

## Environmental Protection Agency

## § 35.4000

with its capitalization grant agreement, other requirements under section 1452 of the Act, this subpart, 2 CFR parts 200 and 1500, or has not managed the DWSRF program in a financially sound manner (e.g., allows consistent and substantial failures of loan repayments).

(b) *RA's course of action.* For cause under paragraph (a) of this section, the RA will issue a notice of non-compliance and may prescribe appropriate corrective action. A State's corrective action must remedy the specific instance of non-compliance and adjust program management to avoid non-compliance in the future.

(c) *Consequences for failure to comply.*

(1) If within 60 days of receipt of the non-compliance notice a State fails to take the necessary actions to obtain the results required by the RA or fails to provide an acceptable plan to achieve the results required, the RA may suspend payments until the State has taken acceptable actions. Once a State has taken the corrective action deemed necessary and adequate by the RA, the suspended payments will be released and scheduled payments will recommence.

(2) If a State fails to take the necessary corrective action deemed adequate by the RA within 12 months of receipt of the original notice, any suspended payments will be deobligated and reallocated to eligible States. Once a payment has been made for the Fund, that payment and cash draws from that payment will not be subject to withholding. All future payments will be withheld from a State and reallocated until such time that adequate corrective action is taken and the RA determines that the State is back in compliance.

(d) *Dispute resolution.* A State or an assistance recipient that has been adversely affected by an action or omission by EPA may request a review of the action or omission under 2 CFR part 1500, subpart E.

[65 FR 48299, Aug. 7, 2000, as amended at 79 FR 76058, Dec. 19, 2014; 87 FR 30400, May 19, 2022]

### APPENDIX A TO SUBPART L OF PART 35— CRITERIA FOR EVALUATING A STATE'S PROPOSED NEPA-LIKE PROCESS

The following criteria will be used by the RA to evaluate a proposed SERP:

(A) *Legal foundation.* Adequate documentation of the legal authority, including legislation, regulations or executive orders and/or Attorney General certification that authority exists.

(B) *Interdisciplinary approach.* The availability of expertise, either in-house or otherwise, accessible to the State agency.

(C) *Decision documentation.* A description of a documentation process adequate to explain the basis for decisions to the public.

(D) *Public notice and participation.* A description of the process, including routes of publication (e.g., local newspapers and project mailing list), and use of established State legal notification systems for notices of intent, and criteria for determining whether a public hearing is required. The adequacy of a rationale where the comment period differs from that under NEPA and is inconsistent with other State review periods.

(E) *Alternatives consideration.* The extent to which the SERP will adequately consider:

(1) Designation of a study area comparable to the final system;

(2) A range of feasible alternatives, including the no action alternative;

(3) Direct and indirect impacts;

(4) Present and future conditions;

(5) Land use and other social parameters including relevant recreation and open-space considerations;

(6) Consistency with population projections used to develop State implementation plans under the Clean Air Act;

(7) Cumulative impacts including anticipated community growth (residential, commercial, institutional, and industrial) within the project study area; and

(8) Other anticipated public works projects including coordination with such projects.

### Subpart M—Grants for Technical Assistance

AUTHORITY: 42 U.S.C. 9617(e); sec. 9(g), E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

SOURCE: 65 FR 58858, Oct. 2, 2000, unless otherwise noted.

#### GENERAL

#### § 35.4000 Authority.

The Environmental Protection Agency ("EPA") issues this subpart under section 117(e) of the Comprehensive Environmental Response, Compensation,

## § 35.4005

and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C. 9617(e).

### § 35.4005 What is a Technical Assistance Grant?

A Technical Assistance Grant (TAG) provides money for your group to obtain technical assistance in interpreting information with regard to a Superfund site. EPA awards TAGs to promote public participation in decision making at eligible sites. A TAG allows your group to procure independent technical advisors to help you interpret and comment on site-related information and decisions. Examples of how a technical advisor can help your group include, but are not limited to:

- (a) Reviewing preliminary site assessment/site investigation data;
- (b) Participating in public meetings to help interpret information about site conditions, proposed remedies, and the implementation of a remedy;
- (c) Visiting the site vicinity periodically during cleanup, if possible, to observe progress and provide technical updates to your group; and
- (d) Evaluate future land use options based on land use assumptions found in the “remedial investigation/feasibility study.”

### § 35.4010 What does this subpart do?

This subpart establishes the program-specific regulations for TAGs awarded by EPA.

### § 35.4011 Do the general grant regulations apply to TAGs?

Yes, the regulations at 2 CFR part 200 and 2 CFR Part 1500 apply to TAGs. 2 CFR part 200, as supplemented by 2 CFR part 1500, establishes the uniform administrative requirements for Federal grants.

[65 FR 58858, Oct. 2, 2000, as amended at 79 FR 76058, Dec. 19, 2014]

### § 35.4012 If there appears to be a difference between the requirements of 2 CFR Parts 200 and 1500 and this subpart, which regulations should my group follow?

You should follow the regulations in 2 CFR part 200 and 2 CFR part 1500, except for the following provisions from which this subpart deviates:

## 40 CFR Ch. I (7–1–23 Edition)

- (a) 2 CFR 200.305(b)(1) and (2), Payment
- (b) 2 CFR 200.320, Methods of procurement to be followed.
- (c) 2 CFR 200.325(b)(2), Federal awarding agency or pass-through entity review.
- (d) 2 CFR 200.324, Cost or price analysis.
- (e) 2 CFR part 1500 Subpart E—Disputes.

[65 FR 58858, Oct. 2, 2000, as amended at 79 FR 76058, Dec. 19, 2014; 87 FR 30400, May 19, 2022]

### § 35.4015 Do certain words in this subpart have specific meaning?

Yes, some words in this subpart have specific meanings that are described in § 35.4270, Definitions. The first time these words are used they are marked with quotation marks, for example, “EPA.”

#### WHO IS ELIGIBLE?

### § 35.4020 Is my community group eligible for a TAG?

(a) Yes, your community group is eligible for a TAG if:

(1) You are a group of people who may be “affected” by a release or a threatened release at any facility listed on the National Priorities List (“NPL”) or proposed for listing under the National Contingency Plan (NCP) where a “response action” under CERCLA has begun;

(2) Your group meets the minimum administrative and management capability requirements found in 2 CFR 200.302 by demonstrating you have or will have reliable procedures for record keeping and financial accountability related to managing your TAG (you must have these procedures in place before your group incurs any expenses); and

(3) Your group is not ineligible according to paragraph (b) of this section.

(b) No, your community group is not eligible for a TAG if your group is:

(1) A “potentially responsible party” (PRP), receives money or services from a PRP, or represents a PRP;

(2) Not incorporated as a nonprofit organization for the specific purpose of representing affected people except as provided in § 35.4045;