

**OFFICE OF CONGRESSIONAL
AND
INTERGOVERNMENTAL RELATIONS**

FY 2020-2021 NATIONAL PROGRAM GUIDANCE

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I. INTRODUCTION

The Office of Congressional and Intergovernmental Relations (OCIR) is issuing the FY 2020-2021 Program Guidance to provide direction for national grant work planning and EPA and state shared governance of federally implemented programs. OCIR is the lead for two Key Strategic Measures within Goal-2, Cooperative Federalism, Enhanced Shared Accountability, in the agency's [FY 2018-2022 Strategic Plan](#). Also included is a Core Measure in oversight of EPA's responsiveness to State and Tribal Requests. This Guidance will address how these strategic and core measures will be accomplished.

In developing the FY 2020 – 2021 National Program Guidances and, as referenced in the [OCFO Technical Guidance](#), the Regional Administrators were asked to lead discussions with the senior leadership of the states and tribes located within their regions. These early engagement discussions focused on identifying how EPA and states, tribes, and territories will work together to advance the goals and objectives in the EPA's [FY 2018-2022 Strategic Plan](#). As the agency's programs develop their National Program Guidances, this information should inform their grant work planning process and grant commitments.

To implement a performance-based approach to provide states and tribes greater administrative and programmatic flexibilities in joint priority setting, the National Environmental Performance Partnership System (NEPPS) was created in 1995 to leverage resources and assess environmental conditions. This is illustrated on the [NEPPS website](#) which articulates the agency's commitment to promoting and encouraging the use of Performance Partnership Agreements (PPAs) and [Performance Partnership Grants](#). Similarly, EPA-Tribal Environmental Plans (ETEPs) serve to improve the EPA-tribal partnerships by fostering collaboration and priority setting of environmental commitments in alignment with the agency's [FY 2018-2022 Strategic Plan](#). Regions should rely on established EPA-Tribal Environmental Plans (ETEPs) to guide federal environmental program activities in Indian country, including direct implementation and technical and financial assistance.

As indicated in the agency's [FY 2018-2022 Strategic Plan](#), NEPPS has long served as a model for advancing cooperative federalism by providing the flexibility needed to address the unique needs of individual states and tribes to achieve the best environmental results. It is the expectation of EPA Senior Leadership to encourage and promote the numerous benefits of PPGs which serve to help leverage resources, provide flexibilities, allow for shared priorities and are designed to be administered without imposing additional reporting requirements.

The agency is committed to working with states and tribes to find alternative approaches to shared governance, while seeking to provide flexibilities and streamline oversight of state and tribal programs. The agency's NEPPS program embodies this principal and, in providing for administrative, financial, and programmatic flexibilities, along with joint environmental planning, further provides states and tribes with the tools and opportunities for meeting its environmental goals.

The [EPA Overview to the National Program Guidance](#) communicates important background and agency-wide information, and should be read in conjunction with this FY 2020-2021 National Program Guidance. This OCIR National Program Guidance reflects EPA's commitment to implementing its core mission while upholding cooperative federalism, shared governance, and ensuring a certainty of authority to the states and tribes in aligning priorities to achieve the highest standard of public health and the environment.

SECTION II. STRATEGIC PLAN IMPLEMENTATION

A. Implementing Strategic Measures

1. Key Strategic Measure: Increase Grant Commitments Achieved

OCIR is implementing a new Strategic Measure for Grant Commitments under Goal 2, Cooperative Federalism, Objective 2.1, Enhanced Shared Accountability, in the agency's FY 2018 – 2022 Strategic Plan. The goal is to increase the number of grant commitments achieved by states, tribes, and local communities. This will be accomplished through regions, states, and tribes partnering throughout the grant work planning process to promote joint intergovernmental planning and priority setting; encouraging the promotion of performance partnerships while utilizing financial and operational flexibilities; defining a standard of work that unifies the approach for grant work planning; and providing direction for grant commitment tracking and oversight.

1.1a Key Programmatic Activity I: Encourage Discussions and Collaboration on Priorities

As outlined in Objective 2.1 of the agency's FY 2018 – 2022 Strategic Plan, EPA intends to enhance shared accountability through grant commitments. This will be achieved through the continuous dialogue and collaboration between regions, states, and tribes on the grant work planning process. The goal of this activity is for the regions to initiate discussions and maintain ongoing collaboration with the states and tribes to define and align environmental priorities.

In developing the FY 2020 – 2021 National Program Guidances and, as referenced in the [OCFO Technical Guidance](#), the Regional Administrators were asked to lead early engagement discussions with their state and tribal senior leadership. These discussions focused on identifying how EPA's partners will work together to advance the objectives of the agency strategic plan. The responses received from this effort are critical to strengthening the federal-state-tribal relationship in environmental priority setting. The EPA National Programs Managers are to incorporate this feedback into the priorities and strategies within their National Program Guidances.

1.1b Key Programmatic Actions

- The Regional Administrators have the lead to initiate and co-lead discussions with state and tribal senior leadership to receive early input to define and determine the mutual environmental goals and strategies for achievement.
- Regions are asked to review existing approaches to priorities, resources, and available flexibilities when developing workplans, as set forth in the original [1995 NEPPS Agreement](#) and the [2015 EPA-State Renewal of NEPPS](#).
- Regions are to apply the feedback received from the early engagement discussions among EPA, states, and tribes in developing their grant workplans. Regions should refer to the details from the early discussions as a resource for grant workplan planning purposes.
- National Program Offices are to continue to engage with the regions, to inform development of the National Program Guidances, and should include the results of the early engagement efforts.
- Regions are to seek all opportunities to engage with states and tribes on grant work planning.

1.2a Key Programmatic Activity II: Promote Flexibility Through Performance Partnerships

As outlined in Objective 2.1 of the agency's strategic plan, EPA intends to enhance shared accountability through grant commitments. This will be achieved through performance partnerships that leverage administrative and financial flexibilities in grant work planning. The goal of this activity is to encourage the use of NEPPS Performance Partnership Agreements (PPAs) and Performance Partnership Grants (PPGs) as the primary tools to balance flexibility with fiscal accountability to achieve environmental program outcomes. The following link reflects the current list of the agency's [PPG Eligible Grants](#), which includes grants for Air and Water Pollution Control, Pesticides, Toxics, Nonpoint Source, Radon, Brownfields, General Assistance Grants to Indian Tribes, and other grants.

In accordance with the goals in Executive Order 13781: Comprehensive Plan for Reorganizing the Executive Branch, EPA has instituted a reform plan, consisting of several projects, including efforts to increase flexibility in state and tribal assistance and to seek opportunities for states and tribes to better leverage the benefits of PPGs. In 2018, approximately 50% of agency eligible grant funding were in state PPGs, while 55% of eligible grant funding were in tribal PPGs. OCIR will be working with the National Programs and the regions to increase this rate by 10% by 2022. Through outreach and coordination with states, tribes, and internal customers, OCIR, in conjunction with the other agency programs, will identify barriers and improvements to PPG use and flexibilities. Possible improvements include evaluation of and changes to program requirements and implementation, policy-level changes, and training on the duality of PPG flexibility and accountability.

1.2b Key Programmatic Actions

- The regions have the lead to implement the agency's Grants Policy Issuance ([GPI 15-01](#)) that allows administrative and programmatic flexibilities through PPGs.
- The regions are to communicate the benefits of PPGs to state and tribal agencies and to clearly explain the administrative and programmatic benefits of PPG participation. Key references include the current list of [PPG Eligible Grants](#), along with [the Best Practices Guide for Performance Partnership Grants with States](#) and the [Best Practices Guide for Performance Partnership Grants with Tribes](#).
- The regions should address all possible scenarios for flexibility with the states and tribes early in the negotiation of PPAs and PPGs.
- Regions should utilize [GPI 12-06 Timely Award and Obligation](#) when appropriate to address late appropriations, allocations, and/or continuing resolutions (CRs).
- Regions are encouraged to refer to the ECOS [Cooperative Federalism 2.0](#) paper which emphasizes the importance for states to use all flexibilities available to determine the best ways for their programs to achieve national minimum standards.
- Regions should provide details to OCIR on all requests for state and/or tribal flexibility, innovation, or creativity to catalogue and document the best practices.
- Regions are encouraged to develop innovative ways to increase the number of eligible grants

combined into a PPG and promote their benefits, with the goal towards achieving the national goal of increasing PPG use by 10% by 2022.

- Regions should review the requirements for grants eligible for inclusion in a PPG, along with the specific requirements unique to a PPG.¹ In the U.S. Code of Federal Regulations, [40 CFR 35 Subpart A](#) contains specific requirements for state PPGs, including eligible activities for funding, and cost-sharing requirements. [40 CFR 35 Subpart A](#) also contains specific requirements for tribal PPGs, including eligible activities for funding, and cost-sharing requirements.
- Regions should make every effort to resolve issues through direct communication and negotiation and use the formal dispute resolution process as a last resort. Should issues arise, the process for resolving any policy and implementation issues related to Performance Partnerships are outlined in EPA's [Best Practices Guide for Performance Partnership Grants with States](#), and [GPI 15-01, 2 CFR Part 1500 Subpart-E](#).
- All relevant managers and staff should continually seek NEPPS and PPA/PPG-specific training opportunities for continued understanding of changing regulations and/or policy issuances. A new state [PPG Online Training Course](#) is available for EPA employees who work with PPGs (i.e. Project Officers, Grants Specialists, NEPPS Coordinators, and managers per [GPI 15-01](#)). A similar agency online training course on managing tribal PPGs is planned for 2021.
- The regions should prepare and anticipate foreseeable priority readjustments within their grant workplans, in the event of unforeseen environmental or budget variations. For additional reference, the regions should refer to ECOS's [Field Guide to Flexibility](#).

1.3a Key Programmatic Activity III: Implement Grant Planning and Reporting

As outlined in Objective 2.1 of the agency's FY 2018 – 2022 Strategic Plan, EPA intends to enhance shared accountability by increasing the rate of grant commitment achievements. This will be accomplished by fostering more standardization in grant work planning. The goal of this activity is to establish a new reporting template that will help facilitate an efficient and navigable standard in aligning the grant workplan commitments among EPA, states, and tribes.

1.3b Key Programmatic Actions

- OCIR and the National Program Offices are developing a new grant reporting template. This template will be made available in 2019 and is required for the grant work planning process.
- The regions will coordinate directly with the states and tribes to ensure that the new grant workplan template is completed and addresses mutually identified priorities and commitments that align with the goals and objectives of the FY 2018 – 2022 Strategic Plan.
- Regions are advised to review tribal environmental priorities in the EPA-Tribal Environmental Plans (ETEP) as a grant workplan is developed.

¹ For states, PPG activities are eligible if these activities are allowed from one of the contributing programs, in accordance with **40 CFR 35.135**. For tribes, PPG activities are eligible provided that the activities are allowed under any of the PPG-eligible programs, regardless of whether that program contributes funds to the PPG. If there is no PPG-eligible statute, regulation, or NPM guidance that authorizes a proposed activity, that activity will not be considered an allowable activity under the PPG.

- Regions will use a multi-year PPG grant cycle to align with the two-year National Program Guidances. Any impediments are to be reported and discussed with OCIR.
- The regions should include in their workplans shared business process modernization projects or activities currently proposed that model the [E-Enterprise Shared Governance Model](#) when applicable.
- Regions should look for ways to incorporate E-Enterprise initiatives into workplan activities. Information on how to support this process can be found in the [Guidance on E-Enterprise Workload Tradeoffs](#).

1.4a Key Programmatic Activity IV: Oversight of Accomplishments of Grant Commitments

As outlined in Objective 2.1 of the agency's FY 2018 – 2022 Strategic Plan, EPA intends to increase opportunities for shared accountability by tracking the progress of grant commitments. This will be accomplished by establishing more national standardization in grant commitment setting. The goal of this activity is to track the progress of a subset of pre-defined grant commitments and increase their rate of achievement. Initially, OCIR and the Nation Program Managers Offices are defining a subset of nationwide state grant commitments to serve as a baseline to report the rate of grant commitments achieved.

1.4b Key Programmatic Actions

- OCIR and the National Program Offices have the lead to defining the initial subset of nationwide grant commitments to serve as a baseline. This baseline will be established spring 2019.
- The regions will begin implementing and coordinating an approach with OCIR for reporting and tracking on the achievement of the initial baseline of national commitments.
- Regions will ensure regular communication among the states to address the successes and/or issues, along with ongoing feedback to OCIR, as appropriate.
- The regions will establish a balanced allocation of targeted commitments based upon their state capacity and geography.

2. Key Strategic Measure: Alternative Shared Governance

OCIR is implementing a new Strategic Measure for Alternative Shared Governance under Goal 2, Cooperative Federalism, Objective 2.1, Enhanced Shared Accountability, in the agency's FY 2018 – 2022 Strategic Plan. The goal of this measure is to enhance shared accountability between EPA, state, tribal, and local co-regulators in the implementation of federal programs. This will be accomplished by establishing a comprehensive system designed to evaluate state, tribal, and local federal environmental programs through the creation of a set of principles to establish expectations for EPA's review of state, tribal, and local programs, as well as, the development and implementation of program-specific templates to serve as the basis for each engagement.

2.1a Key Programmatic Activity: Promote Use of Oversight Principles and Template

As outlined in Goal 2.1 of the agency's FY 2018 – 2022 Strategic Plan, EPA intends to enhance shared accountability through the increased use of alternative shared governance approaches.

This will be accomplished by creating set of principles and template for the oversight of state, tribal, and local programs. The goal of this activity is increase shared governance practices by utilizing the principles and template. OCIR, the Environmental Council of States (ECOS), and the National Program Managers Offices have created a set of principles and program-specific templates, for the National Pollutant Discharge Elimination System (NPDES) for the Office of Water, and Title V for the Office of Air and Radiation, to serve as pilots to increase the number of shared governance approaches.

2.1b Key Programmatic Actions

- The regions will implement the alternative shared governance approach, defined by the Oversight Principles Memorandum and program specific template, for NPDES Real Time Permit Reviews and Title V Program Reviews, by September 30, 2019.
- The regions will begin implementing the use of this alternative shared governance approach in up to nine additional program areas using the new framework by September 2022.
- Regions will ensure regular communication among the states to address the successes or issues, along with ongoing feedback to OCIR, as appropriate.

B. Implementing Other Core Work

3. Core Measure: Oversight of Responsiveness to State and Tribal Requests

OCIR is implementing a new measure that takes a comprehensive approach towards tracking and improving the agency's responsiveness to requests from states and tribes. To track this effort, OCIR and the Office of Executive and Administrative Services (OEAS) have developed an agency-wide metric, to be applied by each office and region. This metric will regularly calculate the number of overdue state and tribal requests.

3.1a Key Programmatic Activity: Data Entry of State and Tribal Requests

This agency-wide metric attempts to capture and reduce the total number of state and tribal requests that are overdue. This metric will track responsiveness and is being implemented in each National Program Offices and Region. The goal is to respond to all correspondence within the standard Correspondence Management System (CMS) deadline. To track responsiveness, a State/Tribal Request check-box has been added to the data entry screen in CMS. In addition, a CMS report is available to track and monitor timeliness of responses.

3.1b Key Programmatic Actions

- OCIR and the OAES have the lead on developing guidance, training, and creating management reports in CMS on state and tribal requests.
- The regions should enter state and tribal requests by selecting check box in CMS in accordance with the [May 2018 Guidance](#).
- The regions will maintain an inventory of current state and tribal requests by selecting the check box in CMS that adds the requests to the CMS queue.

- OCIR will report monthly on tracking of overdue state and tribal requests on the last business day of each month to show a cumulative summary of the number of overdue correspondences for each National Program Office and region.

SECTION III. FLEXIBILITY AND GRANT PLANNING

NEPPS provides the tools such as Performance Partnership Agreements (PPAs) and [Performance Partnership Grants \(PPGs\)](#) to establish joint commitments, leverage resources, and address program and administrative flexibilities. EPA must ensure that both agency priorities and core programs are both adequately implemented regardless of shifts in emphasis among the programs. To that end PPAs and PPGs allow for fulfilling these requirements with flexible and creative approaches. PPG Management, outlined in [40 CFR §35.137\(a\)\(4\)](#) contains a specific requirement for states to explain the reasons and expected benefits of proposed work plans that involve programmatic flexibility.

Eligible Activities

For states, PPG activities are eligible as long as the activities are allowed under one of the contributing programs, in accordance with [40 CFR §35.135](#). For tribes, PPG activities are eligible as long as the activities are allowed under any of the PPG-eligible programs, regardless of whether that program contributes funds to the PPG, under [40 CFR §35.535](#). If there is no PPG-eligible statute, regulation, or NPM or other program guidance that authorizes a proposed activity, that activity will not be considered an allowable activity under the PPG.

Cost Share

For tribal governments, the cost-share regulations in [40 CFR §35.536](#) should be followed, including reduced cost-share when a program's funds are included in a PPG. For a tribal PPG, the cost share amount of the PPG is sum of the cost shares for each program, but not to exceed 5% for each program included in a PPG for the first two years, unless a tribe chooses to provide additional, voluntary cost-share.

After two years, a region may reduce or waive the cost-share if it imposes a hardship on the tribe or intertribal consortium, or the region may increase the cost-share to 10% if the tribe meets socio-economic indicators that demonstrate the ability of the tribe or the intertribal consortium to provide a cost share greater than five percent. If a PPG-eligible program recommends a higher cost-share rate than the amount specified in the PPG regulations, applicants cannot be required to provide a higher amount when the funds are included in a PPG. In some cases, tribal governments may choose to provide additional cost-share to supplement federal funding for a priority area, however this decision must be made by the tribal government, not by EPA.

Application Requirements

[40 CFR §35.104](#) provides the requirements for a complete Continuing Environmental Program (CEP) application for states, and [40 CFR §35.505](#) for tribal governments. When a program's funds will be included in a PPG, "an environmental program" (as referenced in these sections of the regulations) refers to the PPG as the program. Applicants are not required to submit an application for each program to be included in the PPG, however the PPG application must contain the information required by [40 CFR §35.137](#) for states, and [40 CFR §35.537](#) for tribes. Applicants are not required to provide

separate budgets by program or specify individual program funding by line item (for example, how much Air 105 funding will be used for personnel).

In some cases, like for competitive programs, applicants may be required to submit separate application documents, but in general, applicants are not required to comply with each individual program’s deadline for applications, if that program’s funds will be included in a PPG.

Working with EPA, states, and tribes can take advantage of the range of flexibilities and opportunities made available in joint priority setting. Examples of this include:

- Using program flexibilities and shifting resources between programs included in the PPG. As stated in the [Best Practices Guide for Performance Partnership Grants with States](#) and the [Best Practices Guide for Performance Partnership Grants with Tribes](#) grant recipients may fund innovative projects or special initiatives. Should an entity use a PPG to fund a certain environmental initiative, this entity could pool existing grant funds from other programs included in the PPG to support the new initiative.
- Adopting administrative efficiencies in PPG management through streamlined paperwork and accounting procedures (e.g., submission of one application package and consolidated federal financial reports).
- Achieving cost savings through simplified accounting requirements. When two or more grants are combined into a PPG, the funds do not have to be tracked by the original program source. A PPG requires only one budget, one financial status report, and a negotiated workplan that incorporates commitments for a component funded by the PPG.
- Coordinating PPG work planning allows program managers to better understand the work of their state or tribal counterparts; thus, providing opportunities to leverage resources and achieve mutual goals.

SECTION IV. FY 2020 NATIONAL PROGRAM MEASURES

- OCIR has developed the approach for these measures to align with the strategic plan, according to the agency’s goal of cooperative federalism through grant commitments achieved, enhanced shared governance, and responsiveness to state and tribal requests.
- National Program Guidance measures for previous years are available on the EPA’s [National Program Guidance website](#)

A. FY 2020 National Program Guidance Measures

BFS Code	Measure Text	FY 2020 National Planning Target (optional)	Comments/Clarification
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SM-14	Increase the number of grant commitments achieved by states, tribes, and local communities.	TBD	<p>Grant commitment: A task that is jointly negotiated by EPA and the grant recipient.</p> <p>Achieved: Indicates the grant commitment target, as negotiated in the grant work plan, is met or exceeded within the period of performance.</p>
SM-15	Increase the use of alternative shared governance approaches to address state, tribal, local community reviews.	TBD	<p>Shared governance: The concept where management or implementation of federal environmental programs is shared with state, tribal, or local governments.</p> <p>Achieved: Utilizing principal's template for each engagement.</p>
A05	Reduce the number of overdue state and tribal requests, and track the responsiveness to State and Tribal requests	TBD	<p>Correspondence: State and/or tribal requests via CMS relating to various issues.</p> <p>Achieved: Que of requests in CMS reduced, and management reports to capture rate of responsiveness.</p>

SECTION V. KEY CONTACTS

Contact Name	Subject/Program Area	Phone	Email
Robin H. Richardson	Performance Partnerships & PPG Policy	202-564-3358	Richardson.RobinH@epa.gov
Melissa Saddler	Performance Partnerships & PPG Policy	202-564-5455	Saddler.Melissa@epa.gov
Daniel Murphy	Performance Partnerships & PPG Policy	202-564-3227	Murphy.Dan@epa.gov
Laurice Jones	Performance Partnerships & PPG Policy	202-564-0223	Jones.Laurice@epa.gov

APPENDIX. EXPLANATION OF KEY CHANGES FROM FY 2018-2019

Office of Congressional and Intergovernmental Relations

Section of Guidance	Change from FY 2018-2019 NPM Guidances	Reason for Change	Location of New/Modified Information
General	No change		
Strategic Measures	Two new strategic measures under Goal-2 of the FY 2018-2022 Strategic Plan	Better oversight and grant workplan/commitment alignment with state-tribal priorities to agency's Goals in the FY 2018-2022 Strategic Plan	Section II; Part A, page 4
Other Core Work	CMS Measure	Tracking state and tribal request responsiveness	Section II; Part B, page 8
Measures	None		
Contact Information	Melissa Saddler, AO-OCIR, 202.564-5455; Dan Murphy, AO-OCIR; 202.564-3227		