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Environmental Results under EPA Assistance Agreements

1. PURPOSE

This Order establishes Environmental Protection Agency (EPA) policy for addressing environmental results under EPA assistance agreements, including results that advance EPA’s environmental and human health mission.

2. BACKGROUND

The mission of EPA is to protect human health and the environment. To help carry out its mission, EPA awards approximately one-half of its budget annually in assistance agreements to State, Tribal, local government, educational institutions, and non-profit partners. EPA’s Grants Management Plans (GMP) e.g., Goal 5 of EPA’s 2003-2008 GMP, “Support Identifying and Achieving Environmental Outcomes,” and Goal 1 of EPA’s 2009-2013 GMP, “Demonstrate the Achievement of Environmental Results” explicitly recognize the importance of linking assistance agreements to the Agency’s performance goals and include specific objectives to ensure that assistance agreement solicitations, work plans, and funding recommendations discuss anticipated environmental results and how they will be measured.

This Order is intended to implement GMP objectives by ensuring that EPA assistance agreements are results-oriented, aligned with the Agency’s strategic goals, and demonstrate achievement of environmental results and/or public health protection.

3. APPLICABILITY AND EFFECTIVE DATE

This Order applies to all non-competitive funding packages/funding recommendations submitted to the Grants Management Offices after October 1, 2013, all competitive assistance agreements resulting from competitive funding announcements issued after October 1, 2013, and competitive funding announcements issued after October 1, 2013.

This Order applies to supplemental funding amendments awards made after October 1, 2013 when the scope of work has changed. This Order applies if recipients are currently negotiating workplans after October 1, 2013. This order is not intended to require recipients renegotiate workplans to comply with the order. This Order applies to all EPA assistance agreement programs except the Senior Environmental Employment (SEE) Program. It does not apply to Fellowship awards.

4. POLICY

It is EPA policy, to the maximum extent practicable, to: (1) link proposed assistance agreements to the Agency's Strategic Plan; (2) ensure that outputs and outcomes are appropriately addressed in assistance agreement competitive funding announcements, work plans and performance reports; and (3) review the results from completed assistance agreement projects and report on how they advance the Agency's mission of protecting human health and the environment.

5. DEFINITIONS

- a. The term "outcome" means the result, effect or consequence that will occur from carrying out an environmental program or activity that is related to an environmental or programmatic goal or objective. Outcomes may be environmental, behavioral, health-related or programmatic in nature, must be quantitative, and may not necessarily be achievable within an assistance agreement funding period.
- b. The term "output" means an environmental activity, effort, and/or associated work products related to an environmental goal or objective, that will be produced or provided over a period of time or by a specified date. Outputs may be quantitative or qualitative but must be measurable during an assistance agreement funding period.
- c. The term "Strategic Plan" means the five year Strategic Plan EPA is required to prepare under GPRA. EPA's current Strategic Plan can be found at <http://intranet.epa.gov/ocfo/plan/plan.htm>.

6. COMPETITIVE FUNDING ANNOUNCEMENTS

- a. Section I of all competitive funding announcements for assistance agreements must (1) describe the linkage between the work intended to be accomplished under the assistance agreement and EPA's Strategic Plan and (2) contain a concise discussion of any expected outputs and outcomes.
- b. All competitive funding announcements for assistance agreements must include ranking criteria for evaluating the applicant's plan for tracking and measuring its progress toward achieving the expected outputs and outcomes identified in Section I of the announcement.
- c. All competitive funding announcements for assistance agreements must include ranking criteria for evaluating the applicant's past performance in reporting on outputs and outcomes.
- d. EPA's Grants Competition Advocate may issue such guidance as may be necessary to implement the requirements of this Section, including guidance on the evaluation of applicants under paragraph c. that lack past performance history. Current guidance is located at: http://intranet.epa.gov/ogd/competition/compet/competition_past_performance_evaluation_guidance.htm.

7. ASSISTANCE AGREEMENT WORK PLANS

- a. Program offices, in negotiating an assistance agreement work plan, must ensure that the work plan contains well-defined outputs and, to the maximum extent practicable, well-defined outcomes designed to achieve environmental results and/or public health protection. For State and Tribal assistance agreements under 40 CFR Part 35, Subparts A and B, program offices may satisfy this requirement by ensuring compliance with 40 CFR §§35.107 (State work plans) and 35.507 (Tribal work plans).

b. Prior to approving an assistance agreement work plan, program offices must ensure that they can link the workplan to EPA's Strategic Plan as required by Section 8 of this Order. Additionally, for State workplans under 40 CFR § 35.107, program offices must ensure compliance with the "Essential Elements" approach outlined in Grants Policy Issuance 11-03, *State Grant Workplans and Progress Reports*,

http://intranet.epa.gov/ogd/policy/final_grants_policy_issuance_11_03_state_grant_workplans.pdf.

Attachment A of GPI 11-03 lists the 14 categorical state grant programs for which this is applicable.

c. To supplement this Order, the Office of Grants and Debarment, in coordination with the Office of Planning, Analysis and Accountability, may periodically issue guidance on outputs and outcomes and linking workplans to EPA's Strategic Plan.

8. ASSISTANCE AGREEMENT FUNDING RECOMMENDATIONS

a. Program offices must include in the funding recommendation for a proposed assistance agreement, a description of how the program/project fits within the Agency's Strategic Plan. The description must identify all applicable EPA strategic goal(s) and objective(s).

b. The description must also contain an assurance from the program office that: (1) it has reviewed the assistance agreement work plan; and (2) the work plan meets the requirements of Section 7(a) of this Order.

c. Except for State and Tribal assistance agreements under 40 CFR Part 35, Subparts A and B, award officials must include in assistance agreements the applicable recipient performance reporting term and condition specified in Appendix A of this Order, or a program-specific term and condition approved by the Director of the Office of Grants and Debarment.

9. RECIPIENT PERFORMANCE REPORTING AND EPA REVIEW

a. Program offices must review performance reports, both interim and final, submitted by recipients under 40 CFR §§30.51 and 30.71, and interim and final construction and non-construction grant performance reports submitted by recipients under §§31.40 and 31.50 (i.e., Monitoring and Reporting Program Performance and Closeout, respectively), to determine whether the recipient achieved the environmental and/or public health outputs and outcomes contained in the assistance agreement work plan. This includes ensuring that performance reports provide a satisfactory explanation if outcomes or outputs were not achieved. The review is to be documented in the official project file.

b. For State and Tribal program grants under 40 CFR Part 35, Subparts A and B, program offices may satisfy the requirements of this Section by ensuring compliance with 40 CFR §§ 35.115 and 35.515 (Evaluation of Performance).

10. ADVANCED MONITORING

In conducting advanced monitoring under EPA Order 5700.6 (Policy on Compliance, Review and Monitoring), program offices must assess the recipient's progress in achieving the outputs and outcomes set forth in the assistance agreement work plan. In accordance with guidance issued by the Director of the National Policy, Training and Compliance Division, program offices must record the results of this assessment in the Grantee Compliance Database.

11. REVIEW AND REPORTING OF RESULTS INFORMATION

- a. Program offices must report on significant results information from completed assistance agreements through reporting processes established by the National Program Manager.
- b. National Program Managers must report significant results information from completed assistance agreements as part of the Agency's Annual Performance Report process and in their internal evaluation systems.

12. COMPLIANCE WITH THE FEDERAL GRANT AND COOPERATIVE AGREEMENT ACT AND THE PAPERWORK REDUCTION ACT

- a. Nothing in this Order authorizes EPA to treat assistance agreements like contracts. Under the Federal Grant and Cooperative Agreement Act, and associated EPA Order 5700.1 (Policy for Distinguishing Between Assistance and Acquisition) the principal purpose of any proposed EPA assistance agreement must be, unless otherwise provided by statute, to support a recipient in carrying out a public purpose authorized by EPA's statutory authorities, as opposed to providing goods or services for the direct benefit or use of EPA or the Federal Government.
- b. When implementing this Order, EPA officials must comply with the applicable provisions of the Paperwork Reduction Act of 1995.

13. ROLES AND RESPONSIBILITIES

- a. Program offices and National Program Managers must ensure that: (1) competitive funding announcements, work plans, funding recommendations, and performance reports contribute to the Agency's programmatic goals and objectives and demonstrate achievement of environmental results and/or public health protection in compliance with the requirements of this Order; and (2) the results of assistance agreements are reviewed and reported in accordance with the requirements of this Order.
- b. Grants Management Offices will return funding packages/funding recommendations that do not meet the requirements of sections 8(a) and (b) of this Order.
- c. Award officials are responsible for including in assistance agreements the applicable term and condition described in section 8(c) of this Order.

14. WAIVERS

- a. In response to requests submitted by approval officials, the Director, Office of Grants and Debarment or designee, may grant individual or class waivers from the non-statutory requirements of this Order, except for requirements under Section 6, where compliance would be impracticable or otherwise not in the public interest.
- b. In response to requests submitted by approval officials, EPA's Grant Competition Advocate may grant individual or class waivers from the ranking criteria described in Section 6 of this Order if the Program office can demonstrate that such criteria are inappropriate for a particular competition or program.

15. SUPERSESSION AND REVIEW

This Order supersedes Order 5700.7. The Office of Grants and Debarment will periodically review this Order to assess its effectiveness and issue supplemental guidance as may be necessary to address future needs.

Appendix A

RECIPIENT PERFORMANCE REPORTING

Except for State and Tribal assistance agreements authorized under 40 CFR Part 35, Subparts A and B, award officials must include in assistance agreements the applicable recipient performance reporting term and condition specified below or a program-specific term and condition approved by the Director of the Office of Grants and Debarment.

Recipients subject to 40 C.F.R. Part 30

Performance Reports

In accordance with 40 CFR § 30.51 (d), the recipient agrees to include in performance reports submitted under this agreement brief information on each of the following areas: 1) a comparison of actual accomplishments with the anticipated outputs/outcomes specified in the assistance agreement work plan; 2) reasons why anticipated outputs/outcomes were not met; and 3) other pertinent information, including, when appropriate, analysis and explanation of cost overruns or high unit costs.

In accordance with 40 CFR § 30.51 (f), the recipient agrees that it will notify EPA of problems, delays, or adverse conditions which materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan.

Recipients subject to 40 CFR Part 31 (other than recipients of State or Tribal Program grants under 40 CFR Parts 35 Subparts A or B)

Performance Reports

In accordance with 40 CFR §31.40, the recipient agrees to submit performance reports that include brief information on each of the following areas: 1) a comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement workplan for the period; 2) the reasons for slippage if established outputs/outcomes were not met; and 3) additional pertinent information, including, when appropriate, analysis and information of cost overruns or high unit costs.

In accordance with 40 CFR § 31.40 (d), the recipient agrees to inform EPA as soon as problems, delays or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan.