

work. It may be composed of more than one budget period.

(39) *Quality Assurance Project Plan*. A written document, associated with remedial site sampling, which presents in specific terms the organization (where applicable), objectives, functional activities, and specific quality assurance and quality control activities and procedures designed to achieve the data quality objectives of a specific project(s) or continuing operation(s).

(40) *Real property*. Land, including land improvements, structures, and appurtenances thereto, excluding movable machinery and equipment.

(41) *Recipient*. Any State, political subdivision thereof, or Indian Tribe which has been awarded and has accepted an EPA Cooperative Agreement.

(42) *Services*. A recipient's in-kind or a contractor's labor, time, or efforts which do not involve the delivery of a specific end item, other than documents (e.g., reports, design drawings, specifications). This term does not include employment agreements or collective bargaining agreements.

(43) *Small business*. A business as defined in section 3 of the Small Business Act, as amended (15 U.S.C. 632).

(44) *State*. The several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of Northern Marianas, and any territory or possession over which the United States has jurisdiction.

(45) *Statement of Work (SOW)*. The portion of the Cooperative Agreement application and/or Superfund State Contract that describes the purpose and scope of activities and tasks to be carried out as a part of the proposed project.

(46) *Subcontractor*. Any first tier party that has a contract with the recipient's prime contractor.

(47) *Superfund State Contract (SSC)*. A joint, legally binding agreement between EPA and another party(s) to obtain the necessary assurances before an EPA-lead remedial action or any political subdivision-lead activities can begin at a site, and to ensure State or Indian Tribe involvement as required under CERCLA section 121(f).

(48) *Supplies*. All tangible personal property other than equipment as defined in this subpart.

(49) *Support agency*. The agency that furnishes necessary data to the lead agency, reviews response data and documents, and provides other assistance to the lead agency.

(50) *Task*. An element of a Superfund response activity identified in the Statement of Work of a Superfund Cooperative Agreement or a Superfund State Contract.

(51) *Title*. The valid claim to property which denotes ownership and the rights of ownership, including the rights of possession, control, and disposal of property.

(52) *Unit acquisition cost*. The net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges, such as the cost of installation, transportation, taxes, duty, or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the recipient's regular accounting practices.

(53) *Value engineering*. A systematic and creative analysis of each contract term or task to ensure that its essential function is provided at the overall lowest cost.

(54) *Women's Business Enterprise (WBE)*. A business which is certified as a Women's Business Enterprise by a State or Federal agency, or which meets the following definition. A Women's Business Enterprise is an independent business concern which is at least 51 percent owned by a woman or women who also control and operate it. Determination of whether a business is at least 51 percent owned by a woman or women shall be made without regard to community property laws.

(b) Those terms not defined in this section shall have the meanings set forth in section 101 of CERCLA, 40 CFR part 31 and 40 CFR part 300 (the National Contingency Plan).

§ 35.6020 Other statutory provisions.

The recipient must comply with the Federal laws described in 40 CFR 31.13, Principal Environmental Statutory

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Provisions; Public Law 98-473, as implemented in the Department of Interior, Bureau of Indian Affairs, regulation at 25 CFR part 20; 25 CFR part 20 and with other applicable statutory provisions.

§ 35.6025 Deviation from this subpart.

On a case-by-case basis, EPA will consider requests for an official deviation from the non-statutory provisions of this regulation. Refer to the requirements regarding additions and exceptions described in 40 CFR 31.6 (b), (c), and (d).

PRE-REMEDIAL RESPONSE COOPERATIVE AGREEMENTS

§ 35.6050 Eligibility for pre-remedial Cooperative Agreements.

States, political subdivisions, and Indian Tribes may apply for pre-remedial response Cooperative Agreements.

§ 35.6055 State-lead pre-remedial Cooperative Agreements.

(a) To receive a State-lead pre-remedial Cooperative Agreement, the applicant must submit an "Application for Federal Assistance" (SF-424) for non-construction programs. Applications for additional funding need include only the revised pages. The application must include the following:

(1) *Budget sheets* (SF-424A);

(2) *A Project narrative statement*, including the following:

(i) *A list of sites* at which the applicant proposes to undertake pre-remedial tasks. If the recipient proposes to revise the list, the recipient may not incur costs on a new site until the project officer has approved the site;

(ii) *A Statement of Work (SOW)* which must include a detailed description, by task, of activities to be conducted, the projected costs associated with each task, the number of products to be completed, and a quarterly schedule indicating when these products will be submitted to EPA;

(iii) *A schedule of deliverables*.

(3) *Drug-Free Workplace Certification*. The applicant must certify (40 CFR part 32, subpart F) that it is in compliance with the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, title V, subtitle D), which requires applicants to

certify in writing that they will provide a drug-free workplace. The applicant must follow the requirements contained in the OMB notice entitled "Government-wide Implementation of the Drug-Free Workplace Act of 1988" published January 31, 1989.

(4) *Certification Regarding Debarment, Suspension, and Other Responsibility Matters (EPA Form 5700-49)*. The applicant must certify that it is in compliance with Executive Order 12549 and 40 CFR part 32.

(5) *Procurement Certification*. The applicant must evaluate its own procurement system to determine if the system meets the intent of the requirements of this subpart. After evaluating its procurement system, the applicant or recipient must complete the "Procurement System Certification" (EPA Form 5700-48) and submit the form to EPA with its application.

(6) *Anti-Lobbying Certification*. The applicant must certify (40 CFR part 34, appendix A) that no appropriated funds will be expended to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with any Federal award in excess of \$100,000, in accordance with section 319 of Public Law 101-121. The applicant must follow the requirements in the Interim Final Rule entitled, "New Restrictions on Lobbying" published on February 26, 1990.

(b) *Pre-remedial Cooperative Agreement requirements*. The recipient must comply with all terms and conditions in the Cooperative Agreement, and with the following requirements:

(1) *Health and safety plan*. (i) Before beginning field work, the recipient must have a health and safety plan in place providing for the protection of on-site personnel and area residents. This plan need not be submitted to EPA, but must be made available to EPA upon request.

(ii) The recipient's health and safety plan must comply with Occupational Safety and Health Administration (OSHA) 29 CFR 1910.120, entitled "Hazardous Waste Operations and Emergency Response," unless the recipient