

**U.S. EPA
GRANT GUIDELINES**

**ALASKA RURAL
AND
NATIVE VILLAGES
PROGRAM**



(Effective August 2008)

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OVERVIEW

This document is the Office of Wastewater Management's (OWM) Grant Guidelines for the Environmental Protection Agency's (EPA) Alaska Rural and Native Villages Program. The amount available to the State of Alaska will vary annually based on the funding levels in future Appropriations Acts.

These Guidelines describe how the EPA will award and administer the Alaska Rural and Native Villages Program grants. The Alaska Rural and Native Villages Program is referred to herein as the Alaska Native Villages (ANV) Program. The Guidelines address: matching funds, administrative costs, pre-award costs, applicable laws, grant operations, environmental considerations, and responsibilities.

MATCH REQUIREMENT

Section 113a, subsection (b), of the Clean Water Act (33 U.S.C. § 1263a(b)) states: "The Federal share of the cost of the activities described in subsection (a) of this section shall be 50 percent." Historically, the annual appropriations act identifies a specific percentage that the State of Alaska must provide each year, for example in FY 2008, the Consolidated Appropriations Act, 2008, required "... the State of Alaska shall provide a match of 25 percent." The programmatic match requirement is, therefore, identified as 50 percent, of which at least 25 percent must be provided by the State of Alaska.

Federal funds from other programs may be used as all or part of the match for the ANV 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. The US Department of Agriculture, Rural Development (USDA-RD) program may be used as a match for other Federal grants and, in the ANV program, the USDA-RD grant or loan funds can be used to provide all or part of the program match requirement. ANV Program funds cannot be used as a source of matching funds for other Federal programs.

ADMINISTRATIVE COSTS

In 2006, the State of Alaska Department of Environmental Conservation, the EPA and the US Department of Agricultural – Rural Development (USDA-RD) entered into a Memorandum of Understanding (MOU) on the administration of the EPA and USDA-RD funds

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for the Alaska Rural and Native Villages Program. This MOU will be followed in the allocation, award, monitoring and close-out activities of the Alaska Rural and Native Villages funds.

Section 113a, subsection (c), of the Clean Water Act (33 U.S.C. § 1263a(c)) identifies that the State of Alaska may use up to 4 percent of any grant for administrative expenses. Historically, the annual appropriations act identifies a specific percentage of the grant that may be used for administrative and overhead expenses, for example in FY 2008, the Consolidated Appropriations Act, 2008 identifies that no more than 5 percent of the funds may be used for administrative and overhead expenses.

PRE-AWARD COSTS

The Office of Grants and Debarment (OGD) issued a policy memorandum (GPI 00-02) on March 30, 2000 that applies to all grants, including the ANV Program, awarded on or after April 1, 2000. Additionally, a clarification to the policy memorandum (GPI 00-02(a)) was issued by OGD on May 3, 2000. The two memorandums revised EPA'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 summary, the OGD 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. For example, appropriate circumstances may include pre-award costs that are in conformance with the requirements set forth in OMB Circular A-87 and with applicable Agency regulations, policies, Alaska Rural and Native Villages Program three party MOU ¹, 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 (e.g. for FY 2008 projects, this date is October 1, 2007).

¹ An MOU between US EPA, State of Alaska DEC, the United States Department of Agricultural – Rural Development (USDA-RD) titled “Sanitation Facility Project Funding for Rural Alaska Communities” dated February, 2006 and referred to as the “3-Party MOU” was developed to standardize procedures and process between the three signatories of the MOU. Contact the ANV program contacts listed at: <http://www.epa.gov/owm/mab/indian/anvrs.htm> to request a copy of this MOU.

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- 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 (e.g. for FY 2008 projects, this date is October 1, 2007).

Accordingly, the Regions have the authority to approve pre-award costs for the situations described above. Any approval 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 the ANV Program grants, other than those that involve the 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, D.C. 20460. The Office of Wastewater Management will consult, in appropriate circumstances, with the National Policy, Training, and Compliance Division (NPTCD), GIAMD, and the Office of General Counsel (OGC). If appropriate, a deviation from 40 CFR 31.23(a) will be processed and issued.

LAWS, REGULATIONS, AND REQUIREMENTS

A select list of Federal Laws and Executive Orders that apply to EPA's Alaska Rural and Native Villages Program grants is as follows.

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 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
- Fish and Wildlife Coordination Act, Pub. L. 85-624, as amended
- Magnuson-Stevens Fishery Conservation and Management Act, Pub. L. 94-265
- National Historic Preservation Act, Pub. L. 89-655, as amended
- Safe Drinking Water Act, Pub L. 93-523, as amended

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- Wild and Scenic Rivers Act, Pub. L. 90-54, as amended

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
- Cash Management Improvement Act, Pub L 101-453

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

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.

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The regulations at 40 CFR Part 31 apply to grants and cooperative agreements awarded to State and local (including tribal) governments. The Davis- Bacon Act applies to planning, design, and/or construction contracts of water treatment facilities for which grants are made under the Clean Water Act.

OPERATING GUIDELINES

The authorities for awarding grants for the Alaska Rural and Native Villages Program are the Section 113a of the Clean Water Act (33 U.S.C. § 1263a) and the Agency's annual Appropriations Acts.

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

Grants Involving Geospatial Information

In accordance with OMB Circular A-16 and the One-Stop Geospatial E-gov Initiative, Program Offices must indicate in the funding recommendation for a proposed assistance agreement that the grant involves or relates to geospatial information. Geospatial information includes information that identifies the geographic location and characteristics of natural or constructed features or boundaries on the Earth, or applications tools, and hardware associated with the generation, maintenance, or distribution of such information. The information may be derived from, among other things, GPS, remote sensing, mapping, charting, and surveying technologies, or statistical data.

Location of Project

To be able to report on environmental and public health benefits, the EPA has decided to collect and store information on the geographic location of grant funded infrastructure projects.

Alaska Rural and Native Villages Program Management Control Policy

Funded infrastructure projects will be administered by the State of Alaska in accordance with the EPA Alaska Rural and Native Villages Program Management Control Policy (dated July 2007). This Policy identifies typical project schedules, expenditure rates and corrective

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actions in the event projects vary significantly. Contact the ANV program contacts listed at: <http://www.epa.gov/owm/mab/indian/anvrs.htm> to request a copy of this policy.

Refinancing

Funds appropriated for 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 there are explicit instructions to do so in the annual Appropriations Act. Any request to use ANV 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, D.C. 20460.

Definitions

In the context of determining that the scope of work of an ANV Program grant is in conformance with the project description contained in EPA's FY 2008 Appropriations Act (when these guidelines were drafted) the word "water" can be considered to mean: drinking water, wastewater, storm water or combined sewer overflow. Furthermore, the words "and" & "or" as used in the project description are interchangeable. Additionally, the phrases "waste", "waste water", "waste disposal", "sewer project," "water infrastructure" or "sewer improvements," are considered broad enough to include all aspects of the upgrade, expansion and development of a complete wastewater treatment system as defined at 40 CFR 35.2005(12). Comparable phrases concerning the project descriptions for drinking water facilities should be similarly interpreted.

GRANTS MANAGEMENT: ENVIRONMENTAL RESULTS UNDER EPA ASSISTANCE AGREEMENTS

Introduction

EPA Order 5700.7, "Environmental Results under Assistance Agreements," applies to all non-competitive funding packages/funding recommendations submitted to the Grants Management Offices after January 1, 2005 (available online at www.epa.gov/ogd/grants/award/5700.7.pdf) The Order requires EPA Program Offices to: 1) link proposed assistance agreements to EPA's Strategic Plan/Government Performance and Results Act (GPRA) architecture; 2) ensure that outputs and outcomes are appropriately addressed in assistance agreement work plans 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. (The term "work plan" is used for convenience. For construction projects, outputs/outcomes are normally included in a Facility

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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.) ANV Project progress and financial reporting are currently tracked by the State of Alaska's databases.

The Strategic Plan/GPRA Architecture

EPA's *2006-2011 Strategic Plan* sets out five long-term goals for the five-year period. 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 in the Strategic Plan/Program Results Code (PRC) crosswalk in the funding recommendation. The PRC for the ANV program is 202B78E. The project officer must ensure that the PRC(s) listed on the commitment notice is consistent with the selected strategic goals, objectives and sub-objectives.

Environmental Results: Outputs and Outcomes

The term 'output' means an environmental activity, effort, and/or associated work products related to an environmental goal or objective that will be produced or provided over a period of time or by a specified date. See EPA Order 5700.7. Outputs may be quantitative or qualitative but must be measurable during an assistance agreement funding period. Outputs reflect the products and services provided by the recipient, but do not, by themselves, measure the programmatic or environmental results of an assistance agreement. Examples of outputs for ANV are the infrastructure funded by each project (water treatment plant, sewage lagoon, water or sewer mains, etc.)

The term 'outcome' means the result, effect or consequence that will occur from carrying out an environmental program or activity that is related to an environmental or programmatic goal or objective. See EPA Order 5700.7. Outcomes may be environmental, behavioral, health-related or programmatic in nature, must be quantitative, and may not necessarily be achievable within an assistance agreement funding period. There are two major types of outcomes – end outcomes and intermediate outcomes. End outcomes are the desired end or ultimate results of a project or program. They represent results that lead to environmental/public health improvement. Intermediate outcomes are outcomes that are expected to lead to end outcomes but are not

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themselves ‘ends.’ Given that the end outcomes of an assistance agreement may not occur until after the assistance agreement funding period, intermediate outcomes realized during the funding period are an important way to measure progress in achieving end outcomes. Program offices must include in the funding recommendation for a proposed assistance agreement an assurance that the program office has reviewed, or will review, the assistance agreement work plan and that the work plan includes, or will include, well-defined outputs and, to the maximum extent practicable, well-defined outcomes. Example ANV program intermediate outcomes are defined as houses served by each project. End outcomes for the ANV program are defined as improved health and sanitation conditions in the villages (as identified in the authorization language for the ANV program).

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 Part 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. The State of Alaska is not required to provide performance reports more than annually for the ANV program.

The review of recipient performance reports is largely the responsibility of the EPA project officer. The project officer must review interim² and final³ 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.

Award officials must use the following special conditions in all assistance agreements requiring performance reports to provide a comparison of actual accomplishments to agreed upon outputs/outcomes:

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

3 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.

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Required special conditions for assistance agreements to State and local governments:

In accordance with 40 CFR.Part 31.40, the recipient agrees to submit performance reports that include brief information on each of the following areas: 1) a comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement work plan for the period; 2) the reasons for slippage if established outputs/outcomes were not met by the agreed upon or scheduled date; and 3) additional pertinent information, including, when appropriate, analysis and information of cost overruns or high unit costs.

In accordance with 40 CFR Part 31.40(d), the recipient agrees to inform EPA as soon as problems, delays or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan.

Environmental Results: Advanced Monitoring (On-Site Reviews or Desk Reviews)

EPA Order 5700.6A2 directs program offices, when conducting on-site reviews or desk reviews to include an assessment of the recipient's progress in achieving the outputs and outcomes set forth in the assistance agreement work plan. 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 NPTCD

SPECIFIC ENVIRONMENTAL REQUIREMENTS

The award of the ANV Program grants are authorized by Section 113a of the Clean Water Act (33 U.S.C. § 1263a) and the Agency's annual appropriations acts (in FY 2008 the Consolidated Appropriations Act, 2008). Accordingly, pursuant to Section 511c of the Clean Water Act, these actions are not subject to the National Environmental Policy Act (NEPA). Nevertheless, through 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 to assess and manage environmental impacts of ANV funded projects.

GRANTS MANAGEMENT: OTHER REQUIREMENTS

These grants are subject to assistance agreement regulations, OMB cost principles, the Cash Management Improvement Act, and Agency policies. The grants must be awarded and managed as any other assistance agreement.

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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 the ANV Program grants are GPI-03-01-Attachment VI “Policy and Procedures for Funding Assistance Agreements,” GPI-00-05 “Cost Review Guidance,” and GPI-04-03 “Performance Standards for Grants Management” (available through the OGD intranet page at <http://intranet.epa.gov/ogd/policy/7.0-GPI-Topics.htm>).

Cost Review Requirements

A specific cost review checklist was developed by the EPA Office of Grants and Debarment, and is now available at http://intranet.epa.gov/ogd/cost_review/main/index.htm. The checklist applies to all funding packages/funding recommendations submitted after October 1, 2007.

Post-Award Management: Baseline and Advanced Monitoring

EPA Order 5700.6A2, (online at http://intranet.epa.gov/rmpolicy/ads/orders/5700_6.pdf) issued September 24, 2007, which went into affect on January 1, 2008, 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 annual baseline monitoring or the equivalent, for every award. From the programmatic standpoint, advanced monitoring (on-site reviews or desk reviews) 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. All baseline monitoring activities must be documented in the Integrated Grants Management System (IGMS) Post-Award Database.

The following types of activities, which are directly related to construction projects, should be considered in the development of a post-award monitoring plan:

- Compliance with the Cash Management Improvement Act;
- Compare actual completion percentages and milestones with the approved project schedule;

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- Compare actual costs incurred with the approved project budget;
- Conduct interim inspections; and
- Determine that the project is capable of meeting the objectives for which it was planned, designed and built and is operational;

PROJECT OFFICER RESPONSIBILITIES

A directive in the Assistance Administration Manual 5700 outlines roles and responsibilities for all EPA staff with grants management responsibilities and is available at <http://intranet.epa.gov/OGD/policy/11.0-Roles-Topics.htm>. The grants will be managed according to the Project Officer Manual (as referenced at: <http://www.epa.gov/ogd/manual6/index.htm>).

Grant applications should be processed in a timely manner, but the applications should be carefully reviewed and the grant awarded only when it is prudent to do so. Additionally, Region 10 may impose reasonable requirements through grant conditions in those situations considered necessary. A select list of topics project officers must review and ensure in the grant application include, but are not limited to:

- Scope of work of the grant is clearly defined;
- Scope of work is in conformance with the project description;
- Project schedule and milestones are addressed;
- Environmental or public health objectives are clearly stated;
- There is a narrative description of well-defined anticipated outputs, and to the maximum extent practicable, well-defined anticipated outcomes
- Applicant has the programmatic capability to successfully manage the project;
- It is expected that the project will achieve its objective(s); and
- Costs are reasonable, necessary and allocable to the project.

On January 20, 2006, OGD issued Interim Guidance “Assessing Grants Management Performance under the Performance Appraisal and Recognition Systems (PARS)”. On January 17, 2008 OGD issued another memorandum, “Guidance for Addressing Grants Management and the Management of Interagency Agreements under the Performance Appraisal and Recognition System (PARS)” (http://intranet.epa.gov/ohr/policy/pars/2008_pars.htm). OGD issued the guidance for consideration in assessing grants project officer and supervisor/manager compliance with key grants management policies under the 2007 PARS process, developing 2008 PARS performance agreements and conducting 2008 mid-year and end-of-year performance reviews. In addition, OGD provided a two-page Manager's Guide to facilitate discussions with project officers while reviewing their grants management performance under PARS (Attachment C to the January 17, 2008 memorandum).