



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

AUG 03 2012

OFFICE OF
WATER

MEMORANDUM

SUBJECT: Response to the Office of Inspector General Final Report on the OIG Hotline Complaint *Alleged Misuse of Tribal Clean Water Act Section 106 Funds in EPA Region 8*, Assignment No. OA-FY11-0444

FROM: Nancy K. Stoner
Acting Assistant Administrator for Water

James B. Martin
Regional Administrator
Region 8

TO: Melissa M. Heist
Assistant Inspector General for Audit
Office of the Inspector General

We appreciate the opportunity to review and respond to the Office of Inspector General Final Report on the OIG Hotline Complaint *Alleged Misuse of Tribal Clean Water Act Section 106 Funds in EPA Region 8* dated May 4, 2012. On behalf of the U.S. Environmental Protection Agency, we want to thank the Office of the Inspector General for its careful review of the hotline complaint and the recommendations for providing clear guidance on the use of associated program support costs to support tribal 106 programs. The EPA agrees in large part with the findings and recommendations in the OIG's report. Following is our response including your request for planned completion dates for each recommendation.

SPECIFIC RECOMMENDATIONS AND RESPONSES

OIG Recommendation 1: Develop guidance for CWA Section 106 associated program support costs. Guidance should incorporate specific requirements to use state and tribal assistance grants for associated program support, and a process to obtain approval from recipients for associated program support costs funded with Section 106 program funds. Alternatively, formally adopt Office of Air and Radiation's guidance on associated program support costs.

EPA Response: In response to this recommendation the Office of Water will conduct a review of Regional use of the associated program support costs authority for assisting tribal programs and may, as appropriate, develop new guidance or formally adopt existing guidance (e.g., the applicable sections of the *Guidance on the Office of Air and Radiation (OAR) Assistance Authorities and Allowable FY 2009*

State and Tribal Assistance Grant [STAG] Funded Activities) currently applicable to other programs. We anticipate that the EPA will complete the review of Regional use of the associated program support costs authority for assisting tribes by November 30, 2012. Based on the finding of our review, the Section 106 Program will adopt existing guidance or develop specific guidance for the Tribal Section 106 Program. Guidance will be established by November 30, 2013.

OIG Recommendation 2: Develop regional guidance to formalize the process by which the Region gains approval from tribes for associated program support costs funded with Section 106 program funds. Guidance could include requiring that a roll call be taken indicating the presence of a quorum, and voting records be kept, as a standard part of ROC meetings and minutes.

EPA Response: Region 8 has immediately addressed this recommendation by following the Regional Operations Committee (ROC) guidelines dated March 17, 2011, regarding roll call, a voting quorum, and minutes that document the voting decision process, including the most recent 2012 Spring ROC meeting. When a decision is required, Region 8 tribes or the EPA will request the ROC Chair to call for a vote on the specific issue. The vote results will be recorded in the ROC minutes.

OIG Recommendation 3: Evaluate the effectiveness of the Region's team approach to tribal technical assistance – as part of the guidance developed in recommendation #2 – by querying ROC members and making adjustments as needed based on tribal feedback.

EPA Response: Region 8 immediately complied with this recommendation by following the review and evaluation criteria outlined in the Region 8 Tribal Support Work Plan. This process calls for ongoing review and feedback on the programmatic and technical assistance provided by the EPA staff. At the annual 2012 Spring ROC meeting, the Deputy Regional Administrator queried ROC members about the Region's team approach. Tribal feedback was documented and used to make necessary adjustments to the Region 8 process. When a National guidance is adopted, Region 8 will reevaluate the process and make the necessary adjustments within six months to ensure national consistency.

On behalf of the EPA's Office of Water and Region 8, we want to thank the Office of Inspector General for its recommendations that are aimed at improving the decision process associated with using CWA Section 106 grant funds for associated program support costs to tribes. If you have any questions or concerns, please contact us, or your staff may contact Robyn Delehanty, Section 106 Program Coordinator at (202) 564-3880, delehanty.robyn@epa.gov, or Alfreda Mitre, Tribal Assistance Program Director at (303) 312-6343, mitre.alfreda@epa.gov.

Attachment

cc: Howard M. Cantor
Callie A. Videtich
Alfreda Mitre
Randy Brown
Michael Boydston
Felicia Wright
Robyn Delehanty
Marilyn Ramos

IG Report Corrective Action Plan

Report title, number and date: OIG Hotline Complaint *Alleged Misuse of Tribal Clean Water Act Section 106 Funds in EPA Region 8*, Assignment No. OA-FY11-0444, May 4, 2012

Recommendation	Lead	Due Date	Corrective Action
1	OW	11/30/12	Review Regional use of the associated program support costs authority for assisting tribes
1	OW	11/30/13	Adopt existing guidance or develop specific guidance for the Tribal Section 106 Program
2	R8	(date of this signed letter)	Follow the March 17, 2011 ROC Meeting Guidelines
3	R8	(Date of this letter)	Follow the Region 8 Tribal Support Plan and re-evaluate process within 6 months of adoption of a new national guidance (Recommendation #1)