

Environmental Protection Agency

§ 35.6055

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

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is an Indian Tribe which is exempt from OSHA requirements.

(2) *Quality assurance.* (i) The recipient must comply with the quality assurance requirements described in 40 CFR 31.45.

(ii) The recipient must have an EPA-approved non-site-specific quality assurance plan in place before beginning field work. The recipient must submit the plan to EPA in adequate time (generally 45 days) for approval to be granted before beginning field work.

(iii) The quality assurance plan must comply with the requirements regarding split sampling described in section 104(e)(4)(B) of CERCLA, as amended.

§ 35.6060 Political subdivision-lead pre-remedial Cooperative Agreements.

(a) If the Award Official determines that a political subdivision's lead involvement in pre-remedial activities would be more efficient, economical and appropriate than that of a State, based on the number of sites to be addressed and the political subdivision's history of program involvement, a pre-remedial Cooperative Agreement may be awarded under this section.

(b) The political subdivision must comply with all of the requirements described in § 35.6055 of this subpart.

(c) The Award Official may require a three-party Superfund State Contract for pre-remedial activities.

(d) If the preliminary assessment/site investigation (PA/SI) shows that listing the site on the NPL is necessary, the political subdivision must enter into a three-party Superfund State Contract before any remedial activities begin.

§ 35.6070 Indian Tribe-lead pre-remedial Cooperative Agreements.

The Indian Tribe must comply with all of the requirements described in § 35.6055 of this subpart, except for the intergovernmental review requirements included in the "Application for Federal Assistance" (SF-424).

40 CFR Ch. I (7-1-00 Edition)

REMEDIAL RESPONSE COOPERATIVE AGREEMENTS

§ 35.6100 Eligibility for remedial Cooperative Agreements.

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

§ 35.6105 State-lead remedial Cooperative Agreements.

To receive a State-lead remedial Cooperative Agreement, the applicant must submit the following items to EPA:

(a) *Application form*, as described in § 35.6055(a) of this subpart, accompanied by the following:

(1) *Budget sheets* (SF-424A) displaying costs by site, activity and operable unit, as applicable;

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

(i) *A site description*, including a discussion of the location of each site, the physical characteristics of each site (site geology and proximity to drinking water supplies), the nature of the release (contaminant type and affected media), past response actions at each site, and response actions still required at each site;

(ii) *A site-specific Statement of Work (SOW)*, including estimated costs per task, and a standard task to ensure that a sign is posted at the site providing the appropriate contacts for obtaining information on activities being conducted at the site, and for reporting suspected criminal activities;

(iii) *A statement designating a lead site project manager* among appropriate State offices. This statement must demonstrate that the lead State agency has conducted coordinated planning of response activities with other State agencies. The statement must identify the name and position of those individuals who will be responsible for coordinating the State offices;

(iv) *A site-specific Community Relations Plan* or an assurance that field work will not begin until one is in place. The Regional community relations coordinator must approve the Community