

**§ 35.4115**

the EPA a financial status report on SF-269 or on the appropriate State form if the State is administering the TAG Program.

(c) *Final report.* Each recipient shall submit to EPA a draft of the final report for review no later than 90 days prior to the end of the TAG project and a final report within 90 days of the end of the project. The report shall document TAG project activities over the entire period of grant support and shall describe the recipient's achievements with respect to stated TAG project purposes and objectives.

(Approved by the Office of Management and Budget under control number 2030-0020)

**§ 35.4115 Availability of information.**

Each recipient shall ensure that all final written products developed by a contractor for the recipient under its grant are disseminated by providing copies of such documents to EPA for the local Superfund information repository(ies).

**§ 35.4120 Budget period.**

The budget period may not exceed three years. A TAG project period may be comprised of more than one three-year budget period.

**§ 35.4125 Federal facilities.**

EPA will use the criteria found in § 35.4025 in evaluating the eligibility of any group of individuals who may be affected by a release or a threatened release at a Federal facility for a TAG under this subpart.

**§ 35.4130 Conflict of interest and disclosure requirements.**

(a) The recipient shall require each prospective contractor on any contract to provide, with its bid or proposal:

(1) Information on its financial and business relationship with all PRPs at the site, and with their parent companies, subsidiaries, affiliates, subcontractors, contractors, and current clients or attorneys and agents. This disclosure requirement encompasses past and anticipated financial and business relationships, including services related to any proposed or pending litigation, with such parties;

(2) Certification that, to the best of its knowledge and belief, it has dis-

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closed such information or no such information exists; and

(3) A statement that it shall disclose immediately any such information discovered after submission of its bid or after award. The recipient shall evaluate such information and shall exclude any prospective contractor if the recipient determines the prospective contractor's conflict of interest is significant and cannot be avoided or otherwise resolved.

(b) Contractors and subcontractors may not be Technical Advisors to recipient groups at the same NPL site for which they are doing work for the Federal or State government or any other entity.

**Subpart N [Reserved]**

**Subpart O—Cooperative Agreements and Superfund State Contracts for Superfund Response Actions**

AUTHORITY: 42 U.S.C. 9601 *et seq.*

SOURCE: 55 FR 23007, June 5, 1990, unless otherwise noted.

GENERAL

**§ 35.6000 Authority.**

This regulation is issued under section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 *et seq.*, Pub. L. 96-510, December 11, 1980, otherwise referred to as "CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499, October 17, 1986; 100 Stat. 1613, otherwise referred to as "SARA").

All references to CERCLA within this regulation are meant to indicate CERCLA, as amended by SARA.

**§ 35.6005 Purpose and scope.**

(a) This regulation codifies recipient requirements for administering CERCLA-funded Cooperative Agreements. This regulation also codifies requirements for administering Superfund State Contracts (SSCs) for non-State-lead remedial responses undertaken pursuant to section 104 of CERCLA.

(b) The requirements in this regulation do not apply to Technical Assistance Grants (TAGs) or to CERCLA research and development grants, including the Superfund Innovative Technology Evaluation (SITE) Demonstration Program.

(c) 40 CFR part 31, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," establishes consistency and uniformity among Federal agencies in the administration of grants and Cooperative Agreements to State, local, and Indian Tribal governments. For CERCLA-funded Cooperative Agreements, this subpart supplements the requirements contained in part 31 for States, political subdivisions thereof, and Indian Tribes. This regulation references those sections of part 31 that are applicable to CERCLA-funded Cooperative Agreements.

(d) Superfund monies for remedial actions cannot be used by recipients for Federal facility cleanup activities. When a cleanup is undertaken by another Federal entity, the State, political subdivision or Indian Tribe can pursue funding for its involvement in response activities from the appropriate Federal entity.

#### § 35.6010 Eligibility.

This regulation applies to States, political subdivisions and Indian Tribes. Indian Tribes are only eligible to receive Superfund Cooperative Agreements or Superfund State Contracts when they are Federally recognized, and when they meet the criteria set forth in § 300.515(b) of the NCP. Although section 126 of CERCLA provides that the governing body of an Indian Tribe shall be afforded substantially the same treatment as a State, in this subpart Indian Tribes are not included in the definition of State in order to clarify those requirements with which Indian Tribes must comply and those with which they need not comply.

#### § 35.6015 Definitions.

(a) As used in this subpart, the following words and terms shall have the meanings set forth below:

(1) *Activity*. A set of CERCLA-funded tasks that makes up a segment of the sequence of events undertaken in de-

termining, planning, and conducting a response to a release or potential release of a hazardous substance. These include Core Program, pre-remedial (i.e. preliminary assessments and site inspections), support agency, remedial investigation/feasibility studies, remedial design, remedial action, removal, and enforcement activities.

(2) *Allowable costs*. Those project costs that are: Eligible, reasonable, necessary, and allocable to the project; permitted by the appropriate Federal cost principles; and approved by EPA in the Cooperative Agreement and/or Superfund State Contract.

(3) *Architectural or engineering (A/E) services*. Consultation, investigations, reports, or services for design-type projects within the scope of the practice of architecture or professional engineering as defined by the laws of the State or territory in which the recipient is located.

(4) *Award official*. The EPA official with the authority to execute Cooperative Agreements and Superfund State Contracts (SSCs) and to take other actions authorized by EPA Orders.

(5) *Budget period*. The length of time EPA specifies in a Cooperative Agreement during which the recipient may expend or obligate Federal funds.

(6) *CERCLA*. The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601-9657, Pub. L. 96-510, Dec. 11, 1980), as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499, Oct. 17, 1986; 100 Stat. 1613).

(7) *Change order*. A written order issued by a recipient, or its designated agent, to its contractor authorizing an addition to, deletion from, or revision of, a contract, usually initiated at the contractor's request.

(8) *Claim*. A demand or written assertion by a contractor seeking, as a matter of right, changes in contract duration, costs, or other provisions, which originally have been rejected by the recipient.

(9) *Closeout*. The final EPA or recipient actions taken to assure satisfactory completion of project work and to