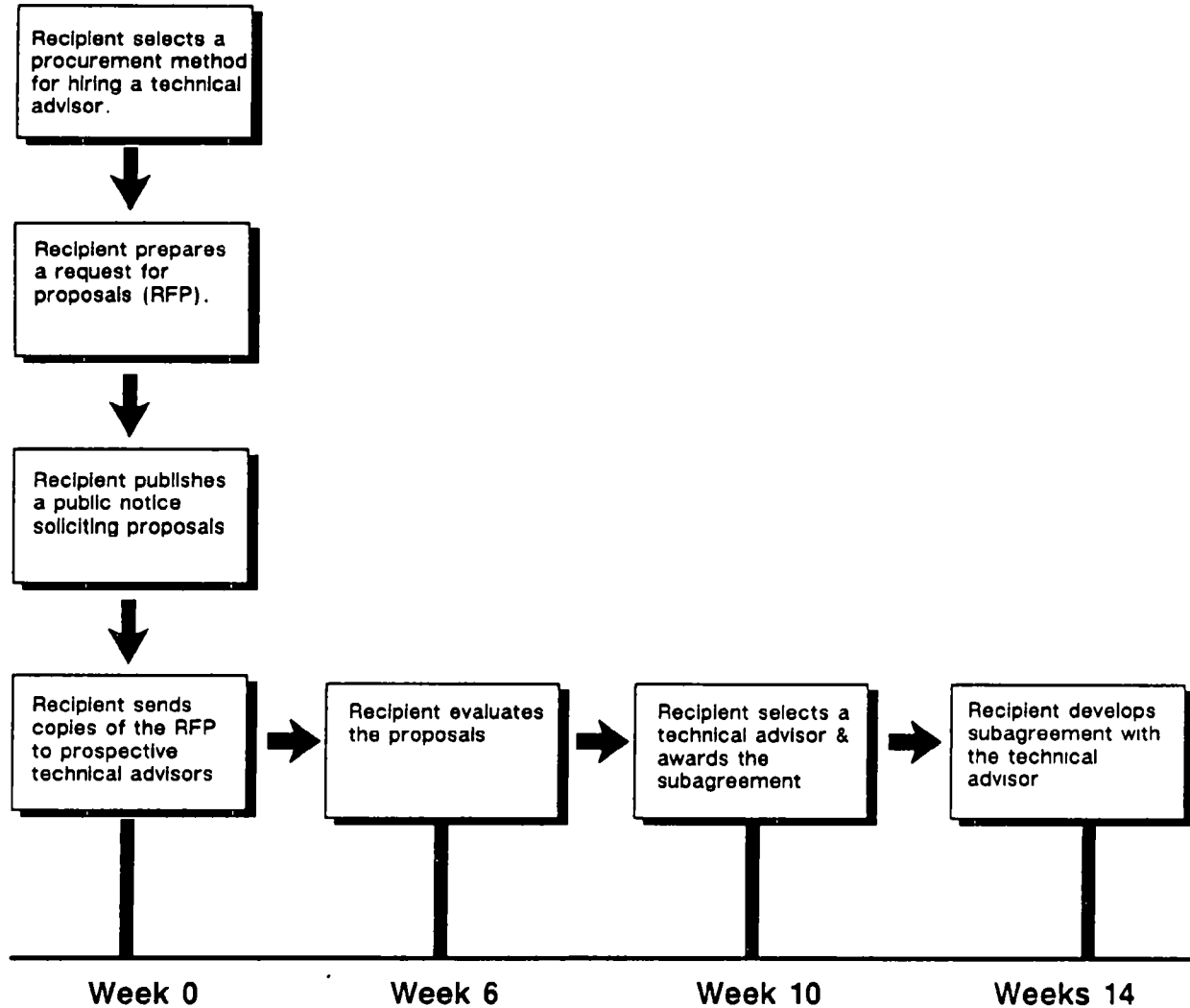
**Chapter 2, "Using Technical Assistance in the Superfund Remedial Process,"** outlines the role of a technical advisor within the Superfund program. Also included is a list of documents prepared during the remedial process that a technical advisor might review.

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

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

*Exhibit 1-2*  
**Hiring a Technical Advisor**



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

## CHAPTER 2

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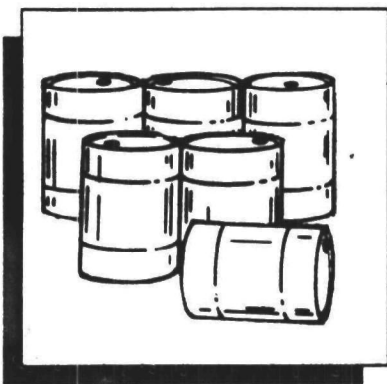
### USING TECHNICAL ASSISTANCE IN THE SUPERFUND REMEDIAL PROCESS\*

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

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### The Superfund Program



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

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





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

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

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

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## **The Remedial Process**

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

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

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### **Preliminary Assessment and Site Inspection**

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

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

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

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## **Remedial Investigation/ Feasibility Study**

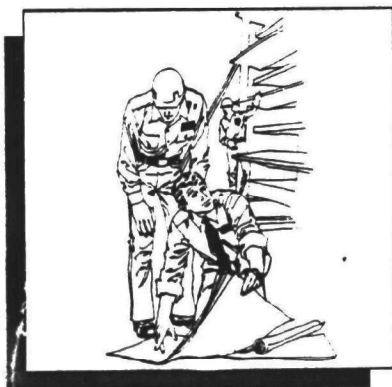
### **The Scoping Process and Development of Planning Documents**

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

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

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

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



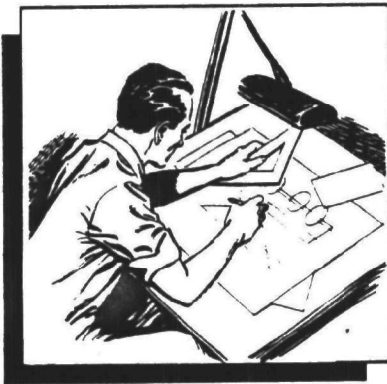
## Health Assessment

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

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

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

## Development of Remedial Alternatives



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

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

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

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

### **The Record of Decision**

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

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

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

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

### **Opportunities for Using a Technical Advisor**

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

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

### Opportunities for Using a Technical Advisor

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

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### Remedial Action



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

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

### Operation and Maintenance

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

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## **Removal Actions at Remedial Sites**



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

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

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## **Opportunities for Using a Technical Advisor**

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

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

*Exhibit 2-1*

**Summary of Public Documents Prepared During the Remedial Process**

Technical Phase: Site Activity	Document	Purpose of Document
<b>REMEDIAL INVESTIGATION/ FEASIBILITY STUDY (RI/FS):</b>		
<ul style="list-style-type: none"> <li>Beginning of RI</li> </ul>	RI/FS Work Plan	Describes the projected scope, schedule, and budget for the RI/FS. This plan is usually developed within five months from the time money is obligated.
	Sampling and Analysis Plan	Defines level of effort and specific field activities for the RI, and ensures accuracy of RI data, particularly with respect to scientific and legal defensibility.
	Health and Safety Plan	Assesses site hazards and procedures for worker protection from these hazards
	Community Relations Plan (CRP)	Details how the lead agency will elicit citizen input into response decisions and inform the affected community of site activities.
<ul style="list-style-type: none"> <li>Completion of RI</li> </ul>	RI Report	Summarizes data collected and conclusions drawn from all investigative sources. Includes information gathered during site characterization regarding contamination and public health and environmental impacts.
<ul style="list-style-type: none"> <li>During RI/FS</li> </ul>	Health Assessment	Presents results of Agency of Toxic Substances and Disease Registry (ATSDR) health assessment, along with the Administrator of ATSDR's recommendations for further action
<ul style="list-style-type: none"> <li>FS</li> </ul>	Summary Report	Summarizes information gathered during detailed analysis of remedial alternatives. Highlights differences among alternatives to assist the decision-maker's selection of a recommended remedial alternative

*Exhibit 2-1 (continued)*

**Summary of Public Documents Prepared During the Remedial Process**

Technical Phase: Site Activity	Document	Purpose of Document
<b>REMEDIAL DESIGN (continued):</b>		
	Revised Community Relations Plan	Reflects changes in level of concern or information needs of the community since development of the original CRP.
<b>REMEDIAL ACTION:</b>		
<ul style="list-style-type: none"> <li>Monitoring and Oversight Construction</li> </ul>	Progress Reports	Submitted by the lead party for remedial action on a monthly or quarterly basis, reports are used by EPA to monitor remedial construction activities. Provide chronological record of activities including work accomplishment, status of fund, or changes in contract.
<ul style="list-style-type: none"> <li>Final Inspection</li> </ul>	Final Inspection/ Certification Report	Prepared upon satisfactory completion of final inspection, report certifies project is complete and consistent with both contract documents and the EPA-approved remedial action.
<ul style="list-style-type: none"> <li>Site Closeout</li> </ul>	Final Technical Report	Required for State-lead sites and recommended for Federal-lead and responsible party sites. Documents (1) project completion consistent with contract documents, and (2) adequate performance of remedy
<b>REMOVAL (DURING REMEDIAL PROCESS):</b>		
<ul style="list-style-type: none"> <li>Removal Action</li> </ul>	Preliminary Assessment Data	Includes sampling results from preliminary studies of the site.
	Engineering Evaluation/ Cost Analysis	Provides analyses of removal alternatives and used to prepare the Action Memo at sites where the site response is non-time critical
	Action Memo	Estimates the cost and time for the removal.



## CHAPTER 3

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### REQUIREMENTS OF THE TECHNICAL ASSISTANCE GRANT PROGRAM\*

35.4010

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

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

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#### Applicant Qualifications

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

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

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\*Numbers that appear in bold in the left margin throughout this manual give the citation of relevant regulatory provisions. These regulatory provisions include EPA grant regulations (40 CFR Part 30) EPA procurement regulations (40 CFR Part 33), and the Interim Final Rule for the Technical Assistance Grant Program (40 CFR Part 35). For example, the citation §30.306 refers to 40 CFR Part 30 section 306, "General Regulations for Assistance Programs." Not all relevant regulatory provisions have been highlighted in this manner, therefore, you must refer to actual regulatory language. Reprints of 40 CFR Parts 30 and 33 appear in Appendix D of this manual.

## **Responsibility Requirements**

- 35.4020** If you are eligible to receive a technical assistance grant, you must demonstrate your ability to adequately manage the grant by detailing your administrative and management capabilities in a narrative statement under Part IV of the grant application (see Exhibit 4-1 and Appendix A). We will evaluate this statement, in addition to other relevant parts of your application, to determine how well you meet the responsibility requirements. These requirements include financial resources, ability to meet project deadlines, accounting and auditing procedures, and willingness to comply with the civil rights and equal employment acts. In general, you must demonstrate that your group has established, or has plans for establishing, reliable procedures for recordkeeping and financial accountability related to the management of the grant (e.g., that you have established a separate bank account for the management of the grant funds, have sound plans for fulfilling the reporting requirements, and have provided any other pertinent information showing your group's commitment to establishing effective accounting procedures for managing the grant). (See Chapter 6 for a discussion of management of grant funds.) While it is unnecessary to submit documentation of the steps your group has taken to meet these responsibility requirements at the time you submit your completed application, you must be able to provide such documentation in the event of an audit.
- 30.301**



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

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

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

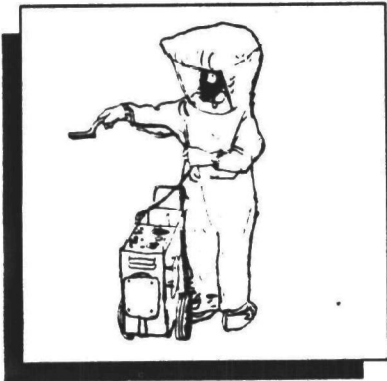
In general, each criterion will be evaluated according to the scoring plan outlined below:

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

We will review applications based on the following criteria:

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

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



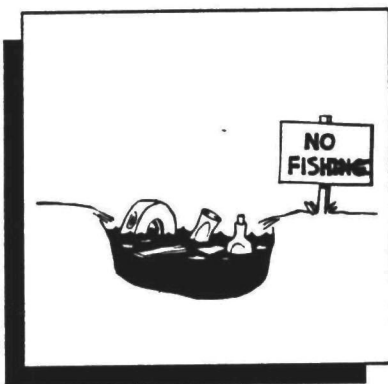
You will not be required to submit documentation for our review (although you may be required to supply it later if an audit is initiated); a discussion of these activities as part of the narrative will be sufficient.

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

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

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

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



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

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

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

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## **Ineligible Activities**

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

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

Other ineligible activities include the following:

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

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

## **The Thirty-Five Percent Matching Funds Requirement**

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



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

**35.4115**

**35.4075**

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

## **In-Kind Contributions**

**35.4080**

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

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

*Exhibit 3-1*

**Examples of In-kind Contributions**

*(\* indicates administrative activities)*

**Volunteer Services**

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

**Non-Expendable Property**

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

**Expendable Property**

- \* Office supplies.

**Other Costs**

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

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

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

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#### **The \$50,000 Grant Limit**

**35.4085** Grants for technical assistance are limited to a maximum of \$50,000 in Federal funds (\$50,000 of Federal funds represents 65 percent of the total project funds -- or \$76,923 -- which would require a 35 percent "match" of \$26,923 from the grant recipient in cash or in-kind contributions) for technical assistance support over the life of the Superfund response at the site. We believe that, with careful planning and reasonable management, at every NPL site \$76,923 will be sufficient to provide meaningful technical assistance.

#### **Waivers of the \$50,000 Grant Limit**

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



## CHAPTER 4

### GRANT APPLICATION AND AWARD PROCESS

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

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

#### The Grant Application Process

#### Award Timing and Prioritization

35.4085

35.4050

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

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



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

*Exhibit 4-1*

**Sample Letter Of Intent\***

Woodtown Landfill Coalition  
Main Street  
Woodtown, CT 06898

May 3, 1989

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

Dear Sir/Madam:

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

Sincerely,  
Pat Jones, Executive Director  
Woodtown Landfill Coalition

*Exhibit 4-2*

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

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

*Exhibit 4-2 (cont'd)*

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

**Category**

**Instructions**

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

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

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*Exhibit 4-2 (cont'd)*

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

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

**FEDERAL ASSISTANCE**

1. TYPE OF SUBMISSION (Mark appropriate box)  
☐ NOTICE OF INTENT (OPTIONAL)  
☐ PREAPPLICATION  
☒ APPLICATION

2. APPLICANT'S APPLICATION IDENTIFIER  
 a. NUMBER  
 b. DATE Year month day 19 89 7 10

3. STATE APPLICATION IDENTIFIER  
 a. NUMBER  
 b. DATE ASSIGNED Year month day 19

4. LEGAL APPLICANT/RECIPIENT  
 a. Applicant Name Pat Jones  
 b. Organization Unit Woodtown Landfill Coalition  
 c. Street/P.O. Box Main Street  
 d. City Woodtown  
 e. State CT  
 f. Contact Person (Name) Pat Jones  
 g. Telephone No. (203) .###-####

5. EMPLOYER IDENTIFICATION NUMBER (EIN)  
 None

6. PROGRAM  
 a. NUMBER 6 6 18 0 7  
 b. TITLE Superfund Tech Asst

7. TITLE OF APPLICANT'S PROJECT (Use section IV of this form to provide a summary description of the project)  
 Technical Assistance at the Woodtown Landfill Site

8. TYPE OF APPLICANT/RECIPIENT  
☒ Non-profit Citizen Organization

9. AREA OF PROJECT IMPACT (Name of town, counties, state, etc.)  
 Smithtown, Woodtown, Litchfield, CT

10. ESTIMATED NUMBER OF PERSONS BENEFITING  
 7,000

11. TYPE OF ASSISTANCE  
☒ Basic Grant

12. PROPOSED FUNDING

	FEDERAL	APPLICANT	STATE	LOCAL	OTHER	TOTAL
a. FEDERAL	18 20 437 00					
b. APPLICANT		11 010 00				
c. STATE						
d. LOCAL						
e. OTHER						
f. Total	18 31 447 00					

Item

Response

8 Type of Applicant/Recipient

Write "K" for Other, and specify Non-Profit Citizen Organization

9. Area of Project Impact

List the municipality(ies) and county(ies) adjacent to, encompassing, and affected by, the site.

10. Estimated Number of Persons Benefitting

Enter the number of persons directly affected by the site. This number can be obtained from the site's National Priorities List description, which an EPA contact can provide (see Appendix C).

11 Type of Assistance

Write "A" for Basic Grant

12 Proposed Funding

Enter the appropriate amount of funds that will be needed for the first budget period, as indicated in the Scope of Services (A group must submit a continuation application to EPA to request funding for each subsequent budget period EPA will not provide more than \$50,000 for any site for the life of the cleanup) The amount in line "a," EPA's proposed funding, cannot be more than 65 percent of the amount in line "f," the total funding

13. CONGRESSIONAL DISTRICTS OF: 6 (CT)

14. TYPE OF APPLICATION: ☒ New ☐ Continuation ☐ Amendment ☐ Extension

15. PROJECT START DATE: Year 1990, Month 9, Day 1

16. PROJECT DURATION: 72 Months

17. TYPE OF CHANGE (For 1 to 4): ☐ Amendment ☐ Continuation ☐ Extension ☐ Other

18. DATE DUE TO FEDERAL AGENCY: Year 1990, Month 10, Day 1

19. FEDERAL AGENCY TO RECEIVE REQUEST: EPA

20. EXISTING FEDERAL GRANT IDENTIFICATION NUMBER: NA

21. REMARKS ADDED: ☒ Yes ☐ No

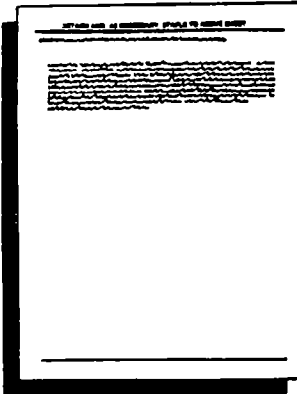
22. THE APPLICANT CERTIFIES THAT: ☒ YES, THIS NOTICE OF INTENT/REAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE 07/12/89 ☐ NO PROGRAM IS NOT COVERED BY E.O. 12372 OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

23. CERTIFYING REPRESENTATIVE: a. TYPED NAME AND TITLE: Pat Jones, Executive Director; b. SIGNATURE: Pat Jones

## Instructions For Completing The Grant Application

### Part I, Page 1, Section I & Section II

Item	Response
21 Remarks Added	If using Section IV (Remarks) to amplify any other information contained in the grant application, check yes. It is important not to confuse this section of the application with Part IV of the application which will be used to gather additional information on the applicant group.
22 The Applicant Certifies that	This program may be subject to intergovernmental review. If it is, write the date and that the application has been made available to the appropriate State contact (see Appendix C for a list of State intergovernmental review contacts). If not, check the second box under b.
23 Certifying Representative	The applicant's/recipient's Project Manager (the officer authorized to obligate your group to the conditions of the grant agreement/application) must sign this item. [Note: If violation of EPA regulations pertaining to grants or procurement occurs, the applicant group may be liable.]



## Instructions For Completing The Grant Application

### Part 1, Page 2, Section IV

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

DETACH AND AS NECESSARY STAPLE TO ABOVE SHEET

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

Part 1, Section I, #7

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



Form Approved  
 CMB No. 2037-1-20  
 Approval expires 11-83

### PART II

#### PROJECT APPROVAL INFORMATION

1	→	Item 1 Does this assistance request State, local, regional, or other priority rating? _____ Yes <u>✓</u> No	Name of Governing Body _____ Priority Rating _____
2	→	Item 2 Does this assistance request require State or local advisory, educational, or health clearances? _____ Yes <u>✓</u> No	Name of Agency or Board _____ (Attach Documentation)
3	→	Item 3 Does this assistance request require clearinghouse review in accordance with Executive Order 12372? <u>✓</u> Yes _____ No	(Attach Comments)
4	→	Item 4 Does this assistance request require State, local, regional, or other planning approval? _____ Yes <u>✓</u> No	Name of Approving Agency _____ Date _____
5	→	Item 5 Is the proposed project covered by an approved comprehensive plan? _____ Yes <u>✓</u> No	Check one: State <input type="checkbox"/> Local <input type="checkbox"/> Regional <input type="checkbox"/> Location of Plan _____
6	→	Item 6 Will the assistance requested serve a Federal installation? _____ Yes <u>✓</u> No	Name of Federal Installation _____ Federal Population benefiting from Project _____
7	→	Item 7 Will the assistance requested be on Federal land or installation? _____ Yes <u>✓</u> No	Name of Federal Installation _____ Location of Federal Land _____ Percent of Project _____
8	→	Item 8 Will the assistance requested have an impact or effect on the environment? <u>✓</u> Yes _____ No	See instructions for additional information to be provided This assistance is intended to facilitate site response actions
9	→	Item 9 Has the project for which assistance is requested caused since January 1, 1971, or will it cause the displacement of any individual, family, business, or farm? _____ Yes <u>✓</u> No	Number of: Individuals _____ Families _____ Businesses _____ Farms _____
10	→	Item 10 Is there other related assistance on this project previous, pending, or anticipated? _____ Yes <u>✓</u> No	See instructions for additional information to be provided
11	→	Item 11 Is project in a Designated Flood Hazard Area? _____ Yes <u>✓</u> No	

EPA Form 5700-33 (Rev. 11-86) Previous editions are obsolete PAGE 1-1

## Instructions For Completing The Grant Application

### Part III, Page 7, Section B, Schedule A – Budget Categories

#### Item

#### Response

#### (Section B, Schedule A)

#### 6. Grant Program Function or Activity

In column (1) enter "Technical Assistance Grant."

a.-h.

If a group contracts for a package of services with technical advisors, all costs covered under the contract are reported in line (f), including wages, travel, etc. Other costs, including those covered by in-kind contributions, go into the appropriate categories

i.

Add the amounts in lines (a) through (h) and enter the sum on line (i), this amount must equal the figure in section A, line (1), column (g).

j.

Not applicable (leave blank).

k

Enter the amount from line (i) above

#### 7. Program Income

This line must be zero. Technical assistance grant applicants may not earn income from their assistance program funds

Form Approved  
OMB No. 2030-0020  
Approval expires 7/31/88

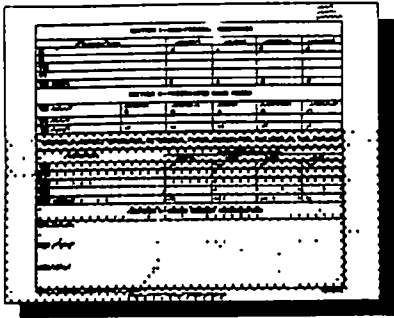
PART III—BUDGET INFORMATION						
SECTION A—BUDGET SUMMARY						
GRANT PROGRAM FUNCTION OR ACTIVITY (1)	FEDERAL CATALOG NO. (2)	ESTIMATED UNOBLIGATED FUNDS		NEW OR REVISED BUDGET		
		FEDERAL (3)	NON-FEDERAL (4)	FEDERAL (5)	NON-FEDERAL (6)	TOTAL (7)
1 Tech Assistance Grant	00-807	\$	\$	\$ 20,437	11,010	\$ 31,447
2						
3						
4						
5 TOTALS		\$	\$	\$ 20,437	\$ 11,010	\$ 31,447

SECTION B—SCHEDULE A BUDGET CATEGORIES					
B. Other Cost Categories	GRANT PROGRAM FUNCTION OR ACTIVITY				TOTAL (8)
	1g Tech Assistance	1h	1i	1j	
1 Personnel	\$	\$	\$	\$	\$
2 Fringe Benefits					
3 Travel					
4 Equipment					
5 Supplies					
6 Contractual	20,437				20,437
7 Construction					
8 Other	11,010				11,010
9 Total Other Changes	11,010				11,010
10 Indirect Charge					
11 TOTALS	\$ 31,447	\$	\$	\$	\$ 31,447
12 Program Income	\$ 0	\$	\$	\$	\$ 0

EPA Form 5700-J3 (Rev. 11-88) Previous editions are obsolete

PAGE 7 OF 12



## Instructions For Completing The Grant Application

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

### Item

### Response

8. Grant Program

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

12. Totals

Enter the amounts corresponding to line 8 above.

13. & 14. Federal/Non-Federal

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

15 Totals

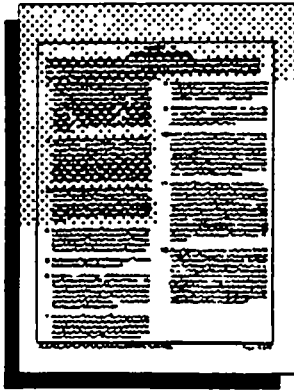
Total the amounts of lines 13 & 14 for each column

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OMB No. 2070-0070  
Approval Expires 7-11-00

SECTION C - NON-FEDERAL RESOURCES					
(a) GRANT PROGRAM	(b) APPLICANT	(c) STATE	(d) OTHER SOURCES	(e) TOTALS	
8 Technical Assistance at ETC	\$ 11,010	\$	\$	\$ 11,010	
9 Middtown Landfill Site					
10					
11					
12 TOTALS	\$ 11,010	\$	\$	\$ 11,010	

SECTION D - FORECASTED CASH NEEDS					
	TOTAL FOR 1st YEAR	1st QUARTER	2nd QUARTER	3rd QUARTER	4th QUARTER
13 Federal	\$ 6,122	\$ 1,656	\$ 1,900	\$ 0	\$ 1,856
14 Non-Federal	\$ 5,110	\$ 1,059	\$ 884	\$ 675	\$ 0
15 TOTALS	\$ 8,722	\$ 2,715	\$ 2,784	\$ 675	\$ 1,856



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## **Instructions For Completing The Grant Application**

*Part V, Page 12*

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

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

### **The Procurement Certification Form**



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

**33.110**

**Part 33,  
App. A**

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

## **Intergovernmental Review of Application**

**30.303**

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



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

## **Submission of Grant Application**

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

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

- The award of a grant agreement constitutes a public trust. By signing and accepting a grant agreement, you become responsible for complying with all terms and conditions of the grant agreement, including any special conditions necessary to assure compliance with EPA or State policies and objectives and any other applicable law or regulation. You must efficiently and effectively manage the project, successfully complete the project according to the schedule, and meet all monitoring and reporting requirements. You may not delegate or transfer this responsibility without formally obtaining EPA approval and amending the agreement.
- 30.309**
- 30.405**
- Your group can hire someone to prepare the grant application, however, it cannot reimburse with grant funds any person, corporation, partnership, agency, or other entity that solicits or obtains EPA or State assistance for the group in exchange for a commission, percentage fee, brokerage fee, or contingency fee. Neither EPA nor State employees may act as paid agents or attorneys to your group.
- 30.611**
- 30.612**
- 35.4070**
- As described in the IFR, necessary and reasonable costs incurred by your group to incorporate are the only pre-award costs eligible for reimbursement with grant funds. These costs should not exceed \$500.

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## Disputes

- If EPA administers the Technical Assistance Grant Program, we will review disputes between Agency officials and an applicant and/or recipient in accordance with EPA's existing dispute resolution procedures. Accordingly, if a disagreement occurs between your group and an EPA official regarding the terms of the grant, the disagreement should be resolved at the lowest level of EPA authority possible. If an agreement is impossible to achieve, you may file a written "dispute" with the EPA Award Official. The Award Official will forward the dispute to an EPA Disputes Decision Official (an individual designated by the Award Official to resolve the dispute).
- 40 CFR 30, Subpart L**
- 30.1200-**
- 30.1235**

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

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

**35.4085**

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

**30.705**

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

**30.710**

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



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

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

The continuation application must include:

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

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

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

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



## CHAPTER 5

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### HOW TO HIRE TECHNICAL ADVISORS



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

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

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

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#### Identifying Prospective Technical Advisors

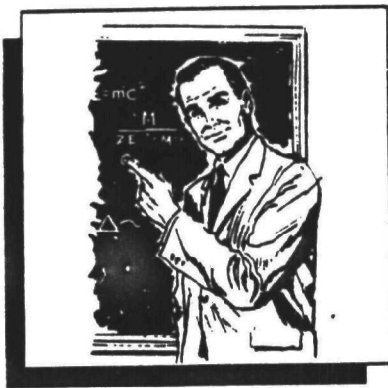
Before hiring a technical advisor, you must carefully determine the specialties you are likely to need to interpret information on the Superfund site in your community. Advisory needs will vary according

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

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

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

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



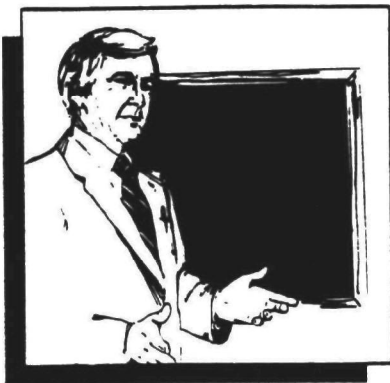
- ◆ Organizations that specialize in scientific, environmental, and hazardous waste issues.
- ◆ College and university science, engineering, and public health faculties.
- ◆ Local research institutions.
- ◆ Local hospitals and medical facilities.
- ◆ Local or State health departments.
- ◆ Local chapters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

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

### Conflict of Interest

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

30.613



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

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

33.270

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

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

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

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

**33.250**

- ◆ The basis for your screening and selecting the technical advisors;
- ◆ A written justification for the procurement method used by your group;
- ◆ A written justification for any specification or requirement that does not encourage free and open competition;
- ◆ A written justification for the type of subagreement used (e.g., labor hour, cost plus fixed fee, etc.);
- ◆ Actual bids submitted by all prospective technical advisors;
- ◆ The basis of the award cost, including any cost analysis conducted and documentation of negotiations;
- ◆ The reasons for your rejection of any or all proposals; and
- ◆ The reasons for rejecting any and all bids and the justification for any noncompetitively negotiated procurements. (This information must be available for public inspection).

**33.290;  
Part 33,  
App.A**

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



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

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

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

---

## Small and Minority Business Utilization

33.240



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

---

## Debarment

33.220

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

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

33.305-  
33.315

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



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

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

33.405-  
33.430

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



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

---

### Steps in the Procurement Process

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

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

**33.510**

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

**33.510**

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

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

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

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

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

**33.510-  
33:520**

**33.510  
Part 33,  
App. A**

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





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

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

33.250

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### **The Subagreement with the Technical Advisor**

35.4095

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

33.1005

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

33.1015

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



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

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

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

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### **Renewing a Subagreement**

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



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

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### **Terminating a Subagreement with the Technical Advisor**

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

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

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

## CHAPTER 6

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### MANAGING TECHNICAL ASSISTANCE GRANTS

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

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#### Financial Management

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

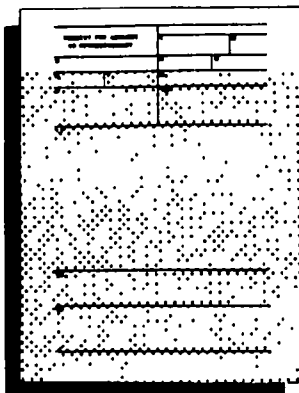
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#### Accessing Grant Funds

30.405

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

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



## Instructions For Completing Form SF 270

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

**REQUEST FOR ADVANCE OR REIMBURSEMENT**

Approved by Office of Management and Budget No. SO-RO183

PAGE 1 OF 1

1. TYPE OF PAYMENT REQUESTED

a. ☐ ADVANCE ☒ REIMBURSEMENT

b. ☐ FINAL ☒ PARTIAL ☐ ACCRUAL

2. BASIS OF REQUEST

☒ CASH ☐ ACCRUAL

3. FEDERAL AGENCY TO WHICH THIS REPORT IS SUBMITTED

EPA Region 1

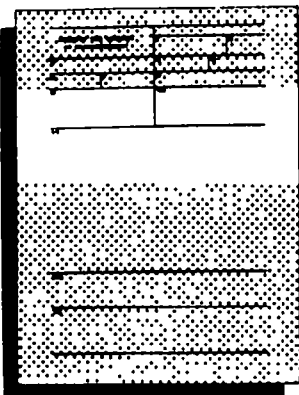
4. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER ASSIGNED BY FEDERAL AGENCY

V-000000

5. PERIOD COVERED BY THIS REQUEST

FROM: (DATE, MO, AND YEAR) TO: (DATE, MO, AND YEAR)

6. REPORT ORGANIZATION



## Instructions For Completing Form SF 270

### Item

### Response

9.

Enter the name of your group and the name and address of the individual authorized to obligate your group to the financial commitments of the assistance agreement

10.

Complete this item only if the payment should be sent to an address other than that provided in item 9. We will make payments only to the payee identified in the assistance agreement

11.

Enter "Technical Assistance Grant" under column (a).

a.

Line (a) enter the total outlays for the period covered by this request and all previous reimbursement periods.

b.

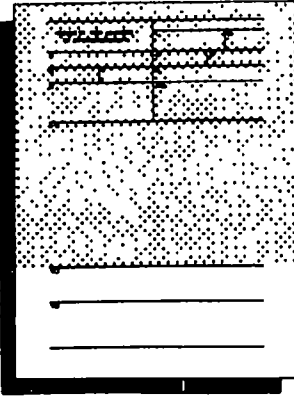
Enter "0"; program income is not allowed by the Technical Assistance Grant Program.

c.

Enter the sum in line (a)

Pat Jones  
Woodtown Landfill Coalition  
Main Street  
Woodtown, CT 06895

COMPUTATION OF AMOUNT OF REIMBURSEMENTS/ADVANCES REQUESTED				
(a)	(b)	(c)	(d)	TOTAL
PROGRAMS/FUNCTIONS/ACTIVITIES - Technical Assistance				
(a) Total program outlays to date \$ 5,499				
(b) Less Cumulative program income 0				
(c) Net program outlays (Line a minus line b) \$ 5,499				
(d) Estimated net program outlays for the period				



## Instructions For Completing Form SF 270

12.

Write "N/A".

13.

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

1st quarter		2nd quarter		3rd quarter		4th quarter		Total	
Estimated Federal cash outlays that will be made during period covered by the advance									
12. ALTERNATE COMPUTATION FOR ADVANCES ONLY									
a. Estimated Federal cash outlays that will be made during period covered by the advance								\$	NA
b. Less: Estimated balance of Federal cash on hand as of beginning of advance period								\$	
c. Amount requested (Use a minus (-) sign)								\$	
13. CERTIFICATION									
I certify that to the best of my knowledge and belief the data above are correct and that all outlays were made in accordance with the grant conditions or other agreement and that payment is due and has not been previously requested.					SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL			DATE REQUEST SUBMITTED	
					<i>Pat Jones</i>			3/10/91	
					TYPED OR PRINTED NAME AND TITLE			TELEPHONE AREA CODE, NUMBER, EXTENSION	
					Pat Jones Executive Director			(203) 888-XXXX	
This space for agency use									

30.530



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

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

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

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

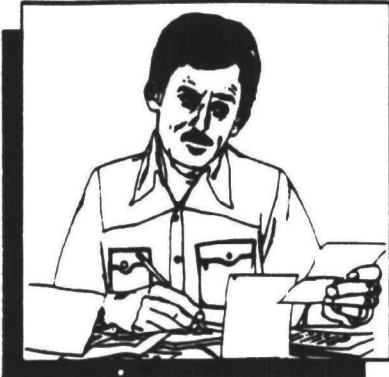
- ◆ Demonstrate that the equipment is vital to the project;
- ◆ Show that purchase of the equipment is the most cost-effective method of obtaining that equipment and that it cannot be obtained through an in-kind contribution, by leasing, or through the technical advisor; and
- ◆ Provide justification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

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

30.531

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





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

- the sources and amounts of funds received (Federal and other) as well as any transactions involving in-kind contributions;
  - the application of all project funds, including grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income accrued from interest payments; and
  - the total cost of the project;
- ◆ Records of any purchases made under the award, including receipts for all goods and services purchased over the life of the project;
  - ◆ Control over and accountability for all project funds, property and other assets, and an assurance that you used these solely for authorized purposes;
  - ◆ A comparison of actual costs versus budgeted amounts;
  - ◆ Audits at least every other year on an organization-wide basis;
  - ◆ Procedures for determining allowable, allocable, and reasonable costs; and
  - ◆ A systematic method for responding to audit findings and recommendations.

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

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

Exhibit 6-1 (continued)

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

<div> Month _____  Year _____ </div>					
IN-KIND CONTRIBUTIONS					
Date	Task/Job/Resource	Hours	Rate	Value	Description: <sup>3</sup>

Total In-Kind \$ _____			
CASH CONTRIBUTIONS			
Date	Source	Amount/ Balance	Description: <sup>3</sup>

Total Cash	\$ _____
Total Contribution Required:	\$ _____
	(-)
Contributions to Date:	\$ _____
	(=)
Subtotal:	\$ _____
	(-)
Total Monthly Contribution: <sup>4</sup>	\$ _____
	(=)
Current Remaining Balance	\$ _____

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

<sup>4)</sup> Total monthly contribution = Total In-Kind + Total Cash

*Exhibit 6-2*

**Sample Quarterly Progress Report**

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

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

**Progress Report:**

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

**Difficulties Encountered:**

- None.

**Project Status**

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

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

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

35.4115

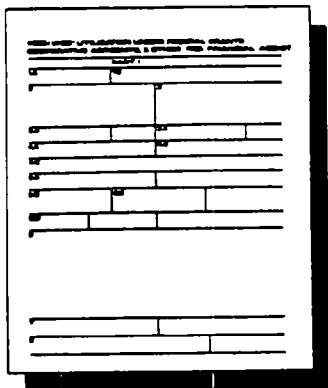
### **Minority and Women's Business Enterprise Report**



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

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

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



## Instructions For Completing Form SF 334 *Part 1*

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

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## **Financial Status Reports**

**35.4110**



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

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

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

### Item

### Response

10. Column (a) & (g)

Enter "Technical Assistance" in vertical column (a). Instructions for subparts a-m follow. All figures should be entered under column (a) and in column (g) "Total".

a.

Show zero if this is the initial report. On subsequent reports show total outlays previously reported

b.

Enter total gross program outlays for the report period (outlays are the sum of actual cash payments for goods and services [plus the value of in-kind contributions]).

c.

Enter the total amount of program income accrued (as interest) on program funds. For the Technical Assistance Grant Program, this amount should be 0.

d.

Subtract line c from line b and enter the difference

e.

Add line a to line d and enter the total sum.

**FINANCIAL STATUS REPORT**  
(Follow instructions on the back)

1. RECIPIENT ORGANIZATION: Name and complete address, including ZIP code:  
Pat Jones  
Woodtown Landfill Coalition  
Main Street, Woodtown, CT 06898

2. FEDERAL AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH REPORT IS SUBMITTED:  
EPA Region I

3. EMPLOYEE IDENTIFICATION NUMBER:  
None

4. RECIPIENT ACCOUNT NUMBER OR IDENTIFYING NUMBER:  
None

5. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER:  
V-000000

6. REPORT PERIOD (See instructions):  
FROM (Month, day, year): 9,01,90 TO (Month, day, year): 9,01,96

7. PERIOD COVERED BY THIS REPORT:  
FROM (Month, day, year): 9,01,90 TO (Month, day, year): 9,01,91

8. STATUS OF FUNDS

PROGRAMS/FUNCTIONS/ACTIVITIES	(a) Technical Assistance	(b)	(c)	(d)	(e)	(f)	TOTAL (g)
1. Outlays previously reported	\$ 0						\$ 0
2. Total outlays this report period	8,722						8,722
3. Total program income (interest)	0						0
4. Total outlays less report period (Line 2 minus Line 3)	8,722						8,722
5. Total outlays to date (Line 1 plus Line 4)	8,722						8,722

## Response

Not applicable.

Optional. You may attach a separate sheet providing explanatory information if you believe such information is necessary to explain data entered on this report.

Read, sign, and date this certification and submit this form to the EPA Award Official within 90 days of the anniversary date of the start of the project, of the end of the budget period, or of project completion.

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

## **APPENDICES**

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

**APPENDIX B: Blank Forms**

**APPENDIX C: Key Contacts List**

**APPENDIX D: Selected Regulatory Text**

**APPENDIX E: Checklists for Grant Applicants and Recipients**

## **APPENDIX A**

### **SAMPLE MATERIALS TO BE PREPARED BY GRANT APPLICANTS AND RECIPIENTS**

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

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

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

### **INTRODUCTION**

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

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

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

### **SECTION 1: QUALIFICATIONS OF THE APPLICANT**

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

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

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

#### **A. Group Eligibility**

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

*Exhibit A-1*

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

Three-Year Budget Period	Schedule/Tasks	Review Report	Prepare Memo/ Report	Attend Meeting	# of Hours	Cost at \$/hour*	Total Cost of Advisor	Total # of Hours
1st	<b>Remedial Investigation (RI)</b>							
	• Review work plan	X	X		28	\$ 2,128		
	• Issue evaluation memo							
	• Attend RI kickoff public meeting			X	8	\$ 608		
	• Review various RI reports (e.g., risk assessment, QA/QC plan, sampling plan)	X	X		42	\$ 3,192		
	• Review RI report and prepare RI evaluation report	X	X		56	\$ 4,256	\$ 10,184	134
1st	<b>Feasibility Study (FS)</b>							
	• Review health assessment and prepare report	X	X		39	\$ 2,964		
	• Review draft FS and prepare FS evaluation	X	X		84	\$ 6,384	\$ 9,348	123
2nd	<b>Feasibility Study (FS) Continued</b>							
	• Brief Coalition on FS and attend FS meetings			X	11	\$ 924		
	• Review Coalition comments on FS	X			12	\$ 1,008		
	• Review ROD and prepare summary memo	X	X		56	\$ 4,704	\$ 6,636	79
	<b>Remedial Design (RD)</b>							
	• Review pre-final and final design and prepare design evaluation memo	X	X		56	\$ 4,704	\$ 4,704	56
2nd	<b>Remedial Action (RA)</b>							
	• Review pre-final and final inspection reports and prepare cleanup evaluation report	X	X		29	\$ 2,436	\$ 2,436	29
	<b>Travel</b>							
	• Two trips (total of 4 days/3 nights) to attend two meetings							
	- Airfare (\$150)						\$ 300	
	- Rental Car (\$40 per day)						\$ 160	
	- Lodging and Meals (\$100 per diem)						\$ 300	
							<b>Total</b>	
							\$ 760	
	<b>Administrative Costs</b>							
	• Phone and Mail						\$ 640	
	• Xeroxing						\$ 440	
							<b>Total</b>	
							\$ 1,080	
							<b>Total (Federal Share)</b>	
							\$ 35,148	

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

Exhibit A-2 (Continued)

**Comparison of Federal and Matching Shares over Two Budget Periods**

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

**1. Federal Share:**

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

**2. Matching Share:**

Cash	
- Newsletter (6 issues at \$200)	= \$ 1,320
- External Audit (20 hours of accounting @ \$24 per hour)	= \$ 520 *
- Newspaper ads announcing Community Forum	= \$ 156
In-Kind Contributions	
- Meeting Space (\$198 per year)	= \$ 594
- Accountant (75 hours at \$26 per hour)	= \$ 1,950 *
- Editor (220 hours at \$22 per hour)	= \$ 4,840
Subtotal Matching Share	= \$ 9,380
TOTAL (Federal and Matching)	= \$ 24,091

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

*Exhibit A-3*

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

**A. Woodtown Citizen Task Force Activities**

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

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

## **2. Broad Representation**

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

## **3. Tasks for the Technical Advisor**

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

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

## **4. Informing Others in the Community**

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



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

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

#### **Feasibility Study (288 hours including one trip)**

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

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

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

#### **Remedial Design (80 hours)**

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

#### **Remedial Action (42 hours)**

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

## **Sample Request for Proposals**

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

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

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

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

## **Sample Request for Proposals (continued)**

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

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

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

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

## Sample Public Notice

### **PUBLIC NOTICE**

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

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

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

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

## **Sample Technical Advisor Subagreement**

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

### **I. SCOPE OF SUBAGREEMENT**

The contractor agrees to perform the following services:

#### **A. Purpose:**

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

#### **B. Contractual Period and General Statement of Duties:**

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

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

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

#### **C. Specific Contractor Tasks:**

##### **1. Remedial Investigation**

Time allocation: 134 hours, including one trip

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

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

## **II. PAYMENT**

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

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

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

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

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

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

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

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

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

## **III. METHOD OF PAYMENT**

### **A. Standard Invoice System:**

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

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

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

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

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

#### **4. Remedies**

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

#### **5. Audit - Access to Records**

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

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

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

#### **8. Responsibility of the Contractor**

(a) The contractor is responsible for the professional quality, technical accuracy, timely completion, and coordination of all reports or other services furnished by the contractor under this subagreement. The contractor shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in the reports and other services.

(b) The contractor shall perform the professional services necessary to accomplish the work specified in this subagreement in accordance with this subagreement and applicable EPA requirements in effect on the date of execution of the assistance agreement for this project.

(c) The Woodtown Landfill Coalition's or EPA's approval of reports and incidental work or materials furnished hereunder shall not in any way relieve the contractor of responsibility for the technical adequacy of his work. Neither the Woodtown Landfill Coalition's nor EPA's review, approval, acceptance, or payment of any of the services shall be construed as a waiver of any rights under this subagreement or of any cause for action arising out of the performance of this subagreement.

(d) The contractor shall be, and shall remain, liable in accordance with applicable law for all damages to the Coalition or EPA caused by the contractor's negligent performance of any of the services furnished under this subagreement, except for errors, omissions or other deficiencies to the extent attributable to the Coalition, Coalition-furnished data, or any third party. The contractor shall not be responsible for any time delays in the project caused by circumstances beyond the contractor's control.

(e) The contractor's obligations under this clause are in addition to the contractor's other express or implied assurances under this subagreement or State law and in no way diminish any other rights that the Coalition may have against the contractor for faulty materials, equipment, or work.

#### **9. Final Payment**

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

#### **10. Conflict of Interest**

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



### **Sample Cost Analysis**

(for subagreements over \$25,000)

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

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

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

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

Example 1:

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

Example 2:

Total Indirect Costs                      \$11,346

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

**Things to Consider:**

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

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

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

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

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

Example:

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

## **B. Cost Analysis Findings**

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

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

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

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

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

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

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

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

**COST OR PRICE SUMMARY**

(See accompanying instructions before completing this form)

Form Approved  
OMB No 2030-0011  
Approval expires 10-31-86**PART I - GENERAL**

<b>1 RECIPIENT</b> Woodtown Landfill Coalition		<b>2 ASSISTANCE IDENTIFICATION NO</b>
<b>3 NAME OF CONTRACTOR OR SUBCONTRACTOR</b> Acme Services		<b>4 DATE OF PROPOSAL</b> 9/15/90
<b>5 ADDRESS OF CONTRACTOR OR SUBCONTRACTOR (Include ZIP Code)</b>  123 Main Street Anytown, USA		<b>6 TYPE OF SERVICE TO BE FURNISHED</b>  Technical Assistance
<b>TELEPHONE NUMBER (Include Area Code)</b> (203) 123-4567		

**PART II - COST SUMMARY**

<b>7 DIRECT LABOR (Specify labor categories)</b>	<b>ESTIMATED HOURS</b>	<b>HOURLY RATE</b>	<b>ESTIMATED COST</b>	<b>TOTALS</b>
Senior Scientist	400	\$ 35.00	\$ 14,000	
Staff Scientist	100	25.00	2,500	
Clerical	150	12.00	1,800	
<b>DIRECT LABOR TOTAL</b>				<b>\$ 18,300</b>
<b>8 INDIRECT COSTS (Specify indirect cost pools)</b>	<b>RATE</b>	<b>BASE</b>	<b>ESTIMATED COST</b>	
		\$	\$	
Overhead Rate	62%	18,300		
<b>INDIRECT COSTS TOTAL</b>				<b>\$ 11,346</b>
<b>9 OTHER DIRECT COSTS</b>				
<b>a TRAVEL (To visit the site and the EPA Regional Office)</b>			<b>ESTIMATED COST</b>	
(1) TRANSPORTATION (local)			\$ 51	
(2) PER DIEM (3 days @ \$82.00 per day)			\$ 246	
<b>TRAVEL SUBTOTAL</b>			<b>\$ 297</b>	
<b>b EQUIPMENT MATERIALS SUPPLIES (Specify categories)</b>			<b>ESTIMATED COST</b>	
			\$	
None				
<b>EQUIPMENT SUBTOTAL</b>				
<b>c SUBCONTRACTS</b>			<b>ESTIMATED COST</b>	
			\$	
Goodtime Engineering			11,000	
<b>SUBCONTRACTS SUBTOTAL</b>			<b>\$ 11,000</b>	
<b>d OTHER (Specify categories)</b>			<b>ESTIMATED COST</b>	
			\$	
None				
<b>OTHER SUBTOTAL</b>			<b>\$</b>	
<b>e OTHER DIRECT COSTS TOTAL</b>			<b>\$ 11,297</b>	
<b>10 TOTAL ESTIMATED COST</b>				<b>\$ 40,943</b>
<b>11 PROFIT</b>				<b>\$ 4,094</b>
<b>12 TOTAL PRICE</b>				<b>\$ 45,037</b>

## PURPOSE AND APPLICABILITY

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

## INSTRUCTIONS

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

Use only the applicable portions of this form.

Part I is applicable to all subagreements.

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

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

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

### PART I — GENERAL

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

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

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

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

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

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

### PART II — COST SUMMARY

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

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

#### Item 7 — Direct Labor

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

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

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

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

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

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

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

#### Item 8 — Indirect Costs

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

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

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

Enter the dollar amount of profit in block 11

**Item 12 — Total Price**

Enter the total of items 10 and 11

**PART III — PRICE SUMMARY**

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

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

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

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

**PART IV — CERTIFICATIONS**

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

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

Enter the specific cost principles with which the cost summary of Part II conforms. Cost principles applicable to subagreements with various types or organizations are identified in 40 CFR Part 30.410. Cost principles applicable to subagreements with profit-making organizations are those at 41 CFR 31.2, and, for architect-engineer or construction contracts, 41 CFR 31.105.

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

**Item 15 — Recipient Reviewer — FOR USE BY RECIPIENT ONLY**

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

**Item 16 — EPA Reviewer — FOR USE BY EPA ONLY**

U.S. Environmental Protection Agency  
**Application for Federal Assistance**  
(State and Local Nonconstruction Programs)  
**General Instructions**

**Note:** This application may be used to request financial assistance for either a grant or cooperative agreement. Where the term "grant" is used the term "cooperative agreement" may be used interchangeably.

In completing this form, carefully read and follow all instructions. Many items are not self-explanatory. An incomplete or incorrectly completed application may delay consideration of your application.

- 1 **Use of this Application Form** - This application form, with appropriate program narrative, is to be used for all EPA State and local grant programs except for (a) construction, land acquisition or land development projects and (b) single purpose one-time assistance requests of less than \$10,000 which do not require a clearing-house review, an environmental impact statement, or relocation of persons, businesses, or farms. This form shall be used to request continuation or refunding for approved grants originally submitted on this form.
- 2 **Submission** - All applications for State and local government grants (excluding construction grants) are to be addressed to the Grants Administration Branch of the appropriate EPA Regional Office. Submit the original and three copies of the forms. When a request is made for supplemental assistance, amendments, or changes to an approved grant, submit only those pages which are appropriate.
- 3 **Grant Regulations** - Applicants must comply with all EPA grant regulations. These regulations are published in Title 40, Chapter 1, Subchapter B of the Code of Federal Regulations. A copy of these regulations is included in the application kit.
- 4 **Environmental Impact** - The National Environmental Policy Act of 1969 requires that all agencies of the Federal Government prepare detailed environmental statements on any actions to be taken which significantly affect the quality of the human environment. EPA procedures for the preparation of such statements are set forth in Part 6 of Title 40 of the Code of Federal Regulations (40 CFR 6.1 et seq.). A copy of the Environmental Assessment outline is included in the appropriate application kits. As stated in the regulations, EPA requires an environmental assessment of certain projects that are to be supported by agency grants. Those projects which require such an assessment and the responsibilities of the applicant in supporting and contributing to the conduct of the assessment are set forth in the regulations. EPA will use the environmental assessment to either prepare an Environmental Impact Statement which will identify and analyze in detail the impact of the project on the quality of the environment, or a "Negative Declaration" indicating that there will be no such impact.
- 5 **Relocation Assistance and Real Property Acquisition** - The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646, provides certain rights and benefits to persons whose land is acquired or who are displaced as the result of a Federal or a federally assisted project. If the project of a State or local agency involves land acquisition or the displacement of any person from his home, business, or farm, actions must be taken to assure compliance with the Act. Land must be acquired in accordance with the policies of Title III of the Act. Persons to be displaced must be provided decent, safe, sanitary, and comparable housing. Procedures for complying with the Act are set forth in Part 4 of Title 40 of the Code of Federal Regulations (40 CFR 4.1 et seq.). No project subject to the Act can be assisted without the actions and assurances required by those regulations. Applicants whose projects involve the acquisition of land or the displacement of people should request a copy of 40 CFR Part 4 from the office to which this application is submitted.
- 6 **Flood Insurance** - The Flood Disaster Protection Act of 1973 (P.L. 93-234) requires grantees, as a condition of receiving any form of Federal assistance for acquisition (including real and nonexpendable personal property) or construction purposes in an identified special flood area, to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more. Special flood hazard areas are identified on Flood Hazard Boundary Maps and Flood Insurance Rate Maps issued by the Department of Housing and Urban Development. Communities have one year after they are notified that they are a flood-prone community to enter the flood insurance program, or no grant assistance may be awarded for property in the flood hazard area. Specific requirements pertaining to the flood insurance program and to the required grantee purchase of flood insurance are set forth in 40 CFR 30.600(b).
- 7 **Completing the Application**
  - a. This application consists of 5 parts: General Information, Signature, and Certification on Part I, Project Approval Information on Part II, Budget Information on Part III, Project Narrative Statement on Part IV, and Assurance on Part V.
  - b. All dollar amounts requested in this application should be rounded to the nearest dollar.
  - c. Applicants currently receiving grant assistance from EPA who are applying for a continuation grant for an additional budget period within the project period need not complete an entirely new Project Narrative Statement. The narrative should detail only changes in the narrative statement applicable to the existing grant. The current grant should be identified by its EPA Identification Number and Title. Evaluation of performance under the current grant will be based on progress reports required by EPA assistance regulations or grant agreement. Continuation applications for each budget period after the first will include, as a minimum, a report of estimated financial expenditures, a technical progress report and a statement of the objectives to be achieved during the next budget period. This information, along with any other reports which may have been required by the grant agreement, provides the basis for evaluation of progress and for a decision regarding continuation funding. Applications for amendments to existing grants may be submitted on the Short Form, EPA Form 5700-31.
  - d. **Project** - The term "project" as used in this application refers to the activities or tasks which will be supported in part by grant funds requested in this application.
- 8 **Preapplication Assistance** - EPA preapplication assistance may be obtained from the appropriate program office prior to application submission.

## GENERAL INSTRUCTIONS FOR THE SF-424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted in accordance with OMB Circular A-102. It will be used by Federal agencies to obtain applicant certification that states which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process have been given an opportunity to review the applicant's submission.

### APPLICANT PROCEDURES FOR SECTION I

Applicant will complete all items in Section I with the exception of Box 3 "State Application Identifier." If an item is not applicable, write "NA." If additional space is needed, insert an asterisk \* and use Section IV. An explanation follows for each item.

- |   |   |
|---|---|
| <p><b>Item</b></p> <p>1 Mark appropriate box. Preapplication and application are described in OMB Circular A-102 and Federal agency program instructions. Use of this form as a Notice of Intent is at State option. Federal agencies do not require Notices of Intent.</p> <p>2a Applicant's own control number, if desired.</p> <p>2b Date Section I is prepared (at applicant's option).</p> <p>3a Number assigned by State.</p> <p>3b Date assigned by State.</p> <p>4a-4h Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of applicant, and name and telephone number of the person who can provide further information about this request.</p> <p>5 Employer identification number (EIN) of applicant as assigned by the Internal Revenue Service.</p> <p>6a Use Catalog of Federal Domestic Assistance (CFDA) number assigned to program under which assistance is requested. If more than one program (e.g., joint funding), check "multiple" and explain in Section IV. If unknown, cite Public Law or U.S. Code.</p> <p>6b Program title from CFDA. Abbreviate if necessary.</p> <p>7 Use Section IV to provide a summary description of the project. If appropriate, i.e., if project affects particular sites as, for example, construction or real property projects, attach a map showing the project location.</p> <p>8 "City" includes town, township or other municipality.</p> <p>9 List only largest unit or units affected, such as State, county, or city.</p> <p>10 Estimated number of persons directly benefiting from project.</p> <p>11 Check the type(s) of assistance requested.</p> <p style="margin-left: 20px;">A Basic Grant—an original request for Federal funds.</p> <p style="margin-left: 20px;">B Supplemental Grant—a request to increase a basic grant in certain cases where the eligible applicant cannot supply the required matching share of the basic Federal program (e.g., grants awarded by the Appalachian Regional Commission to provide the applicant a matching share).</p> <p style="margin-left: 20px;">E Other. Explain in Section IV.</p> <p>12 Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included. If the action is a change in dollar amount of an existing grant</p> | <p><b>Item</b></p> <p>(a revision or augmentation under item 14), indicate only the amount of the change. For decreases, enclose the amount in parentheses. If both basic and supplemental amounts are included, breakout in Section IV. For multiple program funding, use totals and show program breakouts in Section IV. 12a—amount requested from Federal Government. 12b—amount applicant will contribute. 12c—amount from State, if applicant is not a State. 12d—amount from local government, if applicant is not a local government. 12e—amount from any other sources, explain in Section IV.</p> <p>13b The district(s) where most of action work will be accomplished. If city-wide or State-wide, covering several districts, write "city-wide" or "State-wide."</p> <p>14 A New. A submittal for project not previously funded.</p> <p style="margin-left: 20px;">B Renewal. An extension for an additional funding/budget period for a project having no projected completion date, but for which Federal support must be renewed each year.</p> <p style="margin-left: 20px;">C Revision. A modification to project nature or scope which may result in funding change (increase or decrease).</p> <p style="margin-left: 20px;">D Continuation. An extension for an additional funding/budget period for a project with a projected completion date.</p> <p style="margin-left: 20px;">E Augmentation. A requirement for additional funds for a project previously awarded funds in the same funding/budget period. Project nature and scope unchanged.</p> <p>15 Approximate date project expected to begin (usually associated with estimated date of availability of funding).</p> <p>16 Estimated number of months to complete project after Federal funds are available.</p> <p>17 Complete only for revisions (item 14c) or augmentations (item 14e).</p> <p>18 Date preapplication/application must be submitted to Federal agency in order to be eligible for funding consideration.</p> <p>19 Name and address of the Federal agency to which this request is addressed. Indicate as clearly as possible the name of the office to which the application will be delivered.</p> <p>20 Existing Federal grant identification number if this is not a new request and directly relates to a previous Federal action. Otherwise, write "NA."</p> <p>21 Check appropriate box as to whether Section IV of form contains remarks and/or additional remarks are attached.</p> |
|---|---|

### APPLICANT PROCEDURES FOR SECTION II

Applicants will always complete either item 22a or 22b and items 23a and 23b.

- |  |  |
|--|--|
| <p>22a Complete if application is subject to Executive Order 12372 (State review and comment).</p> | <p>22b Check if application is not subject to E.O. 12372.</p> <p>23a Name and title of authorized representative of legal applicant.</p> |
|--|--|

### FEDERAL AGENCY PROCEDURES FOR SECTION III

Applicant completes only Sections I and II. Section III is completed by Federal agencies.

- |  |   |
|--|---|
| <p>26 Use to identify award actions.</p> <p>27 Use Section IV to amplify where appropriate.</p> <p>28 Amount to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions will be included. If the action is a change in dollar amount of an existing grant (a revision or augmentation under item 14), indicate only the amount of change. For decreases, enclose the amount in parentheses. If both basic and supplemental amounts are included, breakout in Section IV. For multiple program funding, use totals and show program breakouts in Section IV. 28a—amount awarded by Federal Government. 28b—amount applicant</p> | <p>will contribute. 28c—amount from State, if applicant is not a State. 28d—amount from local government, if applicant is not a local government. 28e—amount from any other sources, explain in Section IV.</p> <p>29 Date action was taken on this request.</p> <p>30 Date funds will become available.</p> <p>31 Name and telephone number of agency person who can provide more information regarding this assistance.</p> <p>32 Date after which funds will no longer be available for obligation.</p> <p>33 Check appropriate box as to whether Section IV of form contains Federal remarks and/or attachment of additional remarks.</p> |
|--|---|



<b>FEDERAL ASSISTANCE</b>				2. APPLICANT'S APPLICATION IDENTIFIER	a. NUMBER  b. DATE Year month day 19	3. STATE APPLICATION IDENTIFIER  NOTE TO BE ASSIGNED BY STATE	a. NUMBER  b. DATE Year month day 19
1. TYPE OF SUBMISSION <input type="checkbox"/> NOTICE OF INTENT (OPTIONAL) <input type="checkbox"/> PREAPPLICATION <input type="checkbox"/> APPLICATION <i>(Mark appropriate box)</i>				Leave Blank			
4. LEGAL APPLICANT/RECIPIENT a. Applicant Name b. Organization Unit c. Street/P.O. Box d. City e. State f. Contact Person (Name & Telephone No.) g. County h. ZIP Code						5. EMPLOYER IDENTIFICATION NUMBER (EIN)  a. NUMBER b. TITLE (From CFDA)	
7. TITLE OF APPLICANT'S PROJECT (Use section IV of this form to provide a summary description of the project.)						8. TYPE OF APPLICANT/RECIPIENT A—State B—Intermediate C—Business D—County E—City F—School District G—Special Purpose District H—Community Action Agency I—Higher Education Institution J—Indian Tribe K—Other (Specify) Enter appropriate letter <input type="checkbox"/>	
9. AREA OF PROJECT IMPACT (Names of cities, counties, states, etc.)				10. ESTIMATED NUMBER OF PERSONS BENEFITING		11. TYPE OF ASSISTANCE A—Basic Grant B—Supplemental Grant C—Loan D—Insurance E—Other Enter appropriate letter(s) <input type="checkbox"/>	
12. PROPOSED FUNDING a. FEDERAL \$ 00 b. APPLICANT \$ 00 c. STATE \$ 00 d. LOCAL \$ 00 e. OTHER \$ 00 f. Total \$ 00				13. CONGRESSIONAL DISTRICTS OF a. APPLICANT b. PROJECT 15. PROJECT START DATE Year month day 19 16. PROJECT DURATION Months 18. DATE DUE TO FEDERAL AGENCY Year month day 19			
14. TYPE OF APPLICATION A—New B—Renewal C—Revision D—Continuation E—Augmentation Enter appropriate letter <input type="checkbox"/>						17. TYPE OF CHANGE (For 14c or 14d) A—Increase Dollars B—Decrease Dollars C—Increase Duration D—Decrease Duration E—Cancellation Enter appropriate letter(s) <input type="checkbox"/>	
19. FEDERAL AGENCY TO RECEIVE REQUEST a. ORGANIZATIONAL UNIT (IF APPROPRIATE) b. ADMINISTRATIVE CONTACT (IF KNOWN) c. ADDRESS						20. EXISTING FEDERAL GRANT IDENTIFICATION NUMBER  21. REMARKS ADDED <input type="checkbox"/> Yes <input type="checkbox"/> No	
22. THE APPLICANT CERTIFIES THAT:		To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is approved.					
23. CERTIFYING REPRESENTATIVE		a. YES, THIS NOTICE OF INTENT/PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____ b. NO, PROGRAM IS NOT COVERED BY E.O. 12372 <input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW <input type="checkbox"/>					
23. CERTIFYING REPRESENTATIVE		a. TYPED NAME AND TITLE				b. SIGNATURE	
24. APPLICATION RECEIVED 19 Year month day				25. FEDERAL APPLICATION IDENTIFICATION NUMBER		26. FEDERAL GRANT IDENTIFICATION	
27. ACTION TAKEN <input type="checkbox"/> a. AWARDED <input type="checkbox"/> b. REJECTED <input type="checkbox"/> c. RETURNED FOR AMENDMENT <input type="checkbox"/> d. RETURNED FOR E.O. 12372 SUBMISSION BY APPLICANT TO STATE <input type="checkbox"/> e. DEFERRED <input type="checkbox"/> f. WITHDRAWN		28. FUNDING a. FEDERAL \$ 00 b. APPLICANT \$ 00 c. STATE \$ 00 d. LOCAL \$ 00 e. OTHER \$ 00 f. TOTAL \$ 00		29. ACTION DATE 19 Year month day		30. STARTING DATE 19 Year month day	
31. CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number)				32. ENDING DATE 19 Year month day		33. REMARKS ADDED <input type="checkbox"/> Yes <input type="checkbox"/> No	

**STANDARD FORM 424**

**PART II**  
**PROJECT APPROVAL INFORMATION**

Form Approved  
OMB No 2030-0020  
Approval expires 7-31 89

Item 1.  
Does this assistance request State, local, regional, or other priority rating? \_\_\_\_\_ Yes \_\_\_\_\_ No  
Name of Governing Body \_\_\_\_\_  
Priority Rating \_\_\_\_\_

Item 2.  
Does this assistance request require State or local advisory, educational, or health clearances? \_\_\_\_\_ Yes \_\_\_\_\_ No  
Name of Agency or Board \_\_\_\_\_  
(Attach Documentation)

Item 3.  
Does this assistance request require clearinghouse review in accordance with Executive Order 12372? \_\_\_\_\_ Yes \_\_\_\_\_ No  
(Attach Comments)

Item 4.  
Does this assistance request require State, local, regional or other planning approval? \_\_\_\_\_ Yes \_\_\_\_\_ No  
Name of Approving Agency \_\_\_\_\_  
Date \_\_\_\_\_

Item 5.  
Is the proposed project covered by an approved comprehensive plan? \_\_\_\_\_ Yes \_\_\_\_\_ No  
Check one State ☐  
Local ☐  
Regional ☐  
Location of Plan \_\_\_\_\_

Item 6.  
Will the assistance requested serve a Federal installation? \_\_\_\_\_ Yes \_\_\_\_\_ No  
Name of Federal Installation \_\_\_\_\_  
Federal Population benefiting from Project \_\_\_\_\_

Item 7.  
Will the assistance requested be on Federal land or installation? \_\_\_\_\_ Yes \_\_\_\_\_ No  
Name of Federal Installation \_\_\_\_\_  
Location of Federal Land \_\_\_\_\_  
Percent of Project \_\_\_\_\_

Item 8.  
Will the assistance requested have an impact or effect on the environment? \_\_\_\_\_ Yes \_\_\_\_\_ No  
See instructions for additional information to be provided

Item 9.  
Has the project for which assistance is requested caused, since January 1, 1971, or will it cause, the displacement of any individual, family, business, or farm? \_\_\_\_\_ Yes \_\_\_\_\_ No  
Number of  
Individuals \_\_\_\_\_  
Families \_\_\_\_\_  
Businesses \_\_\_\_\_  
Farms \_\_\_\_\_

Item 10.  
Is there other related assistance on this project previous, pending, or anticipated? \_\_\_\_\_ Yes \_\_\_\_\_ No  
See instructions for additional information to be provided.

Item 11.  
Is project in a Designated Flood Hazard Area? \_\_\_\_\_ Yes \_\_\_\_\_ No

**PART III-BUDGET INFORMATION**

**SECTION A-BUDGET SUMMARY**

GRANT PROGRAM, FUNCTION OR ACTIVITY (a)	FEDERAL CATALOG NO. (b)	ESTIMATED UNOBLIGATED FUNDS		NEW OR REVISED BUDGET		
		FEDERAL (c)	NON FEDERAL (d)	FEDERAL (e)	NON-FEDERAL (f)	TOTAL (g)
1		\$	\$	\$	\$	\$
2						
3						
4						
5 TOTALS		\$	\$	\$	\$	\$

**SECTION B-SCHEDULE A BUDGET CATEGORIES**

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				TOTAL (5)
	(1)	(2)	(3)	(4)	
a Personnel	\$	\$	\$	\$	\$
b Fringe Benefits					
c Travel					
d Equipment					
e Supplies					
f Contractual					
g Construction					
h Other					
i Total Direct Charges					
j Indirect Charges					
k TOTALS	\$	\$	\$	\$	\$
7 Program Income	\$	\$	\$	\$	\$

SECTION C--NON-FEDERAL RESOURCES				
(a) GRANT PROGRAM	(b) APPLICANT	(c) STATE	(d) OTHER SOURCES	(e) TOTALS
8	\$	\$	\$	\$
9				
10				
11				
12 TOTALS	\$	\$	\$	\$

SECTION D--FORECASTED CASH NEEDS					
	TOTAL FOR 1st YEAR	1st QUARTER	2nd QUARTER	3rd QUARTER	4th QUARTER
13 Federal	\$	\$	\$	\$	\$
14 Non Federal					
15 TOTALS	\$	\$	\$	\$	\$

SECTION E--BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) GRANT PROGRAM	FUTURE FUNDING PERIODS (YEARS)			
	(b) FIRST	(c) SECOND	(d) THIRD	(e) FOURTH
16	\$	\$	\$	\$
17				
18				
19				
20 TOTALS	\$	\$	\$	\$

SECTION F--OTHER BUDGET INFORMATION (Attach Additional Sheets If Necessary)	
21 Direct Charges	
22 Indirect Charges	
23 Remarks	

## INSTRUCTIONS

### PART III (Continued)

#### Section B. Schedule B—Budget Categories

Lines 6a-h—For each program element fill in the total requirements for funds (*Federal, non-Federal, and total*) and many years.

Line i—Show the totals of Lines 6a through h in each column.

Line j—Show the State totals. Total (*Program Elements*) and State total might not be equal due to expenses which are not classified under specific program elements.

#### Section C. Source of Non-Federal Resources

Lines 8-11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet. (See Attachment F, A-102.)

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the amount of cash and in-kind contributions to be made by the applicant as shown in Section A. (See also Attachment F, A-102.)

Column (c)—Enter the State contribution if the applicant is *not* a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

#### Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

#### Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16-19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuing grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (*usually in years*). This Section need not be completed for amendments, changes or supplements to funds for the current year of existing grants.

If more than four lines are needed to list the program titles submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

#### Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (*provisional, pre-determined, final or fixed*) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations required herein or any other comments deemed necessary.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, DC 20460

## PROCUREMENT SYSTEM CERTIFICATION

Form Approved  
OMB No. 2000-0453  
Approval expires 10-31-87

APPLICANT'S NAME

ASSISTANCE APPLICATION NUMBER

APPLICANT'S ADDRESS

### SECTION I - INSTRUCTIONS

The applicant must complete and submit a copy of this form with each application for EPA Assistance. If the applicant has certified its procurement system to EPA within the past 2 years and the system has not been substantially revised, complete Part A in Section II, then sign and date the form. If the system has not been certified within the past 2 years, complete Part B, then sign and date the form.

### SECTION II - CERTIFICATION

A I affirm that the applicant has within the past 2 years certified to EPA that its procurement system complies with 40 CFR Part 33 and that the system meets the requirements in 40 CFR Part 33. The date of the applicant's latest certification is

MONTH/YEAR

B Based upon my evaluation of the applicant's procurement system, I, as authorized representative of the applicant: *(Check one of the following:)*

- ☐ 1 **CERTIFY** that the applicant's procurement system will meet all of the requirements of 40 CFR Part 33 before undertaking any procurement action with EPA assistance.

Please furnish citations to applicable procurement ordinances and regulations

- ☐ 2 **DO NOT CERTIFY THE APPLICANT'S PROCUREMENT SYSTEM** The applicant agrees to follow the requirements of 40 CFR Part 33, including the procedures in Appendix A, and allow EPA preaward review of proposed procurement actions that will use EPA assistance.

TYPED NAME AND TITLE

SIGNATURE

DATE

# **MBE/WBE\* UTILIZATION UNDER FEDERAL GRANTS, COOPERATIVE AGREEMENTS, AND OTHER FEDERAL FINANCIAL ASSISTANCE**

## **PART 1. (NEGATIVE REPORTS MAY BE REQUIRED)**

1A FEDERAL FISCAL YEAR 19 _____		1B REPORTING QUARTER (Check appropriate box) <input type="checkbox"/> 1st (Oct.-Dec.) <input type="checkbox"/> 2nd (Jan.-Mar.) <input type="checkbox"/> 3rd (Apr.-Jun.) <input type="checkbox"/> 4th (Jul.-Sep.)	
2 FEDERAL FINANCIAL ASSISTANCE AGENCY (Department/Agency, Bureau/Administering Office, Address)		3 REPORTING RECIPIENT (Name and Address)	
2A. REPORTING CONTACT	PHONE	3A. REPORTING CONTACT	PHONE
4A FINANCIAL ASSISTANCE AGREEMENT ID NUMBER		4B FEDERAL FINANCIAL ASSISTANCE PROGRAM	
4C TYPE OF FEDERAL ASSISTANCE AGREEMENT <input type="checkbox"/> GRANT <input type="checkbox"/> COOPERATIVE AGREEMENT <input type="checkbox"/> OTHER FEDERAL FINANCIAL ASSISTANCE			
5A PERIOD WHEN PROCUREMENT UNDER THIS AWARD WILL OCCUR START DATE		END DATE	
5B AMOUNT OF TOTAL PROJECT DOLLARS PLANNED FOR PROCUREMENT THIS FISCAL YEAR \$	5C RECIPIENT'S MBE/WBE GOALS (Percent of total procurement dollars (5b) for each) MBE %		WBE %
5D MBE/WBE PROCUREMENT ACCOMPLISHED THIS QUARTER MBE \$                      WBE \$	5E NEGATIVE REPORT (Check) <input type="checkbox"/> SEE INSTRUCTIONS		
6 COMMENTS			

7 NAME OF AUTHORIZED REPRESENTATIVE	TITLE
8 SIGNATURE OF AUTHORIZED REPRESENTATIVE	DATE



# INSTRUCTIONS

## MBE/WBE UTILIZATION UNDER FEDERAL GRANTS, COOPERATIVE AGREEMENTS, AND OTHER FEDERAL FINANCIAL ASSISTANCE Standard Form 334

### A. General Instructions:

MBE/WBE utilization is based on Executive Orders 11625, 12138 and 12432 and OMB Circular A-102. Standard Form 334 must be completed by recipients of Federal grants, cooperative agreements, or other Federal financial assistance valued at \$500,000<sup>1</sup> or more and which involve procurement of supplies, equipment, construction or services to accomplish Federal assistance programs.

Recipients are required to report to agency award officials within one month following the end of each Federal fiscal year quarter (i.e. January 31, April 30, July 31 and October 31) during which any procurement in excess of \$10,000 is actually executed under this assistance agreement.

### B. Definitions:

*Procurement* is the acquisition through order, purchase, lease or barter of supplies, equipment, construction or services needed to accomplish Federal assistance programs.

A *minority business enterprise* (MBE) is a business concern that is (1) at least 51 percent owned by one or more minority individuals, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more minority individuals; and (2) whose daily business operations are managed and directed by one or more of the minority owners.

There is no standard definition of *minority individuals* used by all Federal financial assistance agencies. However, recipients shall presume that minority individuals include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, or other groups whose members are found to be disadvantaged by the Small Business Act or by the Secretary of Commerce under section 5 of Executive Order 11625. The reporting contact at your Federal financial assistance agency can provide additional information.

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<sup>1</sup> There is no reporting threshold for the Environmental Protection Agency (EPA). Recipients of EPA financial assistance must report under all assistance agreements regardless of the size of the award.

A *woman business enterprise* (WBE) is a business concern that is, (1) at least 51 percent owned by one or more women, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more women; and, (2) whose daily business operations are managed and directed by one or more of the women owners.

Business firms which are 51 percent owned by minorities or women, but are in fact managed and operated by non-minority individuals do not qualify for meeting MBE/WBE procurement goals.

The following affirmative steps for utilizing MBEs and WBEs are suggested:

1. Inclusion of MBEs/WBEs on solicitation lists.
2. Assure MBEs/WBEs are solicited once they are identified.
3. Where feasible, divide total requirements into smaller tasks to permit maximum MBE/WBE participation.
4. Where feasible, establish delivery schedules which will encourage MBE/WBE participation.
5. Encourage use of the services of the U.S. Department of Commerce's Minority Business Development Agency (MBDA) and the U.S. Small Business Administration to identify MBEs/WBEs.
6. Require that each party to a subgrant, subagreement, or contract award take the affirmative steps outlined here.

### C. Instructions for Part I:

1. Complete Federal fiscal year and check applicable reporting quarter. (Federal fiscal year runs from October 1 through September 30.)
2. Identify the Federal financial assistance department or agency including the bureau, office or other subactivity which administers your financial assistance agreement.

# REQUEST FOR ADVANCE OR REIMBURSEMENT

Budget. No. 80-RO183

PAGES

(See instructions on back)

3. FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH THIS REPORT IS SUBMITTED

1. TYPE OF PAYMENT REQUESTED

a. "X" one, or both boxes  
☐ ADVANCE ☐ REIMBURSEMENT  
b. "X" the applicable box  
☐ FINAL ☐ PARTIAL

2. BASIS OF REQUEST

☐ CASH  
☐ ACCRUAL

4. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER ASSIGNED BY FEDERAL AGENCY

5. PARTIAL PAYMENT REQUEST NUMBER FOR THIS REQUEST

6. EMPLOYER IDENTIFICATION NUMBER

7. RECIPIENT'S ACCOUNT NUMBER OR IDENTIFYING NUMBER

8. PERIOD COVERED BY THIS REQUEST  
FROM (month, day, year) TO (month, day, year)

9. RECIPIENT ORGANIZATION

Name

Number and Street

City, State and ZIP Code

Name

Number and Street

City, State and ZIP Code

## 11. COMPUTATION OF AMOUNT OF REIMBURSEMENTS/ADVANCES REQUESTED

PROGRAMS/FUNCTIONS/ACTIVITIES ▶	(a)	(b)	(c)	TOTAL
a. Total program outlays to date (As of date)	\$	\$	\$	\$
b. Less Cumulative program income				
c. Net program outlays (Line a minus line b)				
d. Estimated net cash outlays for advance period				
e. Total (Sum of lines c & d)				
f. Non-Federal share of amount on line e				
g. Federal share of amount on line e				
h. Federal payments previously requested				
i. Federal share now requested (Line g minus line h)				
j. Advances required by month, when requested by Federal grantor agency for use in making prescheduled advances	1st month			
	2nd month			
	3rd month			

## 12. ALTERNATE COMPUTATION FOR ADVANCES ONLY

a. Estimated Federal cash outlays that will be made during period covered by the advance	\$
b. Less Estimated balance of Federal cash on hand as of beginning of advance period	
c. Amount requested (Line a minus line b)	\$

## 13. CERTIFICATION

I certify that to the best of my knowledge and belief the data above are correct and that all outlays were made in accordance with the grant conditions or other agreement and that payment is due and has not been previously requested

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL

DATE REQUEST SUBMITTED

TYPED OR PRINTED NAME AND TITLE

TELEPHONE (AREA CODE, NUMBER EXTENSION)

This space for agency use

<b>FINANCIAL STATUS REPORT</b> <i>(Follow instructions on the back)</i>			1 FEDERAL AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH REPORT IS SUBMITTED		2 FEDERAL GRANT OR OTHER IDENTIFYING NUMBER		OMB Approved No 80-RO180	PAGE <input type="text"/> OF <input type="text"/>	
3 RECIPIENT ORGANIZATION (Name and complete address including ZIP code)			4 EMPLOYER IDENTIFICATION NUMBER	5 RECIPIENT ACCOUNT NUMBER OR IDENTIFYING NUMBER	6 FINAL REPORT <input type="checkbox"/> YES <input type="checkbox"/> NO		7 BASIS <input type="checkbox"/> CASH <input type="checkbox"/> ACCRUAL		
			8 PROJECT/GRANT PERIOD (See instructions) FROM (Month day year) TO (Month day year)		9 PERIOD COVERED BY THIS REPORT FROM (Month day year) TO (Month day year)				
10			<b>STATUS OF FUNDS</b>						
PROGRAMS/FUNCTIONS/ACTIVITIES ▶			(a)	(b)	(c)	(d)	(e)	(f)	
								TOTAL (g)	
a Net outlays previously reported			\$	\$	\$	\$	\$	\$	
b Total outlays this report period									
c Less Program income credits									
d Net outlays this report period (Line b minus line c)									
e Net outlays to date (Line a plus line d)									
f Less Non Federal share of outlays									
g Total Federal share of outlays (Line e minus line f)									
h Total unliquidated obligations									
i Less Non Federal share of unliquidated obligations shown on line h									
j Federal share of unliquidated obligations									
k Total Federal share of outlays and unliquidated obligations									
l Total cumulative amount of Federal funds authorized									
m Unobligated balance of Federal funds									
11 INDIRECT EXPENSE	a. TYPE OF RATE (Place "X" in appropriate box) <input type="checkbox"/> PROVISIONAL <input type="checkbox"/> PREDETERMINED <input type="checkbox"/> FINAL <input type="checkbox"/> FIXED		13 CERTIFICATION I certify to the best of my knowledge and belief that this report is correct and complete and that all outlays and unliquidated obligations are for the purposes set forth in the award documents				SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL		DATE REPORT SUBMITTED
	b. RATE	c. BASE							
12. REMARKS: Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation					TYPED OR PRINTED NAME AND TITLE		TELEPHONE (Area code, number and extension)		

**COST OR PRICE SUMMARY***(See accompanying instructions before completing this form)*Form Approved  
OMB No 2030-0011  
Approval expires 10-31-86**PART I — GENERAL**

1 RECIPIENT		2 ASSISTANCE IDENTIFICATION NO	
3 NAME OF CONTRACTOR OR SUBCONTRACTOR		4 DATE OF PROPOSAL	
5 ADDRESS OF CONTRACTOR OR SUBCONTRACTOR (Include ZIP Code)		6 TYPE OF SERVICE TO BE FURNISHED	
TELEPHONE NUMBER (Include Area Code)			

**PART II — COST SUMMARY**

7 DIRECT LABOR (Specify labor categories)	ESTIMATED HOURS	HOURLY RATE	ESTIMATED COST	TOTALS
		\$	\$	
DIRECT LABOR TOTAL				\$
8 INDIRECT COSTS (Specify indirect cost pools)	RATE	x BASE =	ESTIMATED COST	
		\$	\$	
INDIRECT COSTS TOTAL				\$
9 OTHER DIRECT COSTS				
a TRAVEL			ESTIMATED COST	
(1) TRANSPORTATION			\$	
(2) PER DIEM			\$	
TRAVEL SUBTOTAL			\$	
b EQUIPMENT MATERIALS SUPPLIES (Specify categories)			ESTIMATED COST	
QTY			COST	
			\$	
			\$	
EQUIPMENT SUBTOTAL				
c SUBCONTRACTS			ESTIMATED COST	
			\$	
SUBCONTRACTS SUBTOTAL			\$	
d OTHER (Specify categories)			ESTIMATED COST	
			\$	
OTHER SUBTOTAL			\$	
e OTHER DIRECT COSTS TOTAL			\$	
10 TOTAL ESTIMATED COST				\$
11 PROFIT				\$
12 TOTAL PRICE				\$

## PURPOSE AND APPLICABILITY

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

## INSTRUCTIONS

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

Use only the applicable portions of this form.

Part I is applicable to all subagreements.

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

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

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

### PART I — GENERAL

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

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

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

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

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

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

### PART II — COST SUMMARY

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

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

#### Item 7 — Direct Labor

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

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

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

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

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

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

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

#### Item 8 — Indirect Costs

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

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

## **APPENDIX C**

### **KEY CONTACTS LIST**

- I. Contacts for the Superfund Program**
  - A. EPA Technical Assistance Grants Staff
  - B. EPA Headquarters Superfund Community Relations Staff
  - C. EPA Regional Technical Assistance Grants Contacts
  - D. State Superfund Contacts
  
- II. Small, Minority, and Women's Business Contacts**
  - A. EPA Headquarters Contacts
  - B. Minority Business Development Centers (Regional Offices)
  - C. Minority Business Development Centers (District Offices)
  
- III. Intergovernmental Review Contacts**
  - A. State Single Point of Contact List

## KEY CONTACTS LIST

### I. Contacts for the Superfund Program

#### A. EPA Technical Assistance Grants Staff

Daphne Gemmill,  
Office of Emergency and Remedial Response  
EPA Headquarters (WH-548E)  
401 M Street, S.W.  
Washington, DC 20460  
(202) 382-2460

#### B. EPA Headquarters Superfund Community Relations Staff

Melissa Friedland  
Superfund Community Relations Coordinator  
Office of Emergency and Remedial Response  
EPA Headquarters (WH-548E)  
401 M Street, S.W.  
Washington, DC 20460  
(202) 382-2461

Vanessa Musgrave  
Superfund Community Relations Coordinator  
Office of Emergency and Remedial Response  
EPA Headquarters (WH-548E)  
401 M Street, S.W.  
Washington, DC 20460  
(202) 382-2462

#### C. EPA Regional Technical Assistance Grant Contacts

##### Region 1

Mary Grealish  
Superfund Management  
EPA - Region 1  
John F. Kennedy Federal Building  
Boston, MA 02203  
(617) 573-5701

##### Region 4

Pat Zweig  
Superfund  
EPA - Region 4  
345 Courtland Street, N.E.  
Atlanta, GA 30365  
(404) 347-2234

##### Region 2

Lillian Johnson  
Office of Public Affairs  
EPA - Region 226 Federal Plaza  
New York, NY 10278  
(212) 264-4534

##### Region 5

Jennifer Hall  
Office of Public Affairs  
EPA - Region 5  
230 South Dearborn  
Chicago, IL 60604  
(312) 886-4359

##### Region 3

Ann Cardinal  
Office of Public Affairs  
EPA - Region 3  
841 Chestnut Street  
Philadelphia, PA 19107  
(215) 597-9905

##### Region 6

Ellen Greeney  
EPA - Region 6  
1445 Ross Avenue, 10th Floor  
Dallas, TX 75270  
(214) 655-6720

## **Region 2**

### New Jersey:

Grace Singer  
Chief, Bureau of Community Relations  
Division of Hazardous Site Mitigation  
New Jersey Department of Environmental  
Protection  
CN413  
401 East State Street  
Trenton, NJ 08625  
(609) 984-3081

### New York:

Bruce Bentley  
Citizen Participation Specialist  
Department of Environmental Conservation  
50 Wolf Road, Room 505  
Albany, NY 12233  
(518) 457-0849

## **Region 3**

### Delaware:

David Small  
Chief, Information and Education  
Department of Natural Resources and  
Environmental Control  
P.O. Box 1401  
Dover, DE 19901  
(302) 736-4506

### District of Columbia:

A. Padmanabha, Director  
Pasty Hardin, Public Affairs  
Department of Consumer and Regulatory  
Affairs  
Environmental Control Division  
5010 Overlook Avenue, S.W.  
Washington, DC 20032  
(202) 727-7395

### Maryland:

Ray Feldman/Peggy Powell  
Public Affairs Officers  
Office of Environmental Programs  
201 West Preston Street  
Baltimore, MD 21201  
(301) 225-5747

### Puerto Rico:

Juan Merced  
Director, Air Quality Area  
Environmental Quality Board  
P.O. Box 11488  
Santurce, Puerto Rico 00910  
(809) 722-0077

### Pennsylvania:

John Caltagirone  
Office of Communications  
Department of Environmental Resources  
Harrisburg, PA 17120  
(717) 787-1323

### Virginia:

Dr. Cathy Harris/Cheryl Cashman  
Public Affairs Officers  
Department of Waste Management  
Monroe Building  
101 North 14th Street  
Richmond, VA 23219  
(804) 225-2667

### West Virginia:

Diana Young  
Public Information Officer  
Department of Natural Resources  
1800 Washington Street, East  
Charleston, WV 25305  
(304) 348-3381



## **Region 9**

### Arizona:

Phil King  
Manager, Emergency Response and  
Remedial Projects Section  
Arizona Department of Environmental Quality  
2005 North Central  
Phoenix, AZ 85004  
(602) 257-2338

### California:

Lachlan McClenahan  
Chief of Planning and Policy  
Site Mitigation Unit  
Toxic Substances Control Division  
714/744 P Street  
P.O. Box 942732  
Sacramento, CA 94234-7320  
(916) 324-3773

### Guam:

Charles P. Crisotomo  
Administrator  
Guam Environmental Protection Agency  
P.O. Box 2999  
Agana, Guam 96910

### Hawaii:

John Lewin  
Director  
Department of Health  
P.O. Box 3378  
Honolulu, Hawaii 96801  
(808) 548-4159

### Nevada:

Lewis Dodgion  
Administrator  
Division of Environmental Protection  
201 South Fall Street  
Carson City, NV 89710  
(702) 885-4670

## **Region 10**

### Alaska:

David DiTraglia  
Hazardous Waste Program Manager  
Department of Environmental Conservation  
P.O. Box 0  
3220 Hospital Drive  
Juneau, AK 99811  
(907) 465-2666

### Idaho:

Dr. John R. Moeller  
Manager, Policy and Standards Section  
IDHW-Division of the Environment  
450 West State Street  
Boise, ID 83720  
(208) 334-5879

### Oregon:

Al Goodman  
Manager, Remedial Action Section  
Hazardous and Solid Waste Division  
Department of Environmental Quality  
811 Southwest 6th Avenue  
Portland, OR 97204  
(503) 229-5254

### Washington:

Washington Department of Ecology  
Hazardous Waste Cleanup Program  
Mailstop PV-11  
Olympia, WA 98504-8711  
(206) 438-3000

## **II. Small, Minority, and Women's Business Contacts**

### **A. EPA Headquarters Contact**

Office of Small and Disadvantaged Business  
Utilization  
U.S. Environmental Protection Agency  
401 M Street, S.W. (A-149C)  
Washington, D.C. 20460  
(202) 557-7777

### III. Intergovernmental Review Contacts

(The \* indicates those States that have included the Technical Assistance Grant Program in their intergovernmental review program as of 4/25/88.)

#### A. State Single Point of Contact List

##### Alabama:

Donna J. Snowden  
Alabama State Clearinghouse.  
Alabama Department of Economic and  
Community Affairs  
3465 Norman Bridge Road  
Post Office Box 2939  
Montgomery, AL 36105-0939  
(205) 284-8905

##### Delaware: \*

Francine Booth  
Office of Budget Director  
Thomas Collins Building  
P.O. Box 1401  
Dover, DE 19903  
(302) 736-4204

##### Arizona: \*

Janice Dunn  
Arizona State Clearinghouse  
1700 West Washington, Fourth Floor  
Phoenix, AZ 85007  
(602) 255-5004

##### Florida:

Ron Fahs  
Executive Office of the Governor  
Office of Planning and Budgeting  
The Capitol  
Tallahassee, FL 32301  
(904) 488-8114

##### Arkansas: \*

Joe F. Gillespie, Manager  
State Clearinghouse  
Office of Intergovernmental Services  
Department of Finance and Administration  
P.O. Box 3278  
Little Rock, AR 72203  
(501) 682-1074

##### Georgia:

Charles H. Badger  
Administrator  
Georgia State Clearinghouse  
270 Washington Street, S.W.  
Atlanta, GA 30334  
(404) 656-3855

##### California: \*

David C. Nunenkamp  
Office of Planning and Research  
1400 Tenth Street  
Sacramento, CA 95814  
(916) 323-7480

##### Hawaii: \*

Harold S. Masumoto  
Director  
Office of State Planning  
P O. Box 2359  
Honolulu, Hawaii 96804  
(808) 548-3016 or 548-3085

##### Colorado:

State Clearinghouse  
Division of Local Government  
1313 Sherman Street, Room 520  
Denver, CO 80203  
(303) 866-2156

##### Illinois:

Tom Berkshire  
Office of the Governor  
State of Illinois  
Springfield, IL 62706  
(217) 782-8639

##### Connecticut: \*

Horace H. Brown  
Intergovernmental Review Coordinator  
Comprehensive Planning Division  
Office of Policy and Management  
80 Washington Street  
Hartford, CT 06106-4459  
(203) 566-3410

##### Indiana: \*

Kristin Kothe  
Intergovernmental Review Coordinator  
State Budget Agency  
212 State House  
Indianapolis, IN 46204  
(317) 232-5604

District of Columbia:

Lovetta Davis  
D.C. State Single Point of Contact for  
E.O.12372  
Executive Office of the Mayor  
Office of Intergovernmental Relations  
Room 416, District Building  
1350 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
(202) 727-6265

Guam:

Guam State Clearinghouse  
Office of the Lieutenant Governor  
P.O. Box 2950  
Agana, Guam 96910

Puerto Rico

Patria G. Custodio, P.E.  
Chairman  
Puerto Rico Planning Board  
Minillas Government Center  
P.O. Box 41119  
San Juan, Puerto Rico 00940-9985  
(809) 727-4444

Northern Mariana Islands

Planning and Budget Office  
Office of the Governor  
Saipan, CM 96950

## **APPENDIX D**

### **SELECTED REGULATORY TEXT**

**EPA Grant Regulations  
40 CFR Part 30, Annotated**

**EPA Procurement Regulations  
40 CFR Part 33, Annotated**

**OMB Circular A-122 and Revision**

## **SUBCHAPTER B—GRANTS AND OTHER FEDERAL ASSISTANCE**

### **PART 30—GENERAL REGULATION FOR ASSISTANCE PROGRAMS**

#### **Subpart A—What is the Purpose and Scope of this Regulation?**

##### **Sec**

- 30 100 What is the purpose of this regulation?
- 30 101 What is the scope of this regulation?
- 30 102 What laws authorize EPA to issue this regulation?

#### **Subpart B—What Definitions Apply to this Regulation?**

- 30 200 What definitions apply to this regulation?

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- 30 300 What activities does EPA fund?
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- 30 303 What steps must I take when filing a standard application?
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- 30 308 When may I begin incurring costs?
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- 30 503 What type of quality assurance practices am I required to have?
- 30 505 What reports must I submit?

##### **Sec**

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- 30 530 May I purchase personal property using EPA assistance funds?
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- 30 535 May I purchase real property with EPA awarded funds?
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#### **Subpart F—What Other Federal Requirements Must I Comply With?**

- 30 600 What Federal laws and policies affect my award?
- 30 601 Are there restrictions on the use of assistance funds for advocacy purposes?
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- 30 610 What are my responsibilities for preventing and detecting fraud and other corrupt practices?
- 30 611 Can I hire a person or agency to solicit EPA assistance for me?
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- 30 613 What is EPA's policy on conflict of interest?
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- 30 700 What changes to my assistance agreement require a formal amendment?
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## Text of 40 CFR Part 30

## Explanation of Key Provisions

### **Subpart A—What is the Purpose and Scope of this Regulation?**

#### **§ 30.100 What is the purpose of this regulation?**

(a) The U.S. Environmental Protection Agency (EPA) is responsible for protecting and enhancing the quality of the environment. To achieve these objectives, EPA may award assistance in the form of grants, cooperative agreements, or fellowships to support: (1) State and local pollution control programs; (2) research, demonstration, or training projects; and (3) other projects that advance EPA's mission. This regulation tells how to apply for and manage an EPA project, describes EPA involvement in the process, and identifies recipients' responsibilities. Other EPA assistance regulations supplement these. They are found in 40 CFR Part 32 (Debarment), Part 33 (Procurement Under Assistance Agreements), Part 35 (State and Local Assistance), Part 40 (Research and Demonstration), Part 45 (Training) and Part 46 (Fellowships).

(c) This regulation incorporates the requirements of Office of Management and Budget (OMB) Circulars and EPA Orders.

(d) Recipients must provide the reporting information required in this part to be eligible for EPA assistance awards.

**NOTE.** The OMB clearances required by the Paperwork Reduction Act are identified in Appendix D to this part.

#### **§ 30.101 What is the scope of this regulation?**

This regulation covers financial assistance awards made as grants or cooperative agreements under requirements of the Federal Grant and Cooperative Agreement Act (Pub. L. 95-224). It does not cover direct EPA contracts under which EPA acquires property or services for its use.

#### **§ 30.102 What laws authorize EPA to issue this regulation?**

Reorganization Plan Number 3 of 1970 and the following statutes authorize the Administrator of EPA to issue this regulation.

All technical assistance grants are considered "assistance agreements" and are therefore subject to all of the relevant requirements in this section.

## Text of 40 CFR Part 30

**"Consolidated assistance."** An assistance agreement awarded under more than one EPA program authority or funded together with one or more other Federal agencies. Applicants for consolidated assistance submit only one application.

**"Continuation award."** An assistance agreement after the initial award, for a project which has more than one budget period in its approved project period, or annual awards, after the first award, to State, Interstate, or local agencies for continuing environmental programs (see § 30.306).

**"Contractor."** Any party to whom a recipient awards a subagreement.

**"Cooperative agreement."** An assistance agreement in which substantial EPA involvement is anticipated during the performance of the project (does not include fellowships).

**"Cost sharing."** The portion of allowable project costs that a recipient contributes toward completing its project (i.e., non-Federal share, matching share).

**"Environmentally related measurements."** Any data collection activity or investigation involving the assessment of chemical, physical, or biological factors in the environment which affect human health or the quality of life. The following are examples of environmentally related measurements: (a) A determination of pollutant concentrations from sources or in the ambient environment, including studies of pollutant transport and fate; (b) a determination of the effects of pollutants on human health and on the environment; (c) a determination of the risk/benefit of pollutants in the environment; (d) a determination of the quality of environmental data used in economic studies, and (e) a determination of the environmental impact of cultural and natural processes.

**"Expendable personal property."** All tangible personal property other than nonexpendable personal property.

**"Force account work."** The use of the recipient's own employees or equipment for construction, construction-related activities (including A and E services), or for repair or improvement to a facility.

## Explanation of Key Provisions

## Text of 40 CFR Part 30

**"Project."** The activities or tasks EPA identifies in the assistance agreement.

**"Project costs."** All costs the recipient incurs in carrying out the project. EPA considers all allowable project costs to include the Federal share.

**"Project officer"** The EPA official designated in the assistance agreement as EPA's program contact with the recipient. Project officers are responsible for monitoring the project.

**"Project period."** The length of time EPA specifies in the assistance agreement for completion of all project work. It may be composed of more than one budget period.

**"Quality assurance narrative statement."** A description of how precision, accuracy, representativeness, completeness, and compatibility will be assessed, and which is sufficiently detailed to allow an unambiguous determination of the quality assurance practices to be followed throughout a research project.

**"Quality assurance program plan."** A formal document which describes an orderly assembly of management policies, objectives, principles, organizational responsibilities, and procedures by which an agency or laboratory specifies how it intends to:

(a) Produce data of documented quality, and

(b) Provide for the preparation of quality assurance project plans and standard operating procedures.

**"Quality assurance project plan."** An organization's written procedures which delineate how it produces quality data for a specific project or measurement method

**"Real property"** Land, including land improvements, and structures and appurtenances, excluding movable machinery and equipment

**"Recipient."** Any entity which has been awarded and accepted an EPA assistance agreement.

**"Standard operating procedure"** A document which describes in detail an operation, analysis, or action which is commonly accepted as the preferred method for performing certain routine or repetitive tasks

## Explanation of Key Provisions



## **Text of 40 CFR Part 30**

## **Explanation of Key Provisions**

(1) Financial resources, technical qualifications, experience, organization, and facilities adequate to carry out the project, or a demonstrated ability to obtain these;

(2) Resources to meet the project completion schedule contained in the assistance agreement;

(3) A satisfactory performance record for completion of projects and subagreements;

(4) Accounting and auditing procedures adequate to control property, funds, and assets, as required in Subpart E of this part;

(5) Procurement standards that comply with Part 33 of this subchapter;

(6) Property management systems for acquiring, maintaining, safeguarding, and disposing of property, as required in Subpart E of this part, and

(7) Demonstrated compliance or willingness to comply with the civil rights, equal employment opportunity, labor law, and other statutory requirements under Subpart F of this part.

(b) EPA considers your submission of an assistance application as your assurance that you can and will meet these standards. EPA may conduct a preaward audit or other review to determine your capabilities.

(c) EPA must notify you in writing if it finds you unable to meet these standards. The written notice will state the reasons for the finding. You may appeal EPA's findings under the disputes procedures in Subpart L.

(d) Individuals, agencies, or organizations voluntarily excluded, suspended, or debarred under 40 CFR Part 32 are ineligible to receive assistance.

### **§ 30.302 How do I apply for assistance?**

(a) You must submit a standard application to apply for EPA assistance.

(b) Before you file an application to perform unsolicited work, you may submit an unsolicited proposal. EPA will apprise you of your proposal's potential for funding.

Recipients must be aware that acceptance of EPA grant funds will require the establishment of accounting, procurement, and property management systems. EPA has the authority to cancel the assistance agreement or stop the reimbursement of the expenditure of Federal funds when grants are improperly or inadequately managed.

Applicants to the Technical Assistance Grant Program managed by EPA must complete EPA Form 5700-33 "State and Local Nonconstruction Programs" and EPA Form 5700-48 "Procurement System Certification." These forms will be included in the application kit. In addition, a completed application package must include a "Scope of Services," which specifies the projected tasks, schedule, and budget for the technical assistance project. See Chapter 4 for more details on the special requirements for technical assistance grants.

## Text of 40 CFR Part 30

## Explanation of Key Provisions

[48 FR 45062, Sept 30, 1983; 49 FR 38944, Oct. 2, 1984]

### § 30.303 What steps must I take when filing a standard application?

(a) Before you file an application, you must complete the forms according to the instructions. At least one copy of the completed application must have an original signature of the person authorized to obligate you or your organization to the terms and conditions of EPA's regulations and assistance agreement.

(b) You must:

(1) Comply with your State's intergovernmental review process, if it established one under Executive Order 12372. See 40 CFR Part 29 (48 FR 29288, June 24, 1983).

(2) Comply with the areawide review requirements of Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended (42 U.S.C. 3334) if your project will be located in a metropolitan area. EPA programs that are subject to areawide review are listed in 48 FR 29304, June 24, 1983, and marked with an asterisk (\*)

### § 30.304 Is the information I submit to EPA confidential?

(a) Generally, the information is not confidential. When EPA receives your assistance application or unsolicited proposal the information you submit becomes part of the Agency's records. As such, it is subject to EPA's disclosure of information policy (40 CFR Part 2) which is based on the provisions of the Freedom of Information Act (5 U.S.C. 552) and on the provision for patents and rights in data and copyrights under Subpart K of this part.

(b) If you submit data, documents, or parts of documents which you consider to be confidential, you should clearly identify them with the words "trade secret," "proprietary," or "business confidential." For further instructions on assertion of confidentiality claims, see 40 CFR Part 2, Subpart B.

See IFR section 35.4045 and Chapter 4 of this manual for detailed instructions on how to apply for a technical assistance grant.

Before filing the grant application, a grant applicant must find out what procedures need to be followed to comply with their State's intergovernmental review process. State contacts are listed in Appendix C. EPA will not process an application without evidence of compliance with this requirement. See Chapter 4 of this manual, and the grant application form for more details.

Technical assistance grant application information is not considered confidential.

## Text of 40 CFR Part 30

## Explanation of Key Provisions

(6) Any other reports that the assistance agreement may require.

(c) If approved by the award official, you may carry over unexpended prior year funds: (1) In lieu of new funds; (2) to complete work started in prior years; or (3) to supplement the new award. You must meet all program and cost sharing requirements in each budget period to carry over funds.

(d) If EPA executes a continuation agreement, EPA will reimburse you for allowable costs you incur between the end of a budget period and date of award for the next budget period provided you submit a continuation application before the expiration of the prior budget period.

[48 FR 45062, Sept 30, 1983, as amended at 49 FR 38944, Oct 2, 1984]

**§ 30.307 How much must I contribute to the funding of my project?**

(a) The amount of cost sharing you must contribute depends upon the statutory and regulatory cost sharing provisions that apply to your specific assistance project (see 40 CFR Parts 35 and 40). You must contribute at least a 5 percent share of the total allowable project costs for each budget period *unless*;

(1) A lesser amount is specified in the respective statute or regulation applicable to your project, or

(2) The assistance agreement is for a remedial planning action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

(b) You may satisfy the requirement for cost sharing with cash or, when not prohibited by statute or regulations, with in-kind contributions. Your contribution may not be paid with Federal funds or with property or services received under another assistance agreement, unless authorized by statute. Additionally, your contributions must be:

(1) Negotiated before and specified in your assistance agreement;

(2) Verifiable from your records;

(3) Used exclusively for a single project, and

(4) Properly allocable to and allowable under the project

EPA may reimburse a group for allowable costs incurred between the end of a budget period and renewal of funding if the group submits a continuation application (EPA Form 5700-33) before the first budget period expires.

The technical assistance grant program requires a 35% contribution of matching funds in cash or in-kind contributions. See Chapter 3 for a discussion of this requirement.

An in-kind contribution represents the value of non-cash contributions provided by the grant recipient and non-Federal third parties including States, local units of government and private citizens. In-kind contributions may be charges for the use of real property, non-expendable personal property, or the value of goods and services.

## Text of 40 CFR Part 30

### Subpart D—How does EPA Pay Me?

#### § 30.400 How does EPA make payments?

(a) EPA will promptly pay you for allowable costs you incur in accordance with EPA regulations and your assistance agreement. If at any time, EPA determines you received payment for unallowable cost or received an over-payment, you are required to reimburse EPA. (See § 30.802.)

(b) Your assistance agreement will specify one of the following ways for EPA to pay you. You will receive the appropriate forms and instructions with your assistance agreement.

(1) *By letter of credit.* EPA will pay you by the letter of credit method, if you meet the Treasury Department's criteria contained in Treasury Circular No 1075, as revised. You must establish a separate bank account when payments under a letter of credit are made on a "check-paid" basis.

(2) *By advance.* If you do not qualify for a letter of credit, EPA may pay you by the advance payment method. You must negotiate the amount of your initial advance with the award official. The negotiated amount should not exceed the cash you will need for the first three months of operation. You must request the initial advance on Standard Form 270 (SF 270, "Request for Advance or Reimbursement") which will be included in your award package. EPA will issue a check for the first three months or one check each month (at EPA's option) to pay the advance. After your initial advance, you must submit an SF 270 at least quarterly, but not more often than monthly, indicating the amount of your expenditures to date and your request for funds for the coming period.

(3) *By reimbursement.* If you do not meet letter of credit requirements or receive advance payments, EPA will pay you by reimbursement. Also, EPA generally will pay you under the reimbursement method if you are receiving assistance under EPA's wastewater treatment construction grants program (see 40 CFR Part 35, Subpart I). When EPA pays by this method, you will be reimbursed for costs which you have incurred and are currently and legally obligated to pay.

## Explanation of Key Provisions

Technical assistance grants will be paid by the "reimbursement" method. Recipients of EPA grant awards may submit an EPA Form SF 270 -- "Request For Reimbursement" quarterly. See instructions provided in Chapter 6.

## Text of 40 CFR Part 30

## Explanation of Key Provisions

### § 30.412 How are costs categorized?

(a) Costs are categorized as being either a direct cost if they support a specific project only or as an indirect cost as described in the applicable cost principles (see § 30.410). To receive payment for indirect costs, you must have negotiated an indirect cost rate with your cognizant Federal Agency and your assistance agreement must provide for the use of that rate.

(b) You may request a special indirect cost rate, if (1) your project is conducted at an off-site location; or (2) your project is a large, one-time project and its costs would distort the normal direct cost base used in computing the indirect cost rate.

### Subpart E—How do I Manage My Award?

### § 30.500 What records must I maintain?

(a) You must maintain official records for each assistance award you receive and identify them with EPA assistance identification numbers. These records must contain the following information.

(1) Amount received and expended for the project, including all Federal and cost sharing funds;

(2) Program income.

(3) Total cost of the project (both direct and indirect costs);

(4) Property purchased under the award or used as part of your in-kind contribution;

(5) *Time records and other supporting data.* Institutions of higher education may account for the distribution of salaries and wages of professorial or professional staff by budgeted, planned, or assigned work activity if the system for wages and salaries meets the requirements in OMB Circular A-21;

(6) Documentation of compliance with applicable statutes and regulations.

(b) Your contractor must maintain books, documents, papers, and records pertinent to the project.

[48 FR 45082, Sept. 30, 1983, as amended at 49 FR 38945, Oct. 2, 1984]

Recipients are required to establish a recordkeeping system. Throughout the technical assistance process, groups must keep very complete records of all activities relating to the grant. See Chapter 6 for a discussion of how to meet these requirements.

## Text of 40 CFR Part 30

## Explanation of Key Provisions

§ 30.503 What type of quality assurance practices am I required to have?

Section 30.503 does not apply to technical assistance grants since the grant will not fund activities to gather new primary data (text deleted).

§ 30.505 What reports must I submit?

(a) *Interim and final progress reports.* You must submit interim and final progress reports if the assistance agreement or EPA regulations require them. See 40 CFR Parts 35, 40, and 45 for specific requirements. EPA or its authorized representatives may inspect your project at any reasonable time to review its progress.

Recipients are required to submit final Financial Status Reports at the close of each budget period. Participants in the Technical Assistant Grant Program are required to submit quarterly progress reports.

(b) *Financial reports.* (1) You must submit a Financial Status Report (SF 269) within 90 days after each budget period and within 90 days after the end of your project completion or termination. If either the Financial Status Report (FSR) you submit after the budget period or the FSR you submit after your project is completed or terminated includes unliquidated obligations, you must submit a final FSR immediately after those obligations are liquidated. If you do not submit a final FSR within a reasonable time after the 90 day period, the award official may disallow the unliquidated obligations.

(2) Under the wastewater treatment construction grants program, your final "Outlay Report and Request for Reimbursement for Construction Programs" (SF 271) will serve as the financial report.

(3) Recipients of fellowship assistance agreements do not have to submit FSR's.

(c) *Invention reports.* You must report all inventions to the award official (see Subpart K for details).

(d) *Report on federally-owned property.* You must submit an annual inventory of all Federally-owned property used on your project. At the end of the project period, or when you no longer need the property, you must submit a final inventory which states the present condition of each item and requests disposition instructions.

(48 FR 45062, Sept. 30, 1983, as amended at 49 FR 38945, Oct. 2, 1984)

§ 30.510 What type of financial management system must I maintain?

You must maintain a financial management system that consistently applies accepted accounting principles.

See Chapter 6 for a discussion of how to comply with EPA's financial recordkeeping requirements, a sample general ledger for recording cash transactions during a budget period, and a sample quarterly progress report.

## Text of 40 CFR Part 30

§ 30.518 What are the procedures for publishing scientific, informational, and educational documents?

(a) EPA encourages publication of the results of its assistance agreements.

(b) You must comply with EPA's peer and administrative review process if you intend to release to the public informational materials, reports, and other products produced under an EPA assistance agreement.

(1) Except for articles published under paragraph (d) of this section, you must submit three copies of the documents to your project officer for EPA review. EPA will evaluate the documents and will provide you with written, suggested changes, if any.

(2) You should make every effort to accommodate suggestions arising from the EPA review process while preparing a revised draft. You should alert EPA reviewers to suggestions you cannot accommodate and to changes initiated by you in the revised draft.

(3) If an agreement is reached that the material is appropriate for release as an EPA publication, the following statement must be included in the document:

The information in this document has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement (number) to (recipient). It has been subjected to the Agency's peer and administrative review and has been approved for publication as an EPA document. Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

(c) If agreement cannot be reached that the material is appropriate for release as an EPA publication, you may independently publish and distribute the document for your own use and at your own expense provided you include the following statement in the document:

Although the information in this document has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement (number) to (recipient), it may not necessarily reflect the views of the Agency and no official endorsement should be inferred.

(d) EPA also encourages independent publication of reports in referred journals at any time. You must submit

## Explanation of Key Provisions

If a grant recipient or one of the group's contractors wishes to publish a report under a technical assistance grant, they must submit the document for review to the EPA TAG Project Officer. For the purposes of this program, "publish" means to have a document prepared for public distribution by a professional printing house. Copied materials need not be submitted for EPA review.

If a group does publish documents for its own use, it must include this statement.

## Text of 40 CFR Part 30

## Explanation of Key Provisions

### § 30.526 How do I treat interest earned on EPA funds?

If you earn interest on an EPA advance, you must return it to EPA unless you are.

(a) A State, or State agency as defined under section 203 of the Intergovernmental Cooperation Act of 1968, (42 U.S.C. 4213), or

(b) A tribal organization as defined under sections 102, 103, or 104 of the Indian Self Determination Act (25 U.S.C. 450f, 450g, and 450h)

Any interest earned on grant funds must be credited against remaining EPA funds obligated to the group, i.e., EPA will subtract the interest earned from the total amount of the award under the grant agreement.

### § 30.530 May I purchase personal property using EPA assistance funds?

(a) *Nonprofit institutions of higher education conducting basic or applied research and nonprofit organizations whose primary purpose is the conduct of scientific research.* You may purchase personal property for the conduct of basic or applied research if authorized to do so in your assistance agreement. Before you purchase property or equipment with a unit acquisition cost of \$10,000 or more, you must receive the award official's approval. Title will be vested in you but may be limited as provided in paragraph (a)(1) of this section.

A grant recipient may purchase property with EPA grant funds only if authorized to do so in the grant agreement.

(1) If EPA determines that it is in the best interest of the Agency, EPA may reserve the right to transfer the title for personal property having a unit acquisition cost of \$1,000 or more to the Federal Government or a third party, within 120 days after project completion. EPA must identify such property in the assistance agreement, or otherwise notify you in writing that EPA reserves the right to transfer the title.

(2) If EPA does not reserve the right to transfer the title, you have no other obligations or accountability to EPA.

(b) *Other recipients* You may purchase personal property with EPA assistance funds if authorized to do so in your assistance agreement. Before you purchase personal property with a unit cost of \$10,000 or more, you must receive the award official's approval. Title will be vested in you, subject to the following conditions



## Text of 40 CFR Part 30

(6) The percentage of the Federal share of the cost;

(7) Location, use, and condition of property and the date the information was recorded; and

(8) Ultimate disposition data, including sales price or the method used to determine the price, or the method used to determine current fair market value where a recipient compensates EPA for its share under § 30.532 of this part.

(b) Conduct a physical inventory of property, and reconcile the results with the property records, at least once every two years. Your inventory must verify the current use and continued need for the property.

(c) Maintain a control system to prevent loss, damage, or theft. (You must thoroughly investigate and document any loss, damage, or theft of nonexpendable personal property.)

(d) Maintain adequate maintenance procedures that ensure the property is in good condition and that instruments used for precision measurements are periodically calibrated.

(e) Maintain proper sales procedures which provide for competition resulting in the highest possible return.

(f) Maintain identification of Federally-owned property.

[48 FR 45062, Sept. 30, 1983, 49 FR 38945, Oct. 2, 1984]

### § 30.532 How do I dispose of personal property?

Nonprofit institutions of higher education conducting basic or applied research and nonprofit organizations whose primary purpose is the conduct of scientific research are exempt from the following requirements. All other recipients must comply with the following requirements. When personal property is no longer needed for the original project, you may use it on other EPA projects. If you do not have other EPA projects, you may use it on other Federal projects. If you wish to use the property on other than Federally sponsored activities, you must comply with the following requirements:

## Explanation of Key Provisions

Groups may purchase non-expendable personal property with technical assistance funds if authorized to do so in the grant agreement. Non-expendable personal property is equipment with a useful life of at least two years and an acquisition cost of \$500 or more. Groups must comply with EPA property management requirements. See Chapter 5, "Determining Allowable Costs."

## Text of 40 CFR Part 30

## Explanation of Key Provisions

(1) You must get approval from EPA to use the property for other Federally supported projects or programs; or

(2) You must contact EPA for instructions on how to dispose of the property EPA may:

(i) Permit you to retain title to the property provided you compensate EPA for its share; or

(ii) Direct you to sell the property and to compensate EPA for its share, less your expenses; or

(iii) Direct you to transfer the title of the property to the Federal Government and then compensate you based on your percentage of participation in the original cost of the project, which will be applied to the current fair market value of the property

[48 FR 45062, Sept. 30, 1983, 49 FR 38945, Oct. 2, 1984]

### **§ 30.536 How do I manage federally-owned property?**

You must negotiate the use of federally-owned property with the award official and comply with your lease agreement and § 30.505(d). You must inform the project officer of the availability of the property when the property is no longer needed for the assistance project or when you have completed the project. EPA will give you instructions on where to return the property.

### **§ 30.537 Are contractors required to comply with EPA property policies?**

Generally, contractors are not required to comply with EPA property policies. However, if your contractors acquired personal property with EPA funds, and the subagreement states that ownership vests in you or EPA, the contractor must comply with EPA property policies.

### **§ 30.538 May I use General Services Administration (GSA) supplies and services?**

You may not use GSA sources of supplies and services, or excess Government property. Excess Government property consists of property under the control of any Federal agency that is not required for its needs.

## Text of 40 CFR Part 30

## Explanation of Key Provisions

### **Subpart F—What Other Federal Requirements Must I Comply With?**

#### **§ 30.600 What Federal laws and policies affect my award?**

You must comply with all applicable Federal laws

(a) *National Environmental Policy Act.* You must comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as amended and other related environmental laws and executive orders that require you to assess the environmental impact of your project. See 40 CFR Part 6 for specific requirements.

(b) *Flood Disaster Protection Act.* If your project involves construction or property acquisition in a special flood hazard area, you must comply with the Flood Disaster Protection Act of 1973 (Pub. L. 93-234, December 13, 1973). If your project is located in a community participating in the National Flood Insurance Program (42 U.S.C. 4001-4128), the Act requires you to purchase flood insurance as a condition of receiving EPA assistance. If the community is not participating in the National Flood Insurance Program and the special flood hazard area has been designated by the Federal Insurance Administration of the Federal Emergency Management Agency for at least one year, EPA will not award assistance for your project until the community enters the program and flood insurance is purchased. See 44 CFR Parts 59 through 79 for specific requirements.

(c) *Clean Air Act.* Section 306 of the Clean Air Act, (42 U.S.C. 7606), as amended, and Executive Order 11738 prohibit EPA from awarding assistance to you (with certain exceptions) if you intend to use any facility on EPA's List of Violating Facilities to complete work on your agreement. You must include a clause in all subagreements that requires the recipients of those subagreements to comply with the requirements of 40 CFR Part 15 (see 40 CFR 33.1020).

(d) *Federal Water Pollution Control Act.* Section 508 of the Federal Water Pollution Control Act, (33 U.S.C. 1368), as amended, and Executive Order 11738 prohibit EPA from awarding assistance to you (with certain ex-

Text of 40 CFR Part 30

Explanation of Key Provisions

(j) *The Indian Self-Determination and Education Assistance Act.* You must comply with the Indian Self-Determination and Education Assistance Act of 1975 (Pub. L. 93-638). If your project will benefit Indians, the Act requires you to give Indians preference in training and employment opportunities and in the award of subagreements

(k) *The Hatch Act.* If you are a State or local government recipient, you must ensure compliance with the Hatch Act, (5 U.S.C. 1501 et seq.), as amended. The Act requires State and local government employees to comply with the restrictions on political activities imposed by the Act if their principal employment activities are funded wholly or in part by Federal assistance. See 5 CFR Part 151 for specific prohibitions and exemptions

(l) *Safe Drinking Water Act.* Section 1424(e) of the Safe Drinking Water Act (42 U.S.C. 300h-3(e)), prohibits EPA from awarding assistance to you if EPA determines that your project may contaminate a sole source aquifer which will result in a significant hazard to public health. See CFR Part 149.

[48 FR 45062, Sept. 30, 1983, 49 FR 38945, Oct. 2, 1984]

§ 30.601 Are there restrictions on the use of assistance funds for advocacy purposes?

(a) You may not use assistance funds for

(1) Lobbying or influencing legislation before Congress.

(2) Partisan or political advocacy purposes, or

(3) An activity whose objective could affect or influence the outcome of an EPA regulatory or adjudicatory proceeding.

(b) For nonprofit recipient organizations other than educational institutions, EPA will implement § 30.601(a) (1) and (2) consistent with the requirements of OMB Circular A-122, as revised (see § 30.410(c)).

[49 FR 38945, Oct. 2, 1984]

§ 30.603 What additional Federal laws apply to EPA assisted construction projects?

Under CERCLA, technical assistance grant funds cannot be used for legal actions including the preparation of testimony and the hiring of expert witnesses. See Chapter 3 for more information about legal restrictions and other conditions of eligible activities.

Section 30.603 does not apply to technical assistance grants since technical assistance grants cannot be issued to fund construction activities (text deleted).

## **Text of 40 CFR Part 30**

### **§ 30.613 What is EPA's policy on conflict of interest?**

EPA's policy is to prevent personal or organizational conflict of interest, or the appearance of such conflict of interest in the award and administration of EPA assistance, including subagreements. (For restrictions on EPA employees, see 40 CFR Part 3.)

(a) An official or employee of a recipient may not participate in any activity relating to EPA assistance if any of the following persons or organizations, to the official's or employee's knowledge, has a financial interest in the activity:

- (1) The official or employee himself;
- (2) The official or employee's spouse or minor child;
- (3) A partner of the official or employee;

(4) An organization (other than a public agency) in which the official or employee serves as an officer, director, trustee, partner, or employee, or

(5) Any person or organization with whom the official or employee is negotiating or has any arrangement concerning prospective employment

(b) Officials and employees of recipients must avoid any action which might result in, or create the appearance of,

- (1) Using official position for private gain;
- (2) Giving preferential treatment to any person,
- (3) Losing independence or impartiality,
- (4) Making an official decision outside official channels; or
- (5) Undermining public confidence in the integrity of EPA programs

### **§ 30.615 May I employ a former EPA employee and still receive assistance?**

You may hire a former EPA employee and still receive assistance provided the former employee complies with the restrictions on post-employment activities established by 18 U.S.C. 207. These restrictions are explained in regulations issued by the Office of Personnel Management under 5 CFR Part 737 and EPA regulations under 40 CFR Part 3.

## **Explanation of Key Provisions**

Conflicts of interest must be avoided. Conflicts occur if employees, officers, or agents of a group or their families have a financial or other interest in a contractor to be hired or are employed by the prospective contractor. Additionally, contractors are required to disclose to the recipients all financial and business relationships with a potentially responsible party involved at the site for which the grant has been awarded. See section 35.4130 of the Interim Final Rule for further details.

## **Text of 40 CFR Part 30**

(b) EPA will pay you the Federal share of allowable costs incurred up to the date of termination and allowable costs related to commitments you made prior to termination that you cannot cancel.

### **Subpart H—How do I Close out my Project?**

**§ 30.800** What records and reports must I keep after I complete my project?

You and your contractors must keep all books, records, documents, and other evidence (including accounting procedures and practices and sub-agreement documents) that track the progress of your project in accordance with the requirements under § 30.501

**§ 30.802** Under what conditions will I owe money to EPA?

(a) If the award official determines that you owe funds, you must reimburse the Federal government that amount. EPA will take appropriate legal and administrative action to collect the amount you owe the Agency if reimbursement is not made in a timely manner. EPA may offset the debt against other funds payable to you under an EPA or other Federal agency assistance agreement if not explicitly prohibited by another statute.

(b) EPA will charge you interest if you fail to pay within 30 days from the date of the Agency's decision that a debt is owed. The interest rate will be the rate established by the Secretary of the Treasury in accordance with the Treasury Fiscal Requirements Manual 6-8020.20. The rates are published quarterly in the **FEDERAL REGISTER**.

(c) If you are not a State or local government, EPA will charge you its cost to process and handle the overdue debt at the end of each 30 day period the debt is overdue, and a penalty of 6% per annum if the debt is not paid within 120 days after the date of the Agency's decision that a debt is owed.

[48 FR 45062, Sept. 30, 1983, as amended at 51 FR 6353, Feb. 21, 1986]

## **Explanation of Key Provisions**

All records must be kept for three years following project completion or until any litigation, dispute, claim, or audit relating to the grant is resolved. If after the three years, the recipient intends to dispose of the records, EPA must be notified in writing and the records must be held until EPA notifies the recipient as to their disposition. See section 35.4105 of the Interim Final Rule for further details.

## **Text of 40 CFR Part 30**

### **§ 30.902 What are the consequences of withholding payments?**

(a) The award official may withhold payments when you fail to comply with the tasks, reporting requirements, or conditions of your assistance agreement. The award official will provide you reasonable notice in writing before withholding payment.

(b) The award official may withhold only the amount necessary to assure compliance with your assistance agreement.

(c) The award official may withhold payment to the extent you are indebted to the United States, unless the collection of the indebtedness will impair the accomplishment of the project and the continuation of the project is in the best interest of the United States.

### **§ 30.903 What are the consequences of termination for cause?**

(a) The award official may unilaterally terminate your agreement in whole or in part at any time before the date of completion, whenever he determines that you have failed to comply with the conditions of your agreement. The award official will provide you an opportunity for consultation before issuing a notice of termination.

(b) If EPA terminates your agreement, the award official will notify you in writing of his determination, the reasons for the termination, and the effective date. Upon receiving the termination notice, you must stop work immediately. EPA will not reimburse you for any new commitments you make after you receive the termination notice.

(c) EPA will pay you the Federal share of allowable costs incurred up to the date of termination and allowable costs related to commitments you made prior to termination that you cannot cancel.

### **§ 30.904 What are the consequences of annulment?**

(a) The award official may unilaterally annul in whole or in part your assistance agreement in any of the following cases:

(1) You have made no substantial progress on the project without good cause;

## **Explanation of Key Provisions**

Upon receipt of a termination notice, the recipient must stop work immediately. EPA will not reimburse a group for any financial commitments or obligations made after a termination notice is issued.

## Text of 40 CFR Part 30

(a) On a case-by-case basis, EPA will consider requests for exceptions to these regulations.

(b) EPA may issue a "deviation" from any of its assistance related regulations, except for those that implement statutory and executive order requirements.

(c) The award official may "waive" certain requirements of this subchapter for foreign awards. All provisions waived will be stated in the assistance agreement.

[48 FR 45062, Sept. 30, 1983, 49 FR 38945, Oct. 2, 1984]

### § 30.1002 Who may request a deviation?

You, your project officer, or an EPA program office may request a deviation from EPA regulations. If you are the initiator, you must send your written request to your project officer if the request is for a Headquarters program or to the Regional Administrator for a Regionally administered program, who will then forward the request to the Director, Grants Administration Division, with a recommendation for approval or disapproval.

### § 30.1003 What information must I include in a deviation request?

Your request must include the following information:

(a) Your name, the assistance identification number, date of award, and the dollar value of the application or award.

(b) The section of the regulation from which you need a deviation.

(c) A complete description of what the deviation will do and a justification of why the deviation is necessary, and

(d) A statement of whether the same or a similar deviation has been previously requested. If such a request has been made previously, explain why it was made and the outcome.

### § 30.1004 Who approves or disapproves a deviation request?

(a) The Director, Grants Administration Division (GAD), approves or disapproves your deviation request. Assistant Administrators in the affected program areas must review and concur on deviations affecting a class of applicants or recipients

## Explanation of Key Provisions



## Text of 40 CFR Part 30

### **Subpart L—How are Disputes Between EPA Officials and me Resolved?**

**§ 30.1200** What happens if an EPA official and I disagree about an assistance agreement requirement?

(a) Disagreements should be resolved at the lowest level possible.

(b) If you can not reach an agreement, the EPA disputes decision official will provide you with a written final decision. The EPA disputes decision official is the individual designated by the award official to resolve disputes concerning your assistance agreement.

(c) The disputes decision official's decision will constitute final agency action unless you file a request for review by registered mail, return receipt requested, within 30 calendar days of the date of the decision.

(48 FR 45062, Sept. 30, 1983, 49 FR 38946, Oct. 2, 1984)

**§ 30.1205** If I file a request for review, with whom must I file?

(a) For final decisions issued by an EPA disputes decision official at Headquarters, you must file your request with the Assistant Administrator responsible for the assistance program.

(b) For final decisions issued by a Regional disputes decision official, you must file your request for review with the Regional Administrator. If the Regional Administrator issued the final decision, you must request the Regional Administrator to reconsider that decision.

**§ 30.1210** What must I include in my request for review or reconsideration?

Your request must include

(a) A copy of the EPA disputes decision official's final decision;

(b) A statement of the amount in dispute,

(c) A description of the issues involved, and

(d) A concise statement of your objections to the final decision.

**§ 30.1215** What are my rights after I file a request for review or reconsideration?

## Explanation of Key Provisions

If a disagreement occurs between a group and an EPA official regarding the terms of the grant, the dispute should be resolved at the lowest level of EPA authority possible. If agreement cannot be reached, the Disputes Decision Official will issue a written decision. This decision is final unless the group requests a review by the Award Official within 30 days of the date of the decision.

## Text of 40 CFR Part 30

review and may provide you an opportunity for an informal conference in order to clarify factual or legal issues. After reviewing the Regional Administrator's decision, the Assistant Administrator will issue a written decision which will then become the final Agency action.

**§ 30.1230 Will I be charged interest if I owe money to EPA?**

(a) Interest will accrue on any amounts of money due and payable to EPA from the date of the disputes decision official's final decision, even if you request review of the decision under this subpart. Only full payment of the debt within 30 days of the disputes decision officials' final decision will prevent EPA from charging interest. If you pay a debt but request review under this subpart and the amount of the debt is reduced as a result of the review, EPA will refund the interest and penalty charges that you paid on the adjustment. However, processing and handling charges which you may have paid are refundable only if EPA determines that the entire amount of the debt is not owed.

(b) State and local government recipients are not subject to the penalty and handling charges in this section, but are subject to the interest charges.

[48 FR 45062, Sept. 30, 1983, as amended at 51 FR 6353, Feb. 21, 1986]

**§ 30.1235 Are there any EPA decisions which may not be reviewed under this subpart?**

You may not request a review of;

(a) Disapprovals of deviations under Subpart J,

(b) Bid protest decisions under Part 33,

(c) National Environmental Policy Act decisions under Part 6,

(d) Advanced wastewater treatment decisions of the Administrator, and

(e) Policy decisions of the EPA Audit Resolution Board

[48 FR 45062, Sept. 30, 1983, as amended at 49 FR 38946, Oct. 2, 1984]

### APPENDIX A—EPA PROGRAMS

The following chart identifies EPA's assistance programs and the types of awards (grants or cooperative agreements) that EPA will award under these programs

## Explanation of Key Provisions

Other than the technical assistance grant (catalogue no. 66 807), none of EPA's other assistance programs apply (text deleted)

## **PART 33—PROCUREMENT UNDER ASSISTANCE AGREEMENTS**

### **Sec**

- 33 001 Applicability and scope of this part.
- 33 005 Definitions.

### **Subpart A—Procurement System Evaluation**

- 33 105 Applicability and scope of this subpart
- 33 110 Applicant and recipient certification.
- 33.115 Procurement system review

### **Subpart B—Procurement Requirements**

- 33 205 Applicability and scope of this subpart
- 33 210 Recipient responsibility
- 33 211 Recipient reporting requirements
- 33 220 Limitation on subagreement award
- 33 225 Violations
- 33 230 Competition
- 33 235 Profit.
- 33 240 Small, minority, women's, and labor surplus area businesses
- 33 245 Privity of subagreement
- 33 250 Documentation
- 33 255 Specifications
- 33 260 Intergovernmental agreements
- 33 265 Bonding and insurance
- 33 270 Code of conduct
- 33 275 Federal cost principles
- 33 280 Payment to consultants
- 33 285 Prohibited types of subagreements
- 33 290 Cost and price considerations
- 33 295 Subagreements awarded by a contractor

### **SMALL PURCHASES**

- 33 305 Small purchase procurement.
- 33 310 Small purchase procedures
- 33 315 Requirements for competition

### **FORMAL ADVERTISING**

- 33 405 Formal advertising procurement method
- 33 410 Public notice and solicitation of bids
- 33 415 Time for preparing bids
- 33 420 Adequate bidding documents
- 33 425 Public opening of bids
- 33 430 Award to lowest, responsive responsible bidder.

### **COMPETITIVE NEGOTIATION**

- 33 505 Competitive negotiation procurement method.
- 33 510 Public notice
- 33 515 Evaluation of proposals
- 33 520 Negotiation and award of subagreement

### **Sec.**

- 33 525 Optional selection procedure for negotiation and award of subagreements for architectural and engineering services

### **NONCOMPETITIVE NEGOTIATION**

- 33.605 Noncompetitive negotiation procurement method

### **Subpart C—Requirements for Recipients of Assistance Agreements for the Construction of Treatment Works**

- 33 705 Applicability and scope of this subpart
- 33 710 Buy American
- 33 715 Use of the same architect or engineer during construction

### **Subpart D—Requirements for Institutions of Higher Education and Other Nonprofit Organizations**

- 33 805 Applicability and scope of this subpart
- 33 810 Nonapplicable subagreement clauses
- 33 815 Nonapplicable procurement provisions
- 33 820 Additional procurement requirements

### **Subpart E—Requirements for Recipients of Remedial Action Cooperative Agreements Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980**

- 33 905 Applicability and scope of this subpart
- 33 910 Preference for formal advertising
- 33.915 Award official approval

### **Subpart F—Subagreement Provisions**

- 33 1005 Applicability and scope of this subpart
- 33 1010 Requirements for subagreement clauses
- 33.1015 Subagreement provisions clause
- 33 1016 Labor standards provisions
- 33 1019 Patents, data and copyrights clause
- 33 1020 Violating facilities clause
- 33 1021 Energy efficiency clause
- 33 1030 Model subagreement clauses

### **Subpart G—Protests**

- 33 1105 Applicability and scope of this subpart
- 33 1110 Recipient protest procedures
- 33 1115 Protest appeal
- 33 1120 Limitations on protest appeals
- 33 1125 Filing requirements

### **Text of 40 CFR Part 33**

#### **§ 33.001 Applicability and scope of this part.**

(a) This part applies to all assistance agreements awarded on or after the effective date of this part. For assistance agreements awarded before the effective date, this part will apply only to those procurement actions initiated by the recipient on or after the date the recipient complies with the self-certification requirements in § 33.110 of this part.

(b) This part:

(1) Describes EPA's procurement system evaluation process

(2) Identifies the minimum requirements for the procurement of supplies, services, and construction under EPA assistance agreements.

(3) Identifies an additional specification requirement for procurement under assistance agreements for the construction of treatment works awarded under 40 CFR Part 35, Subparts E and I.

(4) Identifies the procurement standards that institutions of higher education and other nonprofit organizations must follow.

(5) Identifies the provisions that recipients of EPA assistance agreements must include in their subagreements.

(6) Describes the procedures that EPA will use to handle protest appeals concerning the award of a subagreement by the recipient of an EPA assistance agreement.

(c) This part does not apply to work beyond the scope of the project for which an assistance agreement is awarded (i.e., ineligible work)

(d) This part does not apply to expenses for services for which the recipient will receive an allowance or a potential recipient will receive an advance of an allowance under 40 CFR Part 35, Subpart I.

(e) This part supplements the requirements in:

(1) 40 CFR Part 30 "General Regulation for Assistance Programs," and

(2) 40 CFR Part 32, "Debarments and Suspensions under EPA Assistance Programs."

(f) The following types of recipients must comply with the specified subparts in this part

(1) Recipients of assistance agreements for the construction of treatment works awarded under 40 CFR

### **Explanation of Key Provisions**

All technical assistance grants are considered to be "assistance agreements" and are therefore subject to all of the appropriate requirements in this regulation.

Grant recipients also must comply with 40 CFR Parts 30 and 32

### Text of 40 CFR Part 33

projects within the scope of the practice of architecture or professional engineering as defined by the laws of the State or territory in which the recipient is located.

**Construction.** Erection, building, alteration, remodeling, improvement, or extension of buildings, structures or other property. Construction also includes remedial actions in response to a release, or a threat of a release, of a hazardous substance into the environment as determined by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

**Contractor.** Any party to whom a recipient awards a subagreement.

**Cost analysis.** The review and evaluation of each element of subagreement cost to determine reasonableness, allocability and allowability.

**Intergovernmental Agreement.** Any written agreement between units of government under which one public agency performs duties for or in concert with another public agency using EPA assistance. This includes substate and interagency agreements.

**Minority business enterprise.** A minority business enterprise is a business which is: (1) Certified as socially and economically disadvantaged by the Small Business Administration, (2) certified as a minority business enterprise by a State or Federal agency, or (3) an independent business concern which is at least 51 percent owned and controlled by minority group member(s). A minority group member is an individual who is a citizen of the United States and one of the following:

- (i) Black American;
- (ii) Hispanic American (with origins from Puerto Rico, Mexico, Cuba, South or Central America);
- (iii) Native American (American Indian, Eskimo, Aleut, native Hawaiian), or
- (iv) Asian-Pacific American (with origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, Taiwan or the Indian subcontinent)

### Explanation of Key Provisions

## Text of 40 CFR Part 33

## Explanation of Key Provisions

property state will not be disqualified because her husband has a 50 percent interest in her share. Similarly, a business which is 51 percent owned by a married man and 49 percent owned by an unmarried woman will not become a qualified WBE by virtue of his wife's 50 percent interest in his share of the business.

### Subpart A—Procurement System Evaluation

§ 33.105 Applicability and scope of this subpart.

(a) This subpart applies to all recipients of EPA assistance agreements.

(b) For procurements involving EPA funds, recipients shall use their own procurement policies and procedures if those policies and procedures reflect applicable Federal, State, and local laws and regulations, and at least meet the requirements set forth in this part.

(c) This subpart describes when EPA will review the recipient's procurement practices.

§ 33.110 Applicant and recipient certification.

(a) It is the applicant's and recipient's responsibility to evaluate its own procurement system and to determine whether its system meets the applicable requirements in this part (see § 33.001).

(b) After evaluating its procurement system, the applicant or recipient will complete the "Procurement System Certification" (EPA Form 5700-48). The applicant or recipient will either certify that:

(1) Its system will meet the intent of all the requirements in this part before any procurement action with EPA assistance is undertaken, or

(2) Its current system does not meet the intent of the requirements of this part and, therefore, the applicant will follow the requirements of 40 CFR Part 33 and allow EPA preaward review of proposed procurement actions that will use EPA funds. The additional requirements for EPA review and approval are contained in Appendix A to this part.

All applicants and recipients must complete EPA Form 5700-48, "Procurement System Certification" (see sample in Chapter 4).

Few, if any, technical assistance grant recipients will have an existing procurement system. Therefore, recipients must follow section 33.110(b)(2) and Appendix A of Part 33.

### **Text of 40 CFR Part 33**

(b) Even if a recipient has a certified procurement system, EPA reserves the right to review a recipient's procurement system or procurement action under an assistance agreement:

(1) To determine if the recipient is following the procurement requirements in this part; or

(2) When there is sufficient reason to believe that the recipient's system may be unacceptable based on

(i) Information concerning the review or certification of the recipient's procurement system or actions by other Federal agencies or Congress.

(ii) Information from the recipient's cognizant audit agency.

(iii) Information from State agencies and organizations independent of the recipient's procurement activity.

(iv) Recipient responses to the procurement system certification form.

(v) Previous EPA experience with the recipient, or

(vi) Information from contractors or prospective contractors

(c) If the award official determines that the recipient is not following the procurement requirements it certified it would follow, the award official shall revoke the recipient's certification and.

(1) Require that the recipient follow the procurement requirements in this part, including Appendix A, for future procurement actions and, if appropriate.

(2) Apply the sanctions in 40 CFR Part 30.

(d) The recipient may recertify its procurement system if it shows the award official that it has corrected the procurement deficiencies noted by the award official, and the award official accepts the recertification

#### **Subpart B—Procurement Requirements**

§ 33.205 Applicability and scope of this subpart.

This subpart contains:

(a) The recipient's and EPA's responsibilities, and

(b) The minimum procurement standards for each recipient's procurement system

### **Explanation of Key Provisions**

Recipients must be aware of EPA's right to review the recipient's procurement system as provided in section 33.115(b).

## Text of 40 CFR Part 33

### § 33.211 Recipient reporting requirements.

### § 33.220 Limitation of subagreement award.

(a) The recipient shall award subagreements only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. A responsible contractor is one that has:

(1) Financial resources, technical qualifications, experience, organization and facilities adequate to carry out the project, or a demonstrated ability to obtain these;

(2) Resources to meet the completion schedule contained in the subagreement;

(3) A satisfactory performance record for completion of subagreements;

(4) Accounting and auditing procedures adequate to control property, funds and assets, as required in this part and 40 CFR Part 30; and

(5) Demonstrated compliance or willingness to comply with the civil rights, equal employment opportunity, labor law and other statutory requirements under 40 CFR Part 30.

(b) The recipient shall not make awards to contractors who have been suspended, debarred, or voluntarily excluded under 40 CFR Part 32 nor shall it permit any portion of the work required by the subagreement to be performed at any facility listed on the EPA List of Violating Facilities (see 40 CFR Part 15)

### § 33.225 Violations.

The recipient shall refer violations of law to the local, State or Federal authority with jurisdiction over the matter (see 40 CFR 30.610)

[48 FR 12926, Mar. 28, 1983, 48 FR 30364, July 1, 1983]

## Explanation of Key Provisions

Section 33.211 applies only to construction subagreements. Technical assistance grant recipients will not be entering into construction subagreements (text deleted).

Recipients will be responsible for assuring that any contractors hired using technical assistance grant funds meet the qualifications listed in section 33.220(a) and IFR section 35.4065 and are not barred from EPA-funded work by the regulations in section 33.220 (b).



## Text of 40 CFR Part 30

## Explanation of Key Provisions

(c) Where the recipient receives two or more bids, profit included in a formally advertised, competitively bid, fixed price subagreement shall be considered reasonable

(d) Off-the-shelf or catalog supplies are exempt from this section.

### § 33.240 Small, minority, women's, and labor surplus area businesses.

(a) It is EPA policy to award a fair share of subagreements to small, minority, and women's businesses. The recipient must take affirmative steps to assure that small, minority, and women's businesses are used when possible as sources of supplies, construction and services. Affirmative steps shall include the following

(1) Including qualified small, minority, and women's businesses on solicitation lists;

(2) Assuring that small, minority, and women's businesses are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation of small, minority, and women's businesses,

(4) Establishing delivery schedules, where the requirements of the work permit, which will encourage participation by small, minority, and women's businesses,

(5) Using the services and assistance of the Small Business Administration and the Office of Minority Business Enterprise of the U.S. Department of Commerce, as appropriate, and

(6) If the contractor awards subagreements, requiring the contractor to take the affirmative steps in paragraphs (a) (1) through (5) of this section

(b) [Reserved]

(c) EPA encourages recipients to procure supplies and services from labor surplus area firms

### § 33.245 Privity of subagreement.

Neither EPA nor the United States shall be a party to any subagreement nor to any solicitation or request for proposals.

Recipients of technical assistance grants are not required to comply with section 33.240. Instead, they must comply with the requirements of 40 CFR 33.815(f)(2).

## Text of 40 CFR Part 30

## Explanation of Key Provisions

name or equal" description as a means to define the performance or other salient requirements of a procurement. The recipient need not establish the existence of any source other than the named brand. Recipients must clearly state in the specification the salient requirements of the named brand which must be met by offerors. (An additional specification requirement for recipients of assistance for the construction of treatment works under 40 CFR Part 35, Subparts E and I is contained in § 33.710.)

### § 33.260 Intergovernmental agreements.

Section 33.260 addresses State and local intergovernmental agreements and does not apply to the technical assistance grant program (text deleted).

### § 33.265 Bonding and insurance.

Section 33.265 applies to construction subagreements. Construction activities will not be funded by technical assistance grants (text deleted).

### § 33.270 Code of conduct.

(a) Recipients shall maintain a written code or standards of conduct which shall govern the performance of its officers, employees, or agents engaged in the award and administration of subagreements supported by EPA funds. No employee, officer or agent of the recipient shall participate in the selection, award or administration of a subagreement supported by EPA funds if a conflict of interest, real or apparent, would be involved.

(b) Such a conflict would arise when:

(1) Any employee, officer or agent of the recipient, any member of their immediate families, or their partners have a financial or other interest in the firm selected for award, or

(2) An organization which may receive or has been awarded a subagreement employs, or is about to employ, any person under paragraph (b)(1) of this section.

Technical assistance grant recipients need not have a written code of conduct. See 40 CFR 33.815(e). Instead, recipients must comply with the conflict of interest provisions in 40 CFR 33.270 and other conflict of interest requirements in 40 CFR 30.613.

Section 33.270 specifies a potential conflict of interest among the grant recipient or their families and an employee, officer, or agent and forbids their participation in the selection, award, or administration of a subagreement.

## Text of 40 CFR Part 33

## Explanation of Key Provisions

by recipients or by a recipient's contractors or subcontractors to the maximum daily rate for a GS-18. (Recipients may, however, pay consultants more than this amount.) This limitation applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed; recipients will pay these in accordance with their normal travel reimbursement practices.

(b) Subagreements with firms for services which are awarded using the procurement requirements in this part are not affected by this limitation.

[48 FR 12926, Mar. 28, 1983, 48 FR 30364, July 1, 1983]

### § 33.285 Prohibited types of subagreements.

The cost-plus-percentage-of-cost (e.g., a multiplier which includes profit) and the percentage-of-construction-cost types of subagreements shall not be used.

These are two types of subagreements which cannot be used. EPA will not pay any costs associated with either of these two subagreements.

### § 33.290 Cost and price considerations.

(a) The recipient shall conduct a cost analysis of all negotiated change orders and all negotiated subagreements estimated to exceed \$10,000.

(b) The recipient shall conduct a price analysis of all formally advertised procurements estimated to exceed \$10,000 if there are fewer than three bidders.

(c) For negotiated procurement, contractors and subcontractors shall submit cost or pricing data in support of their proposals to the recipient.

Cost analysis is discussed in greater detail in Chapter 5 and Appendix A of this manual. Recipients who cannot certify their procurement systems must ensure that cost data is submitted on EPA Form 5700-41 (see Appendix A of Part 33).

### § 33.295 Subagreements awarded by a contractor

A contractor must comply with the following provisions in its award of subagreements (This section does not apply to a supplier's procurement of materials to produce equipment, materials and catalog, off-the-shelf, or manufactured items.)

(a) 40 CFR Part 32 (Debarment and Suspension Under EPA Assistance Programs).

(b) The limitations on subagreement award in § 33.220(a) (1) through (5).

Section 33.295 applies to contractors who elect to subcontract some of their work out to other firms or individuals.

## Text of 40 CFR Part 33

## Explanation of Key Provisions

### FORMAL ADVERTISING

#### **§ 33.405 Formal advertising procurement method.**

(a) The requirements in §§ 33.405 through 33.430 apply to all formally advertised subagreements in excess of \$10,000. Formal advertising means the public solicitation of sealed bids and the award of a subagreement based on a fixed price (lump sum, unit price, or a combination of the two) to the lowest, responsive, responsible bidder.

(b) Formal advertising requires at a minimum.

(1) A complete, adequate and realistic specification or purchase description of what is required;

(2) Two or more responsible bidders which are willing and able to compete effectively for the recipient's business.

(3) A procurement that lends itself to the award of a fixed-price subagreement; and

(4) That the selection of the successful bidder be made principally on the basis of price.

#### **§ 33.410 Public notice and solicitation of bids.**

The recipient shall give adequate public notice of the solicitation, inviting bids and stating when and how the bidding documents may be obtained or examined.

#### **§ 33.415 Time for preparing bids.**

The recipient must allow adequate time between the date the public notice is first published and the date by which bids must be submitted.

#### **§ 33.420 Adequate bidding documents**

Recipient's bidding documents shall include.

(a) A complete statement of work to be performed including, where appropriate, design drawings and specifications and the required performance schedule.

(b) The terms and conditions of the subagreement to be awarded, including payment, delivery schedules, point of delivery and acceptance criteria.

(c) A clear explanation of the recipient's method of bidding and the method of evaluating bid prices, and its basis and method for awarding the subagreement.

Formal advertising is used when the recipient knows exactly what it needs and is able to convey its needs to prospective bidders. Awards must be based on price. Technical assistance grant recipients are not required to use this method (40 CFR 33.815 (b)).

Adequate public notice requires advertising in professional journals, newspapers, or publications of general circulation over a reasonable area for at least 30 days (see Appendix A of Part 33).

At least 30 days is required between the date of public notice and the date bids are due (see Appendix A of Part 33).

## **Text of 40 CFR Part 33**

## **Explanation of Key Provisions**

### **§ 33.510 Public notice.**

(a) The recipient must give adequate public notice for competitively negotiated procurements.

(b) The notice of a request for proposals must state how to obtain associated documents, including a copy of § 33.295, Subparts F and G, the basis for subagreement award, and, if appropriate, EPA Form 5720-4 "Labor Standard Provisions for Federally Assisted Construction Contracts."

(c) Requests for proposals must be written, contain enough information to enable a prospective offeror to prepare a proposal, contain all evaluation criteria and the relative importance attached to each, and clearly state the deadline and place to submit proposals.

[48 FR 12926, Mar 28, 1983, 48 FR 30364, July 1, 1983]

Grant recipients must provide documents which identify the criteria for the subagreement award.

### **§ 33.515 Evaluation of proposals.**

(a) Recipients must uniformly and objectively evaluate all proposals submitted in response to the request for proposals.

(b) Recipients must base their determinations of qualified offerors and acceptable proposals solely on the evaluation criteria stated in the request for proposals.

Grant recipients can use only the evaluation criteria stated in the request for proposals to determine the most qualified contractor.

### **§ 33.520 Negotiation and award of subagreement.**

(a) Unless the request for proposals states that award may be based on initial offers alone, the recipient must conduct meaningful negotiations with the best qualified offerors with acceptable proposals within the competitive range, and permit revisions to obtain best and final offers. The best qualified offerors must have equal opportunities to negotiate or revise their proposals. During negotiations, the recipient must not disclose the identity of competing offerors or any information from competing proposals.

(b) The recipient must award the subagreement to the responsible offeror whose proposal is determined in writing to be the most advantageous to the recipient, taking into consideration price and other evaluation criteria set forth in the request for proposals.

The best qualified contractors must have equal opportunities to negotiate or revise their proposals. Grant recipients shall not disclose the identity of applicants nor disclose any information from competing proposals during negotiations.

## Text of 40 CFR Part 33

## Explanation of Key Provisions

### NONCOMPETITIVE NEGOTIATION

#### § 33.605 Noncompetitive negotiation procurement method.

Recipients may use noncompetitive negotiation to award a subagreement if the other three procurement methods are inappropriate because

(a) The item is available only from a single source;

(b) A public exigency or emergency exists and the urgency for the requirement will not permit a delay incident to competitive procurement,

(c) After solicitation from a number of sources, competition is inadequate; or

(d) The EPA award official authorizes noncompetitive negotiation, subject to the limitation in § 33.715(a)(2)

The noncompetitive negotiation method is allowed only in the limited circumstances outlined in section 33.605(a,b,c,d). Noncompetitive negotiation is unlikely to be an appropriate method for most technical assistance grant recipients to apply in hiring a contractor.

### Subpart C—Requirements for Recipients of Assistance Agreements for the Construction of Treatment Works

#### § 33.705 Applicability and scope of this subpart.

#### § 33.710 Buy American

#### § 33.715 Use of the same architect or engineer during construction.

This subpart applies to EPA's Wastewater Treatment Construction Grants Program and does not apply to Superfund (text deleted).

### Subpart D—Requirements for Institutions of Higher Education and Other Nonprofit Organizations

#### § 33.805 Applicability and scope of this subpart.

Recipients who are subject to the provisions of OMB Circular A-110, "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations" are not subject to all of the requirements in this part.

Technical assistance grant recipients meet the definition of "Other Non-Profit Organizations" in Subpart D and thus are not subject to all of the requirements in Part 33 Subpart D

#### § 33.810 Nonapplicable subagreement clauses

The following clauses in Subpart F of this part do not apply to institutions of higher education and other nonprofit organizations

(a) Energy efficiency (§ 33.1021),

(b) Changes (§ 33.1030,3),

(c) Differing site conditions (§ 33.1030,4), and

## Text of 40 CFR Part 33

## Explanation of Key Provisions

### **Subpart E—Requirements for Recipients of Remedial Action Cooperative Agreements Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980**

§ 33.905 Applicability and scope of this subpart.

§ 33.910 Preference for formal advertising.

§ 33.915 Award official approval.

Subpart E applies to construction subagreements. Construction subagreements will not be funded by technical assistance grants (text deleted).

### **Subpart F—Subagreement Provisions**

§ 33.1005 Applicability and scope of this subpart.

(a) This subpart applies to all EPA recipients and describes the minimum content of each subagreement (contract and subcontract).

(b) Nothing in this subpart prohibits a recipient from requiring more assurances, guarantees, or indemnity or other contractual requirements from any party to a subagreement.

Subpart F describes clauses that must be contained in all subagreements between technical assistance grant recipients and their contractors.

§ 33.1010 Requirements for subagreement clauses.

Recipients shall include clauses that meet the requirements of §§ 33.1015 through 33.1021, and the appropriate clauses in § 33.1030, in each procurement subagreement.

§ 33.1015 Subagreement provisions clause.

Each subagreement must include provisions defining a sound and complete agreement, including the.

(a) Nature, scope, and extent of work to be performed.

(b) Timeframe for performance.

(c) Total cost of the subagreement; and

(d) Payment provisions

§ 33.1016 Labor standards provisions

Section 33.1016 does not apply to technical assistance grants (text deleted).

§ 33.1019 Patents data and copyrights clause

Except for construction grant subagreements, all subagreements shall include notice of EPA requirements and regulations pertaining to reporting and patent rights under any suba-

Section 33.1019 applies to patents and copyrights involving research, development, experimental, or demonstration work. Technical assistance grants will usually not be used to pay for the kind of work that might result in patentable or copyrighted information or products.

## Text of 40 CFR Part 33

agreement. This subagreement is subject to regulations contained in 40 CFR Part 33 in effect on the date of the assistance award for this project

### 3 CHANGES

(b) *The following clause applies only to subagreements for services* (1) The recipient may at any time, by written order, make changes within the general scope of this subagreement in the services or work to be performed. If such changes cause an increase or decrease in the contractor's cost or time required to perform any services under this subagreement, whether or not changed by any order, the recipient shall make an equitable adjustment and modify this subagreement in writing. The contractor must assert any claim for adjustment under this clause in writing within 30 days from the date it receives the recipient's notification of change, unless the recipient grants additional time before the date of final payment.

(2) No services for which the contractor will charge an additional compensation shall be furnished without the written authorization of the recipient.

(c) *The following clause applies only to subagreements for supplies* (1) The recipient may at any time, by written order and without notice to the sureties, change the general scope of this subagreement in any one or more of the following:

(i) Drawings, designs or specifications where the supplies to be furnished are specifically manufactured for the recipient.

(ii) Method of shipment or packing, and

(iii) Place of delivery

(2) If any change causes an increase or decrease in the cost or the time required to perform any part of the work under this subagreement, whether or not changed by any such order, the recipient shall make an equitable adjustment in the subagreement agreement price or delivery schedule, or both, and modify the subagreement in writing. The contractor must assert any claim for adjustment under this clause within 30 days from the date the contractor receives the recipient's notification of change. If the recipient decides that the facts justify such action, the recipient may receive and act upon any such claim asserted at any time before final payment under this subagreement. Where the cost of property made obsolete or excess as a result of a change is included in the contractor's claim for adjustment, the recipient has the right to prescribe the manner of disposition of such

## Explanation of Key Provisions

Clause 3(a) applies only to construction subagreements and, therefore, does not apply to technical assistance grants (text deleted).

While the recipient of a technical assistance grant may, at any time, change the scope of services to be performed by a contractor, the recipient must equitably adjust the subagreement's provisions for paying the contractor if these changes alter the costs or time required by the contractor to do work. The contractor may initiate a request for such an adjustment, but must do so within 30 days of notification of changes in the scope of work. The contractor may not perform services that will require compensation in excess of what is provided in the subagreement unless he or she has written authorization.

The recipient of a technical assistance grant may change certain aspects (i - iii) of the products expected from a contractor by written order at any time. However, equitable compensation must be provided if costs on time required of the contractor change. The contractor's requirements for requesting such an adjustment are also the same as in 3(a).



## Text of 40 CFR Part 33

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

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

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

### 7 REMEDIES

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

### 8. PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA

[Note: The following clause applies to (1) any subagreement negotiated between the recipient and its contractor in excess of \$100,000; (2) negotiated subagreement amendments or change orders in excess of \$100,000 affecting the price of formally advertised, competitively awarded, fixed price subagreement, or (3) any lower tier subagreement or purchase order in excess of \$100,000 under a subagreement other than a formally advertised, competitively awarded, fixed price subagreement. This clause does not apply to subagreements awarded on the basis of effective price competition.]

(a) The contractor and subcontractor, where appropriate, assure that the cost and pricing data submitted for evaluation with respect to negotiation of prices for negotiated subagreements, lower tier subagreements and change orders is based on current, accurate and complete data supported by their books and records. If the recipient or EPA determines that any price (including profit) negotiated in connection with this subagreement, lower tier subagreement or amendment thereunder was increased by any significant sums because the data provided was

## Explanation of Key Provisions

Clause 8, price reduction for defective cost or pricing data, does not apply to technical assistance grants which do not exceed \$100,000.

### **Text of 40 CFR Part 33**

(d) The contractor agrees to disclose all information and reports resulting from access to records under paragraphs (a) and (b) of this clause to any of the agencies referred to in paragraph (a)

(e) Records under paragraphs (a) and (b) above shall be maintained by the contractor during performance on EPA assisted work under this subagreement and for the time periods specified in 40 CFR Part 30. In addition, those records which relate to any controversy arising under an EPA assistance agreement, litigation, the settlement of claims arising out of such performance or to costs or items to which an audit exception has been taken shall be maintained by the contractor for the time periods specified in 40 CFR Part 30.

(f) Access to records is not limited to the required retention periods. The authorized representatives designated in paragraph (a) of this clause shall have access to records at any reasonable time for as long as the records are maintained.

(g) This right of access clause applies to financial records pertaining to all subagreements (except formally advertised, competitively awarded, fixed price subagreements) and all subagreement change orders regardless of the type of subagreement, and all subagreement amendments regardless of the type of subagreement. In addition this right of access applies to all records pertaining to all subagreements, subagreement change orders and subagreement amendments.

(1) To the extent the records pertain directly to subagreement performance.

(2) If there is any indication that fraud, gross abuse or corrupt practices may be involved, or

(3) If the subagreement is terminated for default or for convenience

#### **10 COVENANT AGAINST CONTINGENT FEES**

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

### **Explanation of Key Provisions**

The grant recipient must assure that no one has been employed to secure this subagreement for contingent fees. If this assurance is violated, recipients shall have the right to annul the agreement without liability, or recover the contingent fee.

## Text of 40 CFR Part 33

## Explanation of Key Provisions

owner's nor EPA's review, approval, acceptance or payment for any of the services shall be construed as a waiver of any rights under this agreement or of any cause for action arising out of the performance of this subagreement

(4) The contractor shall be, and shall remain, liable in accordance with applicable law for all damages to the owner or EPA caused by the contractor's negligent performance of any of the services furnished under this subagreement, except for errors, omissions or other deficiencies to the extent attributable to the owner, owner-furnished data or any third party. The contractor shall not be responsible for any time delays in the project caused by circumstances beyond the contractor's control

(5) The contractor's obligations under this clause are in addition to the contractor's other express or implied assurances under this subagreement or State law and in no way diminish any other rights that the owner may have against the contractor for faulty materials, equipment or work

(b) *The following clause applies only to subagreements for construction*

Clause 13(b) does not apply to technical assistance grants since construction activities will not be undertaken (text deleted).

### 14 FINAL PAYMENT

Upon satisfactory completion of the work performed under this subagreement, as a condition before final payment under this subagreement or as a termination settlement under this subagreement the contractor shall execute and deliver to the owner a release of all claims against the owner arising under, or by virtue of, this subagreement, except claims which are specifically exempted by the contractor to be set forth therein. Unless otherwise provided in this subagreement, by State law or otherwise expressly agreed to by the parties to this subagreement, final payment under this subagreement or settlement upon termination of this subagreement shall not constitute a waiver of the owner's claims against the contractor or his sureties under this subagreement or applicable performance and payment bonds

[48 FR 12926, Mar 28, 1983, 48 FR 30365, July 1, 1983]

The contractor shall provide to the grant recipient a release of all claims against the recipient as a condition of final payment.

### Subpart G—Protests

§ 33.1105 Applicability and scope of this subpart.

This subpart sets forth EPA's administrative process for the rapid resolution of protest appeals filed with the award official

## Text of 40 CFR Part 33

### § 33.1125 Filing requirements.

(a) Protest appeals must be filed with the Assistant General Counsel for Grants for headquarters-awarded assistance agreements and with the Office of Regional Counsel for regionally awarded assistance agreements.

(b) A protest appeal must:

- (1) Be written;
- (2) Include a copy of the recipient's determination of the protest.
- (3) State the basis for the appeal; and
- (4) Request a determination under this subpart.

(c) Upon filing a protest appeal with the Regional Counsel or Assistant General Counsel for Grants, as appropriate, the party filing the protest appeal must concurrently transmit a copy of all protest documents and any attachments to all other parties with a direct financial interest which may be adversely affected by the determination of the protest appeal.

(d) The award official will only consider written protest appeals received by the appropriate Counsel's office within seven calendar days after the adversely affected party receives the recipient's determination of protest. However, the adversely affected party can meet the seven-day notice requirement by telegraphing the Counsel within the seven-calendar-day period of its intent to file a protest appeal, provided the adversely affected party submits a complete protest appeal within seven calendar days of the date it sends the telegram. If the seventh day falls on a Saturday, Sunday or holiday, the next working day shall be the last day to submit a protest appeal.

(e) Any party which submits a document to the award official during the course of a protest appeal must simultaneously furnish all other affected parties with a copy of the document.

[48 FR 12926, Mar 28, 1983, 48 FR 30365, July 1, 1983]

### § 33.1130 Review of protest appeal

(a) If the recipient does not receive the initial protest before bid opening or the closing date for receipt of proposals, the award official may dismiss

## Explanation of Key Provisions

Section 33.1125 describes the administrative process involved in filing a protest appeal.

### Text of 40 CFR Part 33

favorable to the protester, the award official believes that the protest lacks merit.

(d) The award official will give both the recipient and the protester, as well as any other party with a financial interest which may be adversely affected by the determination of protest, an opportunity to present arguments in support of their views in writing or at a conference.

(e) After the announced date for receipt of written arguments, the record shall be closed.

(f) The award official shall review the record considered by the recipient and any other documents or arguments presented by the parties to determine whether the recipient has complied with the procurement requirements of this part and has a rational basis for its determination of protest.

(g) The award official's determination shall constitute final EPA action from which there shall be no further administrative appeal. No party may appeal an award official's determination of appeal to the EPA Board of Assistance Appeals.

(h) Nothing in this subpart precludes the award official from reviewing the recipient's procurement action. (See § 33.115.)

(i) Noncompliance with the award official's determination of protest shall be cause for an action against the recipient under 40 CFR Part 30 or 32.

(j) If an appeal involves legal issues not explicitly addressed by this part, the award official shall resolve the issue by referring to other protest determinations under this section and decisions of the Comptroller General of the United States or of the Federal courts addressing Federal requirements comparable to procurement requirements of this part

### Explanation of Key Provisions

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OFFICE OF MANAGEMENT AND BUDGET - Circular A-122  
Selected Excerpts - Cost Principles

Text of OMB Circular A-122

Explanation of Key Provisions

**OFFICE OF MANAGEMENT AND BUDGET**

**Circular A-122, "Cost Principles for Nonprofit Organizations"**

[Note: This reprint incorporates corrections published at 46 FR 17185, Tuesday, March 17, 1981.]

**AGENCY:** Office of Management and Budget.

This text includes excerpts from Circular A-122. Sections relevant to cost principles for nonprofit organizations have been included.

**I. Background of Circular A-122**

Circular A-122, "Cost Principles for Nonprofit Organizations," establishes uniform rules for determining the costs of grants, contracts, and other agreements.

In general, the Circular provides that to be recovered from the Federal government, costs incurred by grantees and contractors must be necessary, reasonable, and related to the federally-sponsored activity. In addition, costs must be legal, proper, and consistent with the policies that govern the organization's other expenditures.

The disallowance of lobbying costs in this revision is comparable to the disallowance by Circular A-122 of other costs which are not reimbursed on grounds of public policy, such as advertising, fundraising expenses and entertainment. In each of these instances, a determination has been made that it would not be appropriate or cost-efficient to permit Federal tax dollars to be used for these purposes. In any event, it should be noted that lobbying costs are currently unallowable; as indicated throughout, this revision is intended to clarify and make more uniform the meaning and application of that bar.

This text is taken from the preamble of the revision to Circular A-122.

**II. General Principles**

**A. Basic Considerations**

1. *Composition of total costs* The total cost of an award is the sum of the allowable direct and allocable indirect costs less any applicable credits.

This text is taken from Attachment A of Circular A-122.

## Text of OMB Circular A-122

- (1) Is incurred specifically for the award.
  - (2) Benefits both the award and other work and can be distributed in reasonable proportion to the benefits received, or
  - (3) Is necessary to the overall operation of the organization, although a direct relationship to any particular cost objective cannot be shown.
- b. Any cost allocable to a particular award or other cost objective under these principles may not be shifted to other Federal awards to overcome funding deficiencies, or to avoid restrictions imposed by law or by the terms of the award.

## Explanation of Key Provisions

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**Text of OMB Circular A-122**

**Explanation of Key Provisions**

1. Insert a new paragraph in attachment B, as follows: "B21 Lobbying"

a. Notwithstanding other provisions of this Circular, costs associated with the following activities are unallowable:

a.(1) Attempts to influence the outcomes of any Federal, State, or local election, referendum, initiative, or similar procedure, through in kind or cash contributions, endorsements, publicity, or similar activity;

a.(2) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections;

a.(3) Any attempt to influence: (i) The introduction of Federal or state legislation; or (ii) the enactment or modification of any pending Federal or state legislation through communication with any member or employee of the Congress or state legislature (including efforts to influence State or local officials to engage in similar lobbying activity), or with any government official or employee in connection with a decision to sign or veto enrolled legislation;

a.(4) Any attempt to influence: (i) The introduction of Federal or state legislation; or (ii) the enactment or modification of any pending Federal or state legislation by preparing, distributing or using publicity or propaganda, or by urging members of the general public or any segment thereof to contribute to or participate in any mass demonstration, march, rally, fundraising drive, lobbying campaign or letter writing or telephone campaign; or

a.(5) Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in unallowable lobbying.

b. The following activities are excepted from the coverage of subparagraph a:

The actual revisions to Circular A-122 relevant to lobbying are included below.



## **APPENDIX E**

### **CHECKLISTS FOR TECHNICAL ASSISTANCE GRANT**

#### **APPLICANTS AND RECIPIENTS**

## Checklist for Technical Assistance Grant Applicants and Recipients

### APPLYING FOR A GRANT:

- \_\_\_\_\_ (1) File a letter of intent with EPA.
- \_\_\_\_\_ (2) Complete the grant application package:
  - ◆ EPA Form 5700-33, "State and Local Nonconstruction Programs," the grant application form;
  - ◆ Part IV of EPA Form 5700-33 form;
    - Qualifications of the Applicant;
    - Scope of Services; and
  - ◆ EPA Form 5700-48, "Procurement System Certification."
- \_\_\_\_\_ (3) Contact the appropriate State office (see Appendix C) to comply with the intergovernmental review process, if appropriate.
- \_\_\_\_\_ (4) Send a completed and signed grant application to EPA.
- \_\_\_\_\_ (5) If the grant is awarded, sign and return the grant agreement to EPA within three calendar weeks.
- \_\_\_\_\_ (6) If necessary, file the necessary documents for incorporation with the appropriate State agency upon receipt of notification of award and prior to signing the grant agreement.

### HIRING A TECHNICAL ADVISOR:

- \_\_\_\_\_ (1) Select a procurement method:
  - ◆ Small purchase;
  - ◆ Competitive negotiation;
  - ◆ Formal advertising; or
  - ◆ Noncompetitive negotiation.

Prepare for the files a memorandum outlining the reasons for selecting the chosen procurement method.
- \_\_\_\_\_ (2) Prepare a Request for Proposals (RFP) if using competitive negotiation.
- \_\_\_\_\_ (3) Publish public notice advertising for technical advisor or distribute information to interested parties.
- \_\_\_\_\_ (4) Send out RFP

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**TITLE:** Citizens' Guidance Manual for the Technical  
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# OSWER Directive Initiation Request

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## 2. Originator Information

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3 Title  
Citizens' Guidance Manual for the Technical Assistance  
Grant Program

## 4 Summary of Directive (include brief statement of purpose)

CERCLA, as amended, authorizes technical assistance grant of \$50,000 per site for the duration of site response activities. The grant and regulations found in 40 CFR Parts, 30 and 33 pertain to all EPA grant programs. The time to complete the technical assistance grant award process will differ from one site to another.

5 Keywords Superfund, CERCLA, SARA Community Relations, Grants, Technical Assistance

6a Does This Directive Supercede Previous Directive(s)? ☒ No ☐ Yes What directive (number, title)

b Does It Supplement Previous Directive(s)? ☒ No ☐ Yes What directive (number, title)

## 7 Draft Level

☐ A - Signed by AA/DAA ☐ B - Signed by Office Director ☒ C - For Review & Comment ☐ D - In Development

8. Document to be distributed to States by Headquarters? ☒ Yes ☐ No

## This Request Meets OSWER Directives System Format Standards

9 Signature of Lead Office Directives Coordinator

R. C. Hyde

Directives Coordinator, OERR

Date

12/11/87

10 Name and Title of Approving Official

J. Winston Porter

Assistant Administrator, SWER

Date

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