

with customer-filed change-of-address orders received and maintained by the USPS. For the purposes of this standard, "address" means a specific address associated with a specific occupant name. Addresses subject to the Move Update standard must meet these requirements:

a. Each address and associated occupant name used on the mailpieces in a mailing must be updated within 95 days before the mailing date, with one of the USPS-approved methods in 3.9.2.

b. Each individual address in the mailing is subject to the Move Update standard.

c. The Move Update standard is met when an address used on a mailpiece, in a mailing for any class of mail, is updated with an approved method in 3.9.2, and the same address is used in a Standard Mail mailing within 95 days after the address has been updated.

d. Except for mail bearing an alternative address format, addresses used on pieces claiming Standard Mail rates, regardless of any required surcharge, must meet the Move Update standard.

3.9.2 USPS-Approved Methods

The following methods are authorized for meeting the Move Update standard:

a. Address Change Service (ACS).

b. National Change of Address Linkage System (NCOA^{Link}).

c. Ancillary service endorsements under 507.1.5.3, Standard Mail, except "Forwarding Service Requested."

3.9.3 Mailer Certification

The mailer's signature on the postage statement certifies that the Move Update standard has been met for each address in the corresponding mailing presented to the USPS.

* * * * *

400 Discount Parcels

* * * * *

430 First-Class Mail

433 Rates and Eligibility

* * * * *

3.0 Basic Standards for First-Class Mail Parcels

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3.5 Move Update Standard

3.5.1 Basic Standards

* * * * *

[Revise item a in 3.5.1 as follows:]

a. Each address and associated occupant name used on the mailpieces in a mailing must be updated within 95 days before the mailing date, with one of the USPS-approved methods in 3.6.2.

* * * * *

[Revise item c in 3.5.1 as follows:]

c. The Move Update standard is met when an address used on a mailpiece, in a mailing at any class of mail, is updated with an approved method in 3.6.2, and the same address is used in a First-Class Mail mailing within 95 days after the address has been updated.

* * * * *

440 Standard Mail

443 Rates and Eligibility

* * * * *

3.0 Basic Standards for Standard Mail Parcels

* * * * *

[Add new item 3.9 as follows:]

3.9 Move Update Standard

3.9.1 Basic Standards

The Move Update standard is a means of reducing the number of mailpieces in a mailing that require forwarding, return, or discard by the periodic matching of a mailer's address records with customer-filed change-of-address orders received and maintained by the USPS. For the purposes of this standard, "address" means a specific address associated with a specific occupant name. Addresses subject to the Move Update standard must meet these requirements:

a. Each address and associated occupant name used on the mailpieces in a mailing must be updated within 95 days before the mailing date, with one of the USPS-approved methods in 3.9.2.

b. Each individual address in the mailing is subject to the Move Update standard.

c. The Move Update standard is met when an address used on a mailpiece, in a mailing for any class of mail, is updated with an approved method in 3.9.2, and the same address is used in a Standard Mail mailing within 95 days after the address has been updated.

d. Except for mail bearing an alternative address format, addresses used on pieces claiming Standard Mail rates, regardless of any required surcharge, must meet the Move Update standard.

3.9.2 USPS-Approved Methods

The following methods are authorized for meeting the Move Update standard:

a. Address Change Service (ACS).

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3.9.3 Mailer Certification

The mailer's signature on the postage statement certifies that the Move Update

standard has been met for each address in the corresponding mailing presented to the USPS.

* * * * *

Neva Watson,

Attorney, Legislative.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 30 and 31

[FRL-8472-1]

Award of United States-Mexico Border Program and Alaska Rural and Native Villages Program Grants Authorized by the Revised Continuing Appropriations Resolution, 2007

AGENCY: Environmental Protection Agency (EPA).

ACTION: Grant Guidelines.

SUMMARY: This notice provides guidelines on the Award of United States-Mexico Border Program and Alaska Rural and Native Villages Program Grants Authorized by the Revised Continuing Appropriations Resolution, 2007. This notice provides information and guidelines on how the EPA will award and administer the United States-Mexico Border Program and the Alaska Rural and Native Villages Program in accordance with the Revised Continuing Appropriations Resolution, 2007 (Pub. L. 110-5). The Revised Continuing Appropriations Resolution, 2007, provides budget authority for funding the United States-Mexico Border Program and the Alaska Rural and Native Villages Program. Each grant recipient will receive a copy of this notice from EPA.

ADDRESSES: The subject notice and associated documents may be viewed and downloaded from EPA's homepage, <http://www.epa.gov/owm/mab/owm0330.pdf>.

FOR FURTHER INFORMATION CONTACT: Benjamin J. Hamm, Chief, Municipal Assistance Branch, Municipal Support Division, Office of Wastewater Management (4204M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-0648; e-mail address: hamm.ben@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

Affected Entities: This action applies to State Agencies, nonprofit institutions, international organizations, and Alaska

rural and native villages which are eligible to receive grants from funds included in EPA's State and Tribal Assistance Grants account pursuant to the Revised Continuing Appropriations Resolution, 2007, and the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Pub. L. 109-54).

II. Background

The Revised Continuing Appropriations Resolution, 2007, Pub. L. 110-5, making further continuing appropriations for the fiscal year 2007, and for other purposes, states, in relevant part:

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2007, and for other purposes, namely: * * * (a) Such amounts as may be necessary, at the level specified in subsection (c) and under the authority and conditions

provided in the applicable appropriations Act for fiscal year 2006, for projects or activities (including the costs of direct loans and loan guarantees) that are not otherwise provided for and for which appropriations, funds, or other authority were made available in the following appropriations Acts: * * * (4) The Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006.

The Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006, Pub. L. 109-54, also referred to as the Agency's fiscal year (FY) 2006 Appropriations Act, included \$50,000,000 for the United States-Mexico Border Program and \$35,000,000 for the Alaska Rural and Native Villages Program in the State and Tribal Assistance Grants (STAG) account. Pursuant to the Revised Continuing Appropriations Resolution, 2007, these funding levels are maintained for FY 2007.

The specific requirements governing the award of the program grants are contained in the following documents: the Revised Continuing Appropriations

Resolution, 2007, and the FY 2006 Appropriations Act. The requirements contained in these documents have been incorporated into this notice.

The Revised Continuing Appropriations Resolution, 2007, also states, in relevant part:

(c) The level referred to in subsection (a) shall be the amounts appropriated in the appropriations Acts referred to in such subsection, including transfers and obligation limitations, except that—* * * (2) such level shall be calculated without regard to any rescission or cancellation of funds or contract authority, other than—(A) the 1 percent government-wide rescission made by section 3801 of division B of Pub. L. 109-148; [and] (B) the 0.476 percent across-the-board rescission made by section 439 of Pub. L. 109-54, relating to the Department of the Interior, Environment, and Related Agencies * * *.

The original amount appropriated for each program, as well as the actual amount available for grant award after the reduction due to the 1 percent rescission and the .476 percent rescission are as follows:

Program	Appropriation	1% rescission	.476% rescission	Grant amount
Alaska Rural and Native Villages Program	\$35,000,000	\$350,000	\$164,934	\$34,485,066
United States-Mexico Border Program	50,000,000	500,000	235,620	49,264,380

The United States-Mexico Border Program funds and the Alaska Rural and Native Villages Program funds will be awarded and administered by the Regional Offices. On September 28, 2000, the Assistant Administrator for Water and the Regional Administrators were delegated the authority to award grants and cooperative agreements for funds included in the STAG account. Accordingly, the Regions and Headquarters have the necessary authority to award grants and cooperative agreements for the United States-Mexico Border Program and the Alaska Rural and Native Villages Program.

III. Program Specific Guidelines

The Agency's FY 2006 Appropriations Act contains the authorizing language for and requirements applicable to the United States-Mexico Border Program and the Alaska Rural and Native Villages Program.

A. United States-Mexico Border Program

The Agency's FY 2006 Appropriations Act provides \$49,264,380, after rescission, for "architectural, engineering, planning, design, construction and related activities in

connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission." Pursuant to the Revised Continuing Appropriations Resolution, 2007, this funding level is maintained for FY 2007. The scope of work for grants awarded for the United States-Mexico Border Program must conform to the language contained in the Appropriations Act and the grant file should include documentation that describes the results of the discussions and consultations with the appropriate border commission. In implementing this program, EPA generally provides grant funding to the Border Environmental Cooperation Commission (BECC) for the Project Development Assistance Program (PDAP) and to the North American Development Bank (NADBank) for the Border Environment Infrastructure Fund (BEIF). Subgrants from BECC and NADBank should also contain documentation of the discussions with the appropriate border commission.

EPA cost participation on projects funded from the United States-Mexico Border appropriation item will be decided on a project-by-project basis.

The EPA cost share will depend on a number of factors which have been separately defined within the context of the United States-Mexico Border Program.

On May 2, 1997, the Agency issued a memorandum¹ concerning "Program Requirements for Mexican Border Area Projects Funded under the Authority of this Agency's FY 1995, 1996 and 1997 Appropriations Acts." That memorandum applies to the United States-Mexico Border Area projects funded under the authority of the Revised Continuing Appropriations Resolution, 2007, and the Agency's FY 2006 Appropriations Act.

B. Alaska Rural and Native Villages Program

The Agency's FY 2006 Appropriations Act provides \$34,485,066, after rescission, for:

Grants to the State of Alaska to address drinking water and waste infrastructure needs of rural and Alaska Native Villages: *Provided*, That, of these funds: (1) The State of Alaska shall provide a match of 25 percent; (2) no more than 5 percent of the funds may be used for administrative and overhead expenses; and (3) not later than

¹ This document is available on the internet at www.epa.gov/owm/mab/owm0327.pdf.

October 1, 2007² the State of Alaska shall make awards consistent with the State-wide priority list established in 2004 for all water, sewer, waste disposal, and similar projects carried out by the State of Alaska that are funded under section 221 of the Federal Water Pollution Control Act (33 U.S.C. 1301) or the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et. seq.*) which shall allocate not less than 25 percent of the funds provided for projects in regional hub communities.

Pursuant to the Revised Continuing Appropriations Resolution, 2007, this funding level is maintained for FY 2007. The cost share for the State of Alaska pursuant to Item (1) of the Appropriations Act is \$11,495,022.

Additionally, the Alaska Rural and Native Villages Program funds may be used to pay for activities specified in the Safe Drinking Water Act of 1996, (Pub. L. 104–182, Section 303), specifically: “training, technical assistance, and educational programs relating to the operation and management of sanitation services in rural and Native villages.” These include the Remote Maintenance Worker (RMW) and the Rural Utility Business Advisory (RUBA) programs.

Pursuant to the 2006 Alaska Rural and Native Villages Program Memorandum of Understanding, the State of Alaska has agreed to utilize the State’s Environmental Review Process (SERP) for all projects funded by the program.

IV. Federal Funds as a Source of Matching Funds

Federal funds from other programs may be used as all or part of the match for the United States-Mexico Border Program only if the statute authorizing those other programs specifically allows the funds to be used as a match for other Federal grants. Additionally, the other Federal programs must allow their appropriated funds to be used for the planning, design and/or construction of water, wastewater or groundwater infrastructure projects. Listed below are the major United States Federal programs whose grant funds can be used to provide all or part of the match for the United States-Mexico Border Program:

- Department of Agriculture, Rural Development program; and
- Department of Housing and Urban Development, Community Development Block Grant program.

For Mexican projects, Federal, state or local grants may be used to match United States-Mexico Border Program grant funds.

As previously stated, Federal funds may be used as all or part of the match for other Federal grant programs only if the authorizing legislation includes such authority. The United States-Mexico Border Program funds and the Alaska Rural and Native Villages Program funds cannot be used as a source of matching funds for other Federal programs.

V. Pre-Award Costs

The Grants and Interagency Agreement Management Division (GIAMD) issued a policy memorandum (GPI 00–02) on March 30, 2000, that applies to all grants, including United States-Mexico Border Program grants and Alaska Rural and Native Villages Program grants awarded on or after April 1, 2000. Additionally, a clarification to the policy memorandum (GPI 00–02(a)) was issued by GIAMD on May 3, 2000. The two memorandums revised the Agency’s interpretation of a provision contained in the general grant regulations at 40 CFR 31.23(a) concerning the approval of pre-award costs.

In essence, the GIAMD memorandums state that:

- Recipients may incur pre-award costs [up to] 90 calendar days prior to award provided they include such costs in their application, the costs meet the definition of pre-award costs and are approved by the EPA Project Officer and EPA Award Official.

- The award official can approve pre-award costs incurred more than 90 calendar days prior to grant award, in appropriate circumstances, if the pre-award costs are in conformance with the requirements set forth in OMB Circular A–87 and with applicable Agency regulations, policies and guidelines.

The GIAMD memorandums state that the award official can approve pre-award costs incurred prior to grant award in appropriate situations if the approval of the pre-award costs is consistent with the intent of the requirements for pre-award costs set forth in OMB Circular A–87 and are in conformance with Agency regulations, policies and guidelines. The following two situations meet these requirements:

- Any allowable costs incurred after the start of the fiscal year for which the funds were appropriated but before grant award (for FY 2007 projects, this date is October 1, 2006).
- Allowable facilities planning and design costs associated with the construction portions of the project included in the grant that were incurred before the start of the fiscal year for which the funds were appropriated (for

FY 2007 projects, this date is October 1, 2006).

Accordingly, effective April 1, 2000, the Regions have the authority to approve pre-award costs for the two situations described above. Any approval, of course, is contingent on the Regional Office determination that the pre-award costs in question are in conformance with the applicable Federal laws, regulations and executive orders that govern EPA grant awards and are allowable, reasonable and allocable to the project.

The Regions may not approve any pre-award costs for United States-Mexico Border Program grants or Alaska Rural and Native Villages Program grants, other than those that involve the two situations discussed above, without written approval from Headquarters. The request, with sufficient supporting documentation, should be submitted to the Director, Office of Wastewater Management, (Mail Code 4201M), USEPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. The Office of Wastewater Management will consult, in appropriate circumstances, with the GIAMD and the Office of General Counsel. If appropriate, a deviation from 40 CFR 31.23(a) will be processed and issued.

VI. Laws, Regulations and Requirements

The Federal Laws and Executive Orders that apply to all EPA grants, including the United States-Mexico Border Program and the Alaska Rural and Native Villages Program which are authorized by the Revised Continuing Appropriations Resolution, 2007, and the Agency’s FY 2006 Appropriations Act, are as follows:

A. Environmental Authorities

- Archeological and Historic Preservation Act, Pub. L. 93–291, as amended.
- Clean Air Act, Pub. L. 95–95, as amended.
- Clean Water Act, Titles III, IV and V, Pub. L. 92–500, as amended.
- Coastal Barrier Resources Act, Pub. L. 97–348.
- Coastal Zone Management Act, Pub. L. 92–583, as amended.
- Endangered Species Act, Pub. L. 93–205, as amended.
- Environmental Justice, Executive Order 12898.
- Flood Plain Management, Executive Order 11988 as amended by Executive Order 12148.
- Protection of Wetlands, Executive Order 11990 as amended by Executive Order 12608.
- Farmland Protection Policy Act, Pub. L. 97–98.

²In order to maintain consistency with past appropriations acts language, the Agency assumes Congress intended to state “October 1, 2007”.

- Fish and Wildlife Coordination Act, Pub. L. 85–624, as amended.
- Magnuson-Stevens Fishery Conservation and Management Act, Pub. L. 94–265.
- National Environmental Policy Act, Pub. L. 91–190.
- National Historic Preservation Act, Pub. L. 89–655, as amended.
- Safe Drinking Water Act, Pub. L. 93–523, as amended.
- Wild and Scenic Rivers Act, Pub. L. 90–54, as amended.

B. Economic and Miscellaneous Authorities

- Debarment and Suspension, Executive Order 12549.
- Demonstration Cities and Metropolitan Development Act, Pub. L. 89–754, as amended, and Executive Order 12372.
- Drug-Free Workplace Act, Pub. L. 100–690.
- Government Neutrality Toward Contractor's Labor Relations, Executive Order 13202 as amended by Executive Order 13208.
- New Restrictions on Lobbying, Section 319 of Pub. L. 101–121.
- Prohibitions relating to violations of the Clean Water Act or Clean Air Act with respect to Federal contracts, grants, or loans under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, and Executive Order 11738.
- Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91–646, as Amended.

C. Civil Rights, Nondiscrimination, Equal Employment Opportunity Authorities

- Age Discrimination Act, Pub. L. 94–135.
- Equal Employment Opportunity, Executive Order 11246.
- Section 13 of the Clean Water Act, Pub. L. 92–500.
- Section 504 of the Rehabilitation Act, Pub. L. 93–112 supplemented by Executive Orders 11914 and 11250.
- Title VI of the Civil Rights Act, Pub. L. 88–352.

D. Disadvantaged Business Enterprise Authorities

- EPA's FY 1993 Appropriations Act, Pub. L. 102–389.
- Section 129 of the Small Business Administration Reauthorization and Amendment Act, Pub. L. 100–590.
- Small, Minority and Women Owned Business Enterprises, Executive Orders 11625, 12138 and 12432.

Some of the authorities only apply to grants that include construction, *e.g.*, EO 13202. A more detailed description of the Federal laws, Executive Orders,

OMB Circulars and their implementing regulations is contained in Module No. 2 of the EPA Assistance Project Officers Training Course which is available through the Regional Grants Management Offices.

The regulations at 40 CFR Part 31 apply to grants and cooperative agreements awarded to State and local (including tribal) governments. The regulations at 40 CFR Part 30 apply to grants with nonprofit organizations and with non-governmental for-profit entities. In appropriate circumstances, such as grants for demonstration projects, the research and demonstration grant regulations at 40 CFR Part 40 can be used to supplement either 40 CFR Part 30 or Part 31.

The Agency issued a memorandum³ in January 1995, concerning the applicability of 40 CFR Part 29 (Intergovernmental Review) to the special projects authorized by the Agency's FY 1995 Appropriations Act. That memorandum also applies to the United States-Mexico Border Program and the Alaska Rural and Native Villages Program which are authorized by the Revised Continuing Appropriations Resolution, 2007, and the Agency's FY 2006 Appropriations Act.

The Davis-Bacon Act does not apply to grants awarded under the authority of the Revised Continuing Appropriations Resolution, 2007, and the Agency's FY 2006 Appropriations Act because neither the Resolution nor the Act includes language that makes it apply. However, if FY 2007 funds are used to supplement funding of a construction contract that includes Clean Water Act title II requirements (*e.g.*, contracts awarded under the construction grants or coastal cities programs), the entire contract is subject to Davis-Bacon Act requirements, including the portion funded with FY 2007 funds.

VII. Specific Environmental Requirements

The National Environmental Policy Act (NEPA) and other relevant applicable statutes and Executive Orders, such as the Endangered Species Act (ESA), apply to the United States-Mexico Border Program. The applicable NEPA regulations are the Council of Environmental Quality's implementing regulations at 40 CFR Parts 1500–1508 and EPA's NEPA regulations at 40 CFR Part 6, Subparts A–D.

The Agency issued a memorandum⁴ on January 20, 1995, concerning NEPA

compliance for the Special Appropriations Act Projects authorized by the Agency's FY 1995 Appropriations Act. That memorandum also applies to the United States-Mexico Border Program which is authorized by the Revised Continuing Appropriations Resolution, 2007, and the Agency's FY 2006 Appropriations Act.⁵

The development of information needed to determine compliance with NEPA and other cross-cutting Federal requirements is an allowable cost that can, and should, be included in the scope of work of the grant if not performed prior to grant award. These activities can be funded on an incremental basis, by awarding a grant that only includes these activities, or as part of the entire project (*i.e.*, planning, design and construction) with the stipulation, in the form of a grant condition, stating that EPA will not approve or fund any work beyond the conceptual design point⁶ until the applicable requirements of such authorities have been met. The Agency issued a memorandum⁷ on July 29, 2003, that contains a model grant condition that should be used in this situation.⁸

It should be noted that NEPA and other cross-cutting Federal requirements that apply to the major Federal action (*i.e.*, the approval and/or funding of work beyond the conceptual design point) cannot be delegated. Although EPA can fund the grantee or state/tribal development of an Environmental Information Document (EID) or other analysis to provide supporting information, EPA has the legal obligation to issue the NEPA documents, to sign NEPA determinations, and to fulfill other cross-cutting Federal requirements before approving or paying for design and/or construction.

When both EPA and another Federal agency are funding the same project, the agencies may negotiate an agreement for one to be the lead agency for performing grant oversight and management activities, including those related to NEPA and other cross-cutting Federal requirements. The lead agency can be the one which is providing the most funds for the project, or the agency that

⁵ EPA is in the process of revising the NEPA implementing regulations (40 CFR Part 6). Accordingly, the final rule, once promulgated, will supersede and replace the memoranda on NEPA compliance.

⁶ Completion of conceptual design is essentially the same as completion of facility planning as defined in EPA's Construction Grants program.

⁷ This document is available on the internet at www.epa.gov/owm/mab/owm0330.pdf.

⁸ See Footnote 5, *supra*.

³ This document is available on the internet at www.epa.gov/owm/mab/own0326.pdf.

⁴ This document is available on the internet at www.epa.gov/owm/mab/own0330.pdf.

provided the initial funds for the project. If an environmental impact statement (EIS) is required, EPA should be a co-lead or cooperating agency so that it can adopt the EIS without recirculating it. If the project requires an environmental assessment (EA), EPA may adopt the other agency's EA and use it as a basis for its finding of no significant impact (FONSI), provided EPA has independently reviewed the EA and agrees with the analysis and circulates the FONSI and attached EA for the requisite 30-day comment period. Note that EPA may not use a categorical exclusion of another Federal agency unless EPA's regulations at 40 CFR Part 6 also provide for the categorical exclusion.

VIII. Operating Guidelines

The authority for awarding grants for the United States-Mexico Border Program is the Revised Continuing Appropriations Resolution, 2007, and the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Pub. L. 109–54). The authority for awarding grants for the Alaska Rural and Native Villages Program is section 303 of the Safe Drinking Water Act Amendments of 1996 (Pub. L. 104–182), the Revised Continuing Appropriations Resolution, 2007, and Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Pub. L. 109–54).

The Catalog of Federal Domestic Assistance (CFDA) number for the United States-Mexico Border Program and the Alaska Rural and Native Villages Program is 66.202 “Congressionally Mandated Projects.” The Integrated Grants Management System (IGMS) code for the United States-Mexico Border Program and the Alaska Rural and Native Villages Program is XP, titled “Water Infrastructure Grants as authorized by EPA Appropriations.” The Object Class Code (budget and accounting information) for the United States-Mexico Border Program and the Alaska Rural and Native Villages Program is 41.83. Applicants should use Standard Form 424 to apply for the grants.

A. Location of Project

To be able to report on environmental and public health benefits, the Agency has decided to collect, and store in an appropriate database, the geographic location for grant funded infrastructure projects. Accordingly, all United States-Mexico Border Program grants and Alaska Rural and Native Villages Program grants authorized by the Revised Continuing Appropriations

Resolution, 2007, and the FY 2006 Appropriations Act should include a term and condition stating that locational information must be submitted. For most projects, the specific information needed is the National Pollutant Discharge Elimination System (NPDES) number(s) or the Safe Drinking Water Information System (SDWIS) number(s). EPA's information technology (IT) systems will use the NPDES and the SDWIS numbers to determine the specific geographic parameters of the project. For those situations where NPDES and SDWIS identifiers are not appropriate, the longitude and latitude of the project should be provided.

B. Intermunicipal Projects and Service Agreements

Although a United States-Mexico Border Program grant may be awarded to one entity, the successful operations of the grant funded project may depend on the support and cooperation of other entities, municipalities, or utility districts. This is especially evident when one entity is providing wastewater treatment services or supplying drinking water to another entity. Accordingly, for projects involving interactions between two or more entities, the applicant should provide assurances that the grant funded project will function as intended for its expected life. Adequate assurance may be met through the creation of special service districts, regionalization of systems, or intermunicipal service agreements.

Special service districts and regionalization of systems are considered to be obligations in perpetuity to serve the customers of the newly created authority and automatically meet the expected lifetime requirements. The intermunicipal service agreement or contract is a legal document for cooperative ventures between separate entities, both of which wish to continue functioning with a large degree of independent control in their respective service areas. Such agreements will need to extend for a minimum number of years for an EPA funded project to be considered viable. For the purposes of the United States-Mexico Border Program, EPA will accept the following contract lifetimes as meeting the *minimum* standard⁹:

⁹ The anticipated useful life of the facility components is based on the low end of the assumed service life for items in EPA's Construction Grants Program and past experience with the award and administration of special Appropriations Act projects.

ITEM	LIFE (years)
Land	(1)
Wastewater/Water Conveyance Structures: collection systems pipes, interceptors, force mains, tunnels, distribution lines, etc.	40
Other Structures: plant buildings, concrete tankage, basins, lift station and pump station structures, inlet structures, etc.	30
Wastewater and Drinking Water Process Equipment	15
Auxiliary Equipment	10

¹ Permanent.

A shorter time frame may be accepted if suitably justified and approved by EPA.

C. Non-Construction Costs

The scope of work of a grant may include planning, design and administrative activities, and the cost of land. Land need not be an “integral part of the treatment process” as in the Clean Water Act title II construction grant program. However, all elements included within the scope of work of the grant must conform to the requirements of 40 CFR Parts 30 or 31. This means, if planning, design and administrative activities are included in the grant, the procurement of those services and the contracts must comply with the applicable sections of Parts 30 or 31. If land is included, there will be a Federal interest in the land regardless of when it was purchased and the purchase must be (must have been) in accordance with the applicable sections of Parts 30 or 31 and the Uniform Relocation Assistance and Real Property Acquisition regulations for Federal and Federally assisted programs at 49 CFR Part 24.

As of August, 2006, the United States-Mexico Border Program established a policy that land would not be an allowable BEIF cost, even if it is an eligible item under the Appropriations Act. This policy was issued by the Deputy Director, Office of Wastewater Management, on August 3, 2006.

D. Refinancing

Funds appropriated for the United States-Mexico Border Program or the Alaska Rural and Native Villages Program may not be awarded solely to repay loans received from a State Revolving Fund or other indebtedness unless the facts of the case are such that this is the only way to award the funds that were appropriated for the project. Any request to use United States-Mexico Border Program or Alaska Rural and Native Villages Program funds to repay a loan, in whole or in part, must

be approved, in writing, by EPA Headquarters. The request, with sufficient supporting documentation, should be submitted to the Director, Office of Wastewater Management, (Mail Code 4201M), USEPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

IX. Environmental Results Under EPA Assistance Agreements

A. Introduction

EPA Order 5700.7,¹⁰ "Environmental Results Under Assistance Agreements," applies to all non-competitive funding packages/funding recommendations submitted to the Grants Management Offices after January 1, 2005. The Order requires EPA Program Offices to: (1) Link proposed assistance agreements to the Agency's Strategic Plan/Government Performance and Results Act (GPRA) architecture; (2) ensure that outputs and outcomes are appropriately addressed in assistance agreement work plans¹¹ and funding recommendations; and (3) ensure that progress in achieving agreed-upon outputs and outcomes is adequately addressed in recipient progress reports and advanced monitoring activities.

B. The Strategic Plan/GPRA Architecture

EPA's 2006–2011 Strategic Plan¹² sets out five long-term goals. Each of these five goals is supported by a series of objectives and sub-objectives that identify, as precisely as possible, what environmental outcomes or results the EPA seeks to achieve within a defined time frame using resources expected to be available. The objectives and sub-objectives established in EPA's Strategic Plan are part of the "GPRA architecture" that is used to measure the EPA's progress in meeting its strategic goals.

Program offices must include in the funding package for a proposed assistance agreement a description of how the project fits within the EPA's Strategic Plan/GPRA architecture. In developing the aforementioned descriptions, a project officer must list all applicable EPA strategic goals and objectives and, where available, sub-

objectives. The project officer must ensure that the Program Results Code(s) (PRCs) listed on the commitment notice is consistent with the selected strategic goals, objectives and sub-objectives. The Strategic Plan/Program Results Code Crosswalk, which summarizes the strategic goals, objectives, sub-objectives, and the PRCs for every EPA assistance agreement program, is attached to Appendix A of EPA Order 5700.7. Additionally, program offices must include in the funding package for a proposed assistance agreement an assurance that the program office has reviewed, or will review, the assistance agreement work plan¹³ and that the work plan includes, or will include, well-defined outputs and, to the maximum extent practicable, well-defined outcomes.

C. EPA Review of Recipient Performance Reports

EPA Order 5700.7 also establishes requirements for program office review of construction and non-construction interim and final recipient performance reports for progress in achieving outputs and outcomes contained in assistance agreement work plans. Under 40 CFR Parts 30 and 31, EPA may require recipients to submit performance/progress reports as frequently as quarterly but no less frequently than annually. These regulations also require recipients to provide the EPA with an acceptable final performance report at the end of a project. While performance reports are one way for the EPA to obtain information on a recipient's progress toward achievement of agreed-upon outputs and outcomes, program offices may also conduct mid-year and end-of-year reviews to evaluate recipient performance.

The review of recipient performance reports is largely the responsibility of the EPA project officer. The project officer must review interim¹⁴ and final¹⁵ performance reports to determine whether they adequately address the achievement of agreed-upon outputs/outcomes, including providing a satisfactory explanation for insufficient progress or a failure to meet planned accomplishments (when compared with the most recently approved project schedule and

completion dates for project milestones). This review must be documented in the official project file. If a report does not adequately address the achievement of outputs/outcomes, the project officer should seek further explanation from the recipient and require appropriate corrective action.

D. Advanced Monitoring

EPA Order 5700.7 directs program offices, when conducting on-site reviews or desk reviews under EPA Order 5700.6, *Policy on Compliance, Review and Monitoring*, to include an assessment of the recipient's progress in achieving the outputs and outcomes set forth in the assistance agreement work plan.¹⁶ If the assessment reveals significant problems in meeting agreed-upon outputs/outcomes, the project officer must require the recipient to develop and implement an appropriate corrective action plan and implementation schedule. The results of the assessment must be documented in the Grantee Compliance Database in a format determined by the Director of the GIAMD.

X. Grants Management

Grants awarded under the authority of an Appropriations Act are subject to assistance agreement regulations, OMB cost principles and Agency policies. The grants must be awarded and managed as any other assistance agreement.

The GIAMD has developed Grants Policy Issuances (GPIs) and directives to assist project officers and program offices in fulfilling and understanding their responsibilities. Three GPIs that are directly related to the award and management of United States-Mexico Border Program grants or Alaska Rural and Native Villages Program grants are GPI-07-01 "Management of Earmark Grants," GPI-03-01—Attachment VI "Policy and Procedures for Funding Assistance Agreements," and GPI-00-05 "Cost Review Guidance."¹⁷

OGD issued guidance "Assessing Grants Management Performance under the 2007 Performance Appraisal and Recognition System (PARS)" on January 17, 2007, to be used for 2007 PARS performance agreements/appraisals of project officers who are managing at least one active grant during the rating period and their supervisors/managers. This guidance requires that project officers and their supervisors/managers

¹⁰ The Order is available on the internet at <http://www.epa.gov/ogd/grants/award/5700.7.pdf>.

¹¹ Throughout this section, the term "work plan" is used for convenience. For construction projects, outputs/outcomes are normally included in a Facility Plan, Preliminary Engineering Report, or an Environmental Information Document. In many cases these documents may not exist at the time of grant application. In those situations the development of the documents will be included in the scope of work of the assistance agreement.

¹² The Strategic Plan is available on the internet at http://www.epa.gov/ocfo/plan/2006/entire_report.pdf.

¹³ See Footnote 11, *supra*.

¹⁴ For construction projects, on-site technical inspections and certified percentage of construction data meet the interim reporting requirements, see 40 CFR 31.40(c).

¹⁵ For construction projects, the final inspection report or other final performance report should include a comparison of the actual outcomes/outputs with those incorporated into the assistance agreement.

¹⁶ See Footnote 11, *supra*.

¹⁷ These GPIs are available at <http://intranet.epa.gov/ogd/policy/7.0-GPI-GPI-07-01.htm>, <http://intranet.epa.gov/ogd/policy/7.0-GPI-GPI-03-01-0.htm> and <http://www.epa.gov/ogd/grants/award/CostReview.htm>.

adequately address grants management responsibilities through the Agency's PARS process. A directive outlining roles and responsibilities for all EPA staff with grants management responsibilities is found at <http://intranet.epa.gov/rmpolicy/ads/updates.htm>.

EPA Order 5700.6A1, issued January 8, 2004,¹⁸ streamlines post-award management of assistance agreements and helps ensure effective oversight of recipient performance and management. The Order encompasses both the administrative and programmatic aspects of the Agency's financial assistance programs. It requires each EPA program office providing assistance to develop and carry out a post-award monitoring plan, and conduct basic monitoring for every award. From the programmatic standpoint, this monitoring should ensure satisfaction of five core areas: (1) Compliance with all programmatic terms and conditions, (2) correlation of the recipient's work plan/application and actual progress under the award, (3) availability of funds to complete the project, (4) proper management of and accounting for equipment purchased under the award, and (5) compliance with all statutory and regulatory requirements of the program. If during monitoring it is determined that there is reason to believe that the grantee has committed or commits fraud, waste and/or abuse, then the project officer must contact the Office of the Inspector General. Advanced monitoring activities must be documented in the official grant file and the grantee compliance database.

In addition to the general requirements contained in EPA Order 5700.6A1, the following types of activities, which are directly related to construction projects, should be considered in the development of a post-award monitoring plan:

- Review periodic payment requests.
- Compare actual completion percentages and milestones with the approved project schedule
- Compare actual costs incurred with the approved project budget.
- Conduct interim inspections.
- Review change orders and claims.
- Review and approve final payment requests as required by the Program.
- Determine that the project is capable of meeting the objectives for which it was planned, designed and built and is operational.

XI. Project Officer Responsibilities

The project officers must review the grant application to determine that:

- the scope of work of the grant is clearly defined;
- the scope of work is in conformance with the project description;
- project schedule and milestones are addressed;
- there is a clearly stated environmental or public health objective;
- the applicant has the programmatic capability to successfully manage the project;
- it is expected that the project will achieve its objective(s); and
- the costs are reasonable, necessary and allowable.

Grant applications should be carefully reviewed and processed in a timely manner. Additionally, the Regions may impose reasonable requirements through grant conditions in those situations considered necessary.

XII. Actions

If you have not already done so, you and your staff should initiate discussions with the appropriate grant applicants to develop a detailed scope of work and to explain the grant application and review process. Additionally, the grant applicant should be provided with this Notice prior to grant award to ensure that the applicant is on notice of the applicable requirements before the grant is awarded.

XIII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before certain actions may take effect, the agency promulgating the action must submit a report, which includes a copy of the action, to each House of the Congress and to the Comptroller General of the United States. Since this final grant action contains legally binding requirements, it is subject to the Congressional Review Act, and EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of notice in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Dated: September 17, 2007.

Benjamin H. Grumbles,

Assistant Administrator, Office of Water.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 97

[EPA-R06-OAR-2007-0651; FRL-8473-5]

Approval and Promulgation of Implementation Plans; Louisiana; Clean Air Interstate Rule Nitrogen Oxides Trading Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the Louisiana State Implementation Plan (SIP) submitted by the State of Louisiana on August 20, 2007, as the Louisiana Clean Air Interstate Rule (CAIR) Nitrogen Oxides (NO_x) Trading Programs abbreviated SIP. The abbreviated SIP revision includes the Louisiana methodology for allocation of annual and ozone season NO_x allowances. EPA has determined that the Louisiana CAIR NO_x Trading Programs abbreviated SIP revision satisfies the applicable requirements of a CAIR abbreviated SIP revision. EPA is also approving revisions to the Louisiana SIP that establish administrative reporting requirements for all Louisiana CAIR programs; these revisions were submitted on September 22, 2006, as part of the Louisiana CAIR Sulfur Dioxide (SO₂) Trading Program SIP. EPA has also determined that the Louisiana CAIR NO_x Annual and Ozone Season Abbreviated SIP satisfies Louisiana's Clean Air Act (CAA) Section 110(a)(2)(D)(i) obligations to submit a SIP revision that contains adequate provisions to prohibit air emissions from adversely affecting another State's air quality through interstate transport.

The intended effect of this action is to reduce NO_x emissions from the State of Louisiana that are contributing to nonattainment of the 8-hour ozone and PM_{2.5} National Ambient Air Quality Standards (NAAQS or standard) in downwind states. This action is being taken under section 110 of the CAA.

DATES: This rule is effective on September 28, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2007-0651. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly

¹⁸ The Order is available on the internet at http://www.epa.gov/ogd/manual6/Library/5700_6A1.pdf.