

**Federal Agency Name:** U.S. Environmental Protection Agency (EPA), Office of Water, Office of Wetlands, Oceans, and Watersheds.

**Funding Opportunity Title:** FY 2010 Request for Proposals from Indian Tribes and Intertribal Consortia for Nonpoint Source Management Grants Under Clean Water Act (CWA) Section 319

**Announcement Type:** Request for Proposals (RFP)

**Funding Opportunity Number:** EPA-OW-OWOW-10-02

**Catalog of Federal Domestic Assistance Number:** 66.460

**Dates:** Hard copy proposals must be received by the EPA Regional Contact (See Section VII of this RFP) by 5:00 P.M. local time December 18, 2009, or by electronic submission via e-mail ([319TribalCompetition@epa.gov](mailto:319TribalCompetition@epa.gov)) by 5:00 P.M. Eastern Standard Time (EST) December 18, 2009 (which corresponds to 4:00 P.M. Central Standard Time, 3:00 P.M. Mountain Standard Time, 2:00 P.M. Pacific Standard Time). Late proposals will not be considered for funding. Questions about this RFP must be submitted in writing via e-mail and must be received by the EPA Regional Contact identified in Section VII by December 11, 2009. Written responses will be posted on EPA's website at: <http://www.epa.gov/owow/nps/tribal/>.

Following EPA's evaluation of proposals, all applicants will be notified regarding their status. Final applications will be requested from those eligible entities whose proposal has been successfully evaluated and preliminarily recommended for award. Those entities will be provided with instructions and a due date for submittal of the final application package.

**Note to Applicants:** If you name subawardees/subgrantees and/or contractor(s) in your proposal to assist you with the proposed project, pay careful attention to the information in Section II.C.

## **SUMMARY**

This RFP is issued pursuant to section 319(h) of the Clean Water Act (CWA). Section 319 of the CWA authorizes EPA to award grants to eligible Tribes to implement approved nonpoint source (NPS) management programs developed pursuant to section 319(b). The primary goal of the NPS management program is to control NPS pollution through implementation of management measures and practices to reduce pollutant loadings resulting from each category or subcategory of NPSs identified in the Tribe's NPS assessment report developed pursuant to section 319(a). EPA anticipates that Congress will, for the eleventh year in a row, authorize EPA to award NPS control grants to Indian Tribes in FY 2010 in an amount that exceeds the statutory cap (in section 518(f) of the CWA) of 1/3 of 1 % of the total section 319 appropriation. There is continuing recognition that Indian Tribes need increased financial support to implement NPS programs that address critical water quality concerns on Tribal lands. In addition, more tribes are entering the 319 program and receiving 319 funds. EPA will continue to work closely with the Tribes to assist them in developing and implementing effective Tribal NPS pollution programs.

EPA anticipates awarding an estimated \$3.2 million to \$4 million in Federal funds for 25 to 30 projects, depending on Agency funding levels, number of Tribes requesting section 319 funding, and other considerations, to eligible Tribes and intertribal consortia which have approved NPS assessment and management programs and Treatment-as-a-State (TAS) status as of October 9, 2009.

EPA is soliciting proposals from eligible Tribes and intertribal consortia to develop and/or implement watershed-based plans and other on-the-ground projects that will result in significant steps towards solving NPS impairments on a watershed-wide basis. Eligible entities are strongly encouraged to submit proposals that develop and/or implement watershed-based plans designed to protect unimpaired waters and restore NPS-impaired waters. EPA believes that watershed-based plans provide the best means for preventing and resolving NPS problems and threats. Watershed-based plans provide a coordinating framework for solving water quality problems by providing a specific geographic focus, integrating strong partnerships, integrating strong science and data, and coordinating priority setting and integrated solutions. For an example of a tribal watershed-based plan, please refer to: <http://www.epa.gov/owow/nps/tribal/>.

Eligible Tribes and intertribal consortia may apply for competitive funding by submitting a proposal for up to a maximum budget of \$150,000 of Federal section 319 funding (plus the additional required match of the total project cost).

This RFP describes the process by which eligible Tribes and intertribal consortia may receive funding under the competitive process. Tribes eligible for 319 competitive funding may also apply for Tribal 319 *base* funding on a noncompetitive basis. To be considered for funding under 319 base funding, please refer to the most recent guidelines titled, “Guidelines for Awarding Section 319 Base Grants to Indian Tribes and Request for Proposals from Indian Tribes for Competitive Grants in FY 2007” at <http://www.epa.gov/fedrgstr/EPA-WATER/2006/October/Day-25/w17895.pdf>. Note that the competitive grant section in the above guidelines for FY 2007 *does not apply to FY 2010 competitive funding*. For FY 2010 competitive funding, please refer to this RFP.

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|---|---------------------------------|
| Deadline EPA uses to determine eligibility to receive competitive 319 grants          | October 9, 2009                 |
| Last day to submit questions about RFP  | December 11, 2009               |
| Deadline for receipt of proposals in hard copy to Region or electronically via e-mail | December 18, 2009               |
| Headquarters notifies Regions/Tribes of selections for competitive 319 grants         | March 19, 2010<br>(anticipated) |
| Tribes submit final grant application to Region for competitive 319 grants            | April 19, 2010<br>(anticipated) |

## I. FUNDING OPPORTUNITY DESCRIPTION

### A. Program Objectives

This RFP is issued pursuant to section 319(h) of the CWA. Section 319 of the CWA authorizes EPA to award grants to eligible Tribes and intertribal consortia to implement approved nonpoint source (NPS) management programs developed pursuant to section 319(b). The primary goal of a NPS management program is to control NPS pollution through implementation of management measures and practices to reduce pollutant loadings resulting from each category or subcategory of NPSs identified in the Tribe's NPS assessment report developed pursuant to section 319(a). Applicants may only submit one proposal for evaluation under this RFP.

EPA anticipates using a portion of section 319 funds for competitive grant awards to eligible entities to develop and/or implement watershed-based plans and other on-the-ground projects that will result in significant steps towards solving NPS impairments on a watershed-wide basis. Eligible entities are strongly encouraged to submit proposals that develop and/or implement watershed-based plans designed to protect unimpaired waters and restore NPS-impaired waters. EPA believes that watershed-based plans provide the best means for preventing and resolving NPS problems and threats. Watershed-based plans provide a coordinating framework for solving water quality problems by providing a specific geographic focus, integrating strong partnerships, integrating strong science and data, and coordinating priority setting and integrated solutions. EPA also encourages Tribes to explore the use of other funding, such as CWA section 106 funding, to support the development of watershed-based plans. However, proposals are not required to include development and/or implementation of a watershed-based plan in order to receive funding (Refer to *Attachment A* for the 9 components of a watershed-based plan).

Attachment A of this RFP correlates with the elements of a watershed-based plan outlined in the NPS grants guidelines for States (see FY 2004 Nonpoint Source Program and Grants Guidelines for States and Territories, available at <http://www.epa.gov/owow/nps/cwact.html>). One significant difference from the State guidelines is that a watershed-based plan for Tribes provides for the integration of "water quality-based goals" (see component (c) in Attachment A), whereas the State guidelines call for specific estimates of load reductions that are expected to be achieved by implementing the plan. EPA has incorporated this flexibility for Tribes in recognition that not all Tribes have yet developed water quality standards and many Tribes may need additional time and/or technical assistance in order to develop more sophisticated estimates of the NPS pollutants that need to be addressed. Where such information does exist, or is later developed, EPA expects that it will be incorporated as appropriate into the watershed-based plan.

Watershed *projects* are those projects which do not necessarily contain all of the nine components of a watershed-based plan, but which contain many aspects of the watershed-based planning framework. These projects need to demonstrate that some type of watershed planning process was followed and that its implementation will contribute to improving water quality conditions on a watershed scale.

The funding available through this RFP is primarily focused on work plans that describe actual on-the-ground watershed projects, as opposed to assessment type work (e.g., monitoring). Although some assessment work is often performed before best management practices or environmental ordinances are established or implemented, the evaluation factors have been designed to primarily evaluate the work plan based on implementation projects. Examples of eligible activities include, but are not limited to the following:

- Road stabilization/removal;
- Riparian planting;
- Stream channel reconstruction;
- Low impact development projects/storm water management;
- Livestock exclusion fencing;
- Springs protection;
- Septic system rehabilitation;
- NPS ordinance development;
- Project monitoring (pre-project, during project, post-project);
- Development of a watershed-based plan;
- Training which assists the applicant in developing NPS implementation projects;
- Staff time and materials towards implementing projects; and
- NPS education and outreach relevant to successful implementation of NPS projects.

The use of competitive funding for the development of a watershed-based plan will be limited to 20% of the Federal portion of the competitive grant to assure that these competitive funds are primarily focused on implementation activities. In addition, if a Tribe submits a work plan to develop a watershed-based plan, it must be submitted as a component of the overall work plan for implementing a watershed project. Pursuant to CWA section 319(h)(12), administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against activities and programs carried out with the grant shall not exceed 10 % of the federal portion of the grant award.

EPA was pleased by the quality of the Tribes' work plans that formed the basis of the grants awarded to Tribes in FY 2009, which included approximately \$3.5 million awarded to 26 Tribes for specific watershed projects through a competitive process. We believe that the FY 2009 assistance agreements were directed towards high-priority activities that will produce improved water quality. We look forward to working with Tribes again in FY 2010 to implement successful projects addressing the extensive NPS control needs throughout Indian country.

## **B. EPA's Strategic Plan and Anticipated Environmental Results**

Assistance agreements awarded under this RFP will advance the protection and improvement of water quality in support of Goal 2 (Clean and Safe Water), Objective 2.2 (Protect Water Quality), Sub-objective 2.2.1 (Protect and Improve Water Quality on a Watershed Basis) of EPA's 2006-2011 Strategic Plan (*See beginning on Pg. 12, [http://www.epa.gov/ocfo/plan/2006/goal\\_2.pdf](http://www.epa.gov/ocfo/plan/2006/goal_2.pdf)*). In support of Sub-objective 2.2.1, and consistent with EPA Order 5700.7, *Environmental Results under EPA Assistance Agreements*

(See [www.epa.gov/ogd/grants/award/5700.7.pdf](http://www.epa.gov/ogd/grants/award/5700.7.pdf)), it is anticipated that assistance agreements awarded under this RFP will accomplish various environmental outputs and outcomes described below.

All proposed projects must address the Strategic Plan priorities and include specific statements describing the environmental results of the proposed project in terms of well-defined outputs, and, to the maximum extent practicable, well-defined outcomes that demonstrate how the project will contribute to the overall protection and improvement of water quality.

Environmental results are a way to gauge a project's performance and are described in terms of outputs and outcomes. Environmental outputs (or deliverables) refer to an environmental activity, effort, and/or associated work product related to an environmental goal or objective, that will be produced or provided over a period of time or by a specified date. Outputs may be quantitative or qualitative but must be measurable during an assistance agreement funding period.

Examples of environmental outputs anticipated as a result of assistance agreements awarded under this RFP may include but are not limited to:

- Development of a watershed-based plan;
- Miles of fenceline installed;
- Feet of streambank planted;
- Number of large woody debris placed;
- Number of stream meanders restored; and
- Percent reduction in road density.

Environmental outcomes are 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. Outcomes may be environmental, behavioral, health-related or programmatic in nature, must be quantitative, and may not necessarily be achieved within an assistance agreement funding period. Outcomes may be short-term (changes in learning, knowledge, attitude, skills), intermediate (changes in behavior, practice, or decisions), or long-term (changes in condition of the natural resource).

Examples of environmental outcomes anticipated as a result of assistance agreements to be awarded under this RFP may include but are not limited to:

- An increased number of NPS-impaired waterbodies that have been partially or fully restored to meet water quality standards or other water quality-based goals established by the Tribes;
- An increased number of waterbodies that have been protected from NPS pollution;
- Increased abundance and diversity of fish or macroinvertebrate species;
- Increased NPS knowledge of community members; and
- Increased knowledge of trained staff in the 319 program.

As part of the proposal narrative, an applicant will be required to describe how the project results will link the outcomes to the Agency's Strategic Plan. Additional information regarding EPA's discussion of environmental results in terms of "outputs" and "outcomes" can be found at: <http://www.epa.gov/ogd/grants/award/5700.7.pdf>.

### **C. Statutory Authority**

The statutory authority for the assistance agreements to be awarded under this announcement is section 319(h) of the CWA. Section 319 of the CWA authorizes EPA to award grants to eligible Tribes and intertribal consortia to implement approved NPS management programs developed pursuant to section 319(b). The primary goal of a NPS management program is to control NPS pollution through implementation of management measures and practices to reduce pollutant loadings resulting from each category or subcategory of NPSs identified in the Tribe's NPS assessment report developed pursuant to section 319(a).

## **II. AWARD INFORMATION**

### **A. Amount of Funding**

The total amount of Federal funding expected to be available under this announcement is approximately \$3.2 million to 4 million, depending on Agency funding levels, the number of Tribes requesting section 319 base funding for FY 2010, and other considerations. This funding equates to approximately 25 to 30 competitive grants. The availability of competitive funding is dependent, in part, upon the amount of funding that remains after a portion is first distributed as base grants to all eligible Tribes (which may increase due to additional Tribes entering the NPS program). In FY 2009, EPA awarded approximately \$3.5 million to 26 Tribes for specific watershed projects through a competitive process. Eligible Tribes and intertribal consortia may submit a proposal for a maximum of \$150,000 of Federal section 319 funding (plus the additional required match of the total project cost). See Section III.B for information on match requirements.

EPA reserves the right to reject all proposals and make no award as a result of this announcement, or to make fewer awards than anticipated. In addition, EPA reserves the right to make additional awards under this announcement, consistent with Agency policy and guidance, if additional funding becomes available after the original selections are made. Any additional selections for awards will be made no later than six months after the original selection decisions.

In appropriate circumstances, EPA reserves the right to partially fund proposals by funding discrete portions or phases of proposed projects. If EPA decides to partially fund a proposal, it will do so in a manner that does not prejudice any applicants or affect the basis upon which the proposal, or portion thereof, was evaluated and selected for award, and therefore maintains the integrity of the competition and selection process.

### **B. Type of Funding**

It is anticipated that grants and/or cooperative agreements may be funded under this announcement. When cooperative agreements are awarded, EPA will have substantial involvement with the project workplans and budget. Although EPA will negotiate precise terms and conditions relating to substantial involvement as part of the award process, the anticipated substantial federal involvement for the project selected may include:

1. Close monitoring of the recipient's performance to verify the results proposed by the applicant;
2. Collaboration during the performance of the scope of work;
3. In accordance with 40 CFR 31.36(g) and 40 CFR 30.43(e), review of proposed procurements;

4. Review of qualifications of key personnel (EPA does not have authority to select employees or contractors employed by the recipient); and
5. Review and comment on tasks/deliverables and reports prepared under the cooperative agreement (the final decision on the content of the reports rests with the recipient).

### **C. Contracts and Subawards**

#### *1. Can funding be used for the applicant to make subawards, acquire contract services, or fund partnerships?*

EPA awards funds to one eligible applicant as the recipient even if other eligible applicants are named as partners or co-applicants or members of a coalition or consortium. The recipient is accountable to EPA for the proper expenditure of funds.

Funding may be used to provide subgrants or subawards of financial assistance, which includes using subawards or subgrants to fund partnerships, provided the recipient complies with applicable requirements for subawards or subgrants including those contained in 40 CFR Parts 30 or 31, as appropriate. Applicants must compete contracts for services and products, including consultant contracts, and conduct cost and price analyses, to the extent required by the procurement provisions of the regulations at 40 CFR Parts 30 or 31, as appropriate. The regulations also contain limitations on consultant compensation. Applicants are not required to identify subawardees/subgrantees and/or contractors (including consultants) in their proposal. However, if they do, the fact that an applicant selected for award has named a specific subawardee/subgrantee, contractor, or consultant in the proposal EPA selects for funding does not relieve the applicant of its obligations to comply with subaward/subgrant and/or competitive procurement requirements as appropriate. Please note that applicants may not award sole source contracts to consulting, engineering or other firms assisting applicants with the proposal solely based on the firm's role in preparing the proposal.

Successful applicants cannot use subgrants or subawards to avoid requirements in EPA grant regulations for competitive procurement by using these instruments to acquire commercial services or products from for-profit organizations to carry out its assistance agreement. The nature of the transaction between the recipient and the subawardee or subgrantee must be consistent with the standards for distinguishing between vendor transactions and subrecipient assistance under Subpart B Section .210 of OMB Circular A-133, and the definitions of subaward at 40 CFR 30.2(ff) or subgrant at 40 CFR 31.3, as applicable. EPA will not be a party to these transactions. Applicants acquiring commercial goods or services must comply with the competitive procurement standards in 40 CFR Part 30 or 40 CFR Part 31.36 and cannot use a subaward/subgrant as the funding mechanism.

#### *2. How will an applicant's proposed subawardees/subgrantees and contractors be considered during the evaluation process described in Section V of the announcement?*

Section V of the announcement describes the evaluation criteria and evaluation process

that will be used by EPA to make selections under this announcement. During this evaluation, except for those criteria that relate to the applicant's own qualifications, past performance, and reporting history, the review panel will consider, as appropriate and relevant, the qualifications, expertise, and experience of:

(i) an applicant's named subawardees/subgrantees identified in the proposal if the applicant demonstrates in the proposal that if it receives an award that the subaward/subgrant will be properly awarded consistent with the applicable regulations in 40 CFR Parts 30 or 31 as appropriate. For example, applicants must not use subawards/subgrants to obtain commercial services or products from for profit firms or individual consultants.

(ii) an applicant's named contractor(s), including consultants, identified in the proposal if the applicant demonstrates in its proposal that the contractor(s) was selected in compliance with the competitive Procurement Standards in 40 CFR Part 30 or 40 CFR Part 31.36 as appropriate. For example, an applicant must demonstrate that it selected the contractor(s) competitively or that a proper non-competitive sole-source award consistent with the regulations will be made to the contractor(s), that efforts were made to provide small and disadvantaged businesses with opportunities to compete, and that some form of cost or price analysis was conducted. EPA may not accept sole source justifications for contracts for services or products that are otherwise readily available in the commercial marketplace.

EPA will not consider the qualifications, experience, and expertise of named subawardees/ subgrantees and/or named contractor(s) during the proposal evaluation process unless the applicant complies with these requirements.

### **III. ELIGIBILITY INFORMATION**

#### **A. Eligible Applicants**

To be eligible for NPS grants under this RFP, a Tribe or intertribal consortium must: (1) be Federally recognized; (2) have an approved NPS assessment report in accordance with CWA section 319(a); (3) have an approved NPS management program in accordance with CWA section 319(b); and (4) have “treatment-as-a-state” (TAS) status in accordance with CWA section 518(e). To be eligible for NPS grants under this RFP, Tribes must meet these eligibility requirements as of October 9, 2009. For a complete list of Tribes eligible for section 319 FY 2010 funding, refer to the document titled, “List of Tribes Eligible for 319 Base and Competitive Funding for FY 2010” (<http://www.epa.gov/owow/nps/tribal/>).

Some Tribes have formed intertribal consortia to promote cooperative work. An intertribal consortium is a partnership between two or more Tribes that is authorized by the governing bodies of those Tribes to apply for and receive assistance under this program. (See 40 CFR 35.502.) Individual Tribes who are part of an intertribal consortia, and submit a proposal for a section 319 competitive grant may not also submit an individual section 319 competitive grant.

The intertribal consortium is eligible only if the consortium demonstrates that all of its members meet the eligibility requirements listed above for the section 319 program by October 9, 2009 and authorize the consortium to apply for and receive assistance in accordance with 40 CFR 35.504 at the time of proposal submission. An intertribal consortium must submit with its proposal to EPA adequate documentation of the existence of the partnership and the authorization of the consortium by its members to apply for and receive the grant. (*See* 40 CFR 35.504.)

## **B. Cost Sharing or Matching**

Section 319(h)(3) of the CWA requires that the cost share/match for NPS grants is at least 40 % of the total project cost. In general, as required in 40 CFR 31.24, the cost share/match requirement can be satisfied by any of the following: (1) allowable costs incurred by the grantee, subgrantee, or a cost-type contractor, including those allowable costs borne by non-Federal grants; (2) by cash donations from non-Federal third parties; or (3) by the value of third party in-kind contributions. Examples of match calculations are provided in the table on page 10. Applicants should be aware that funds originating from the Bureau of Indian Affairs may be used as match for section 319 funding requirements (pursuant to 25 USC section 458cc). Currently, these funds are treated as non-Federal funds for purposes of meeting match requirements.

EPA's regulations also provide that EPA may decrease the cost share/match requirement to as low as 10 % if the Tribe can demonstrate in writing to the Regional Administrator that fiscal circumstances within the Tribe or within each Tribe that is a member of the intertribal consortium are constrained to such an extent that fulfilling the cost share/match requirement would impose undue hardship (*See* 40 CFR 35.635). Where the stated purpose is to decrease the cost share/match requirement based upon undue hardship, a Tribe may prepare a budget and proposal based upon the assumption that EPA will approve the reduced cost share/match under 40 CFR 35.635. If the Tribe does not demonstrate undue hardship, the Tribe must then meet the 40 % cost share/match requirement. The Tribe must also provide a new budget with the final grant application based upon the program's 40 % cost share/match requirement and the Federal award will be reduced to reflect the work plan and budget provided in the original proposal. The purpose of this requirement is to ensure that all work plan activities for a project which is evaluated and competitively awarded will be implemented as described in the original proposal.

Performance Partnership Grants (PPGs) enable Tribes to combine funds from more than one environmental program grant into a single grant with a single budget. If the Tribe includes the section 319 competitive grant as a part of an approved PPG, the cost share/match requirement may be reduced to 5 % of the allowable cost of the work plan budget for the first 2 years in which the Tribe receives a PPG; after 2 years, the cost share/match may be increased up to 10 % of the work plan budget (as determined by the Regional Administrator) (*See* 40 CFR 35.536).

Where the stated purpose is to include the section 319 grant in a PPG, a Tribe may prepare a budget and proposal based upon the assumption that EPA will approve the waiver amount for PPGs under 40 CFR 35.536. If a proposed PPG work plan differs significantly from the section 319 work plan approved for funding under this RFP, the Regional Administrator must consult with the National Program Manager (*See* 40 CFR 35.535). The purpose of this consultation requirement is to address the issue of ensuring that a project which is competitively

awarded is implemented once commingled with other grant programs in a PPG. If the Tribe does not or cannot include the section 319 grant as part of an approved PPG, or chooses to withdraw the section 319 grant from their PPG, the Tribe must then meet the 40 % cost share/match requirement (or 10 % if undue hardship is demonstrated). The Tribe must also provide a new budget with the final grant application based upon the program’s cost share/match requirement and the Federal award will be reduced to reflect the budget provided in the original proposal. The purpose of this requirement is to ensure that all work plan activities for a project which is competitively awarded will be implemented in accordance with the same budget and as described in the original proposal.

The following table demonstrates a 40% (section 319 required cost share/match), 10% (if undue hardship requested), or 5% (if workplan combined in a PPG) cost share/match on a section 319 maximum Federal request of \$150,000. Applicants may request less than \$150,000 of Federal funding. If applicants have additional questions regarding cost share/match calculations, please contact the EPA Regional Contact identified in section VII.

| <b>Total Project Cost</b> | <b>Non-Federal Match</b> | <b>Federal Share</b> | <b>Non-Federal Match</b> | <b>Federal Share</b> |
|---------------------------|--------------------------|----------------------|--------------------------|----------------------|
| \$250,000                 | 40%                      | 60%                  | \$100,000                | \$150,000            |
| \$166,667                 | 10%                      | 90%                  | \$16,667                 | \$150,000            |
| \$157,895                 | 5%                       | 95%                  | \$7,895                  | \$150,000            |

*Example Calculation:*

- a. If you know the total project costs:
  - (1) Multiply the total project costs by the cost share/match % needed.
  - (2) The total is your cost share/ match amount.

*For example:*

*If your total project cost = \$250,000 and you need 40% cost share/match, then \$250,000 x .40 = \$100,000 (Cost Share/Match).*

**OR**

- b. If you know the total Federal funds requested (i.e. \$150,000 for this RFP):
  - (1) Divide the total Federal funds requested by the maximum Federal share allowed.
  - (2) Subtract the Federal funds requested from the amount derived in step 1.
  - (3) The amount derived from step 2 is the non-Federal cost share/match.

*For example:*

*(1) If the Federal funds requested = \$150,000; and the recipient cost share/match is 10%, then the federal share = 90% or .90. \$150,000 divided by .90 = \$166,667 (total project cost) then,*  
*(2) \$166,667 - \$150,000 = \$16,667*

(3) *The non-Federal cost share/match = \$16,667*

### **C. Threshold Evaluation Criteria**

In addition to applicant eligibility and cost share/match (discussed above in sections III.A and III.B, respectively), all of the following threshold evaluation criteria must be met in order for a Tribe's proposal to be evaluated under the evaluation criteria in section V and be considered for award. Only proposals that meet all of these criteria will be evaluated against the ranking factors in section V of the announcement. Applicants deemed ineligible for funding consideration as a result of the threshold eligibility review will be notified by the EPA Regional Contact in section VII within 15 calendar days of the ineligibility determination.

1. An individual Tribe (or intertribal consortium) may not submit more than one proposal under this RFP. If more than one proposal is submitted, the EPA Regional Contact will notify the applicant that they must withdraw the additional proposals.
2. An individual Tribe (or intertribal consortium) may submit a proposal requesting up to a maximum of \$150,000 of Federal section 319 funding (the proposal must also contain the additional required cost share/match of the total project cost). If an applicant submits a proposal that requests more than \$150,000 of Federal section 319 funding, it will be rejected from further consideration.
3. All proposals must propose to fund activities that are related to waters within a reservation or they will be rejected. Section 319 grants may be awarded to Tribes for use outside the reservation only if they fund activities that are related to waters within a reservation, such as those relating to sources upstream of a waterway entering the reservation.

*i. Activities That Are Related to Waters Within a Reservation*

Section 518(e) of the CWA provides that EPA may treat an Indian Tribe as a State for purposes of section 319 of the CWA if, among other things, "the functions to be exercised by the Indian Tribe pertain to the management and protection of water resources which are . . . within the borders of an Indian reservation" (*see* 33 U.S.C. 1377(e)(2)). EPA already awards grants to Tribes under section 106 of the CWA for activities performed outside of a reservation (on condition that the Tribe obtains any necessary access agreements and coordinates with the State, as appropriate) that pertain to reservation waters, such as evaluating impacts of upstream waters on water resources within a reservation. Similarly, EPA has awarded section 106 grants to States to conduct monitoring outside of State borders. EPA has concluded that grants awarded to an Indian Tribe pursuant to section 319 may similarly be used to perform eligible section 319 activities outside of a reservation if: (1) the activity pertains to the management and protection of waters within a reservation; and (2) just as for on-reservation activities, the Tribe meets all other applicable requirements.

*ii. Activities That Are Unrelated to Waters of a Reservation*

EPA is not authorized to award section 319 grants for activities that do not pertain to waters of a reservation. For off-reservation areas, including “usual and accustomed” hunting, fishing, and gathering places, EPA must determine whether the activities pertain to waters of a reservation prior to awarding a grant.

4. All work plans, as described in Section IV, must address one, and only one, of the following four factors:
  - i. The work plan develops a watershed-based plan and implements a watershed-based plan;
  - ii. The work plan develops a watershed-based plan and implements a watershed project (that does not implement a watershed-based plan) that is a significant step towards solving NPS impairments or threats on a watershed-wide basis;
  - iii. The work plan implements a watershed-based plan; or
  - iv. The work plan implements a watershed project that is a significant step towards solving NPS impairments or threats on a watershed-wide basis.
5. Proposals must **substantially** comply with the proposal submission instructions and requirements set forth in Section IV.C. of this announcement or else they will be rejected.
6. Proposals must be **received** by the EPA Regional Contact identified in section VII of this announcement on or before the proposal submission deadline published in Section IV of this announcement. Applicants are responsible for ensuring that their hard copy or e-mail proposal reaches the designated person/office specified in Section VII of the announcement by the submission deadline.
7. Hard copy proposals must be submitted by hand delivery, express delivery service, or courier service. Electronic submission must be sent via e-mail to [319Tribal\\_Comp@epa.gov](mailto:319Tribal_Comp@epa.gov). **Hard copy proposals submitted by any type of regular U.S. Postal Service mail will not be considered. EPA will not accept faxed submissions.**
8. Proposals received after the submission deadline will be considered late and returned to the sender without further consideration unless the applicant can clearly demonstrate that it was late due to EPA mishandling. For hard copy submissions, where Section IV requires proposal receipt by a specific person/office by the submission deadline, receipt by an agency mailroom is not sufficient. Applicants should confirm receipt of their proposal with the appropriate EPA Regional Contact identified in Section VII as soon as possible after the submission deadline—failure to do so may result in your proposal not being reviewed.
9. Congress has prohibited the use of federal funds to award grants to the Association of Community Organizations for Reform Now (ACORN) or any of its affiliates, subsidiaries, or allied organizations and therefore in order to be eligible for funding consideration under this competition all applicants must affirmatively indicate in their

proposal that they are not subject to this prohibition. In addition, since this funding prohibition applies to subawards/subgrants and contracts awarded by grantees, applicants must consider it when preparing proposals.

#### **D. Funding Restrictions**

All costs incurred under this program must be allowable under the applicable Office of Management and Budget (OMB) Cost Circulars: A-87 (state, local, and tribal governments) and A-122 (non-profit organizations). Copies of these circulars can be found at <http://www.whitehouse.gov/omb/circulars/>. In accordance with EPA policy and the OMB circulars, as appropriate, any recipient of funding must agree not to use assistance funds for lobbying, fund-raising, or political activities (i.e., lobbying members of Congress or lobbying for other Federal grants, cooperative agreements, or contracts). Funds cannot be used to pay for travel by Federal agency staff. Proposed project activities must also comply with all State and Federal regulations applicable to the project area. It is the responsibility of the applicant to ensure compliance.

The use of competitive funding for the development of a watershed-based plan will be limited to 20 % of the Federal portion of the competitive grant (i.e., up to \$30,000 of a \$150,000 federal grant request) to assure that these competitive funds are primarily focused on implementation activities. In addition, if a Tribe submits a work plan to develop a watershed-based plan, it must be submitted as a component of the overall work plan for implementing a watershed project (i.e., a Tribe will not receive competitive funding only for the development of a watershed-based plan).

Pursuant to CWA section 319(h)(12), administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against activities and programs carried out with the grant shall not exceed 10 % of the Federal portion of the grant award. The costs of implementing enforcement and regulatory activities, education, training, technical assistance, demonstration projects, and technology transfer are not subject to this limitation.

In general, section 319 funding should not be used for general assessment activities (e.g., monitoring the general status of reservation waters, which may be supported with CWA section 106 funding). Section 319 funding may not be used to fund any activities required by a draft or final NPDES permit. This includes monitoring and other activities associated with the storm water permitting program. However, Tribes may use section 319 funding to support nonpoint source project-specific water quality monitoring, data management, data analysis, and the development of watershed-based plans. Section 319 does not, by statute, provide access for Tribes to sample lands or waters not within their jurisdiction. If monitoring is to occur off tribal lands, permission must be sought from the land owner(s).

### **IV. APPLICATION AND SUBMISSION INFORMATION**

#### **A. Address to Request Application Package**

Grant application forms, including the Standard Forms (SF) 424 and SF 424A, are available at [http://www.epa.gov/ogd/grants/how\\_to\\_apply.htm](http://www.epa.gov/ogd/grants/how_to_apply.htm) and by mail upon request by calling the EPA Headquarters Grants and Interagency Management Division at (202) 564-5320.

Tribes may also contact their EPA Regional Contact for further information about the application process (see section VII for Agency contact information).

## **B. FORM OF APPLICATION SUBMISSION**

Applicants have the option to submit their proposals in *one* of two ways: 1) electronically via e-mail **or** 2) hard copy (with optional compact disc) by express delivery service, hand delivery, or courier service to the EPA Regional Contact identified in Section VII. **Proposals submitted by regular U.S. Postal Mail will not be considered.** EPA will not accept faxed submissions. All proposals must be prepared, and include the information, as described in Section IV.C CONTENT OF PROPOSAL PACKAGE SUBMISSION below, regardless of mode of submission.

### **1. E-mail Submission**

E-mail submissions must be submitted to [319Tribal\\_Comppetition@epa.gov](mailto:319Tribal_Comppetition@epa.gov) and be received by the submission deadline stated in Section IV.D of this announcement. E-mail submissions should include “**FY10 Tribal 319 RFP**” and the submitting **applicant’s name** in the subject of the e-mail. A complete proposal package, as described in Section IV.C., must be attached to the e-mail as separate Adobe Portable Document Format (.pdf) files. Please note that if you choose to submit your proposal materials via e-mail, you are accepting all risks attendant to e-mail submission including server delays and transmission difficulties. E-mail submissions exceeding 15MB will experience transmission delays which will affect when they are received by the Agency. For these size submissions, applicants should submit their proposal materials via hard copy or else they may be received late and not considered for funding. Applicants submitting their proposal materials through e-mail should confirm receipt of their materials with Nancy Arazan as soon as possible after submission.

The address for e-mail submission is [319Tribal\\_Comppetition@epa.gov](mailto:319Tribal_Comppetition@epa.gov)

### ***2. Hard Copy Submission***

**Two** hard copies of the complete proposal package, as described in Section IV.C., are required to be submitted by hand delivery, express delivery service, or courier service. Please mark all submissions: **ATTN: FY10 319 Tribal RFP**. If you submit a hard copy proposal, you are strongly encouraged (i.e., not required) to include a compact disc (CD) with the electronic version of the narrative work plan, as well as any other supplemental information. Electronic files on the CD may be in Adobe Portable Document Format (.pdf) or Microsoft Word (.doc). Proposals submitted by U.S. Postal Service mail will not be considered. EPA will not accept faxed or e-mail submissions and they will be rejected from consideration.

## **C. Content of Proposal Package Submission**

Applicants should read the following section very closely. A complete proposal package must include the following documents below.

### ***1. Proposal Materials***

*a. Signed Standard Form (SF) 424- Application for Federal Assistance*

Complete the form. There are no attachments. Please be sure to include organization fax number and e-mail address in Block 5 of the signed SF 424. The SF 424A Budget Information for Non-Construction Programs may be used to enter budget information, but this form is not required.

*b. Narrative Work Plan*

The work plan will be evaluated based on the selection criteria set forth in section V.A of this announcement. All work plans must be consistent with the Tribe's approved NPS management program and conform to legal requirements that are applicable to all environmental program grants awarded to Tribes (*See* 40 CFR 35.507 and 35.515) as well as the legal requirements that specifically apply to NPS management grants (*See* 40 CFR 35.638). As provided in those regulations, and in accordance with EPA Order 5700.7, *Environmental Results under EPA Assistance Agreements*, all work plans must include:

- i. Description of each significant category of NPS activity to be addressed;
  - a. Identify each significant subcategory of NPS pollution (as described in evaluation factor V.A.a);
  - b. Identify each water quality problem or threat to be addressed caused by the subcategories of NPS pollution (as described in evaluation factor V.A.b);
- ii. Work plan components:
  - a. Provide a detailed description for each component of the work plan;
  - b. Identify the project location and specify the goals and objectives of the project to be implemented (as described in evaluation factor V.A.c);
  - c. Describe how significant water quality benefits will be achieved as a result of the project, either through restoring NPS-impaired waters or addressing threats to unimpaired waters (as described in evaluation factor V.A.d);
  - d. Indicate whether the proposal is designed to develop and/or implement a watershed-based plan or a watershed project (as described in evaluation factor V.A.i);
- iii. Work plan commitments for each work plan component, including anticipated environmental outputs and outcomes (as required by EPA Order 5700.7) and the applicant's plan for tracking and measuring its progress towards achieving the expected outputs and outcomes including those identified in Section I of this RFP (as described in evaluation factor V.A.h);
- iv. Provide a detailed budget and estimated funding amounts for each work plan component/task. Applicants must itemize costs related to personnel, fringe benefits, contractual costs, travel, equipment, supplies, other direct costs, indirect costs, and total costs. This section provides an opportunity for narrative description of the budget or aspects of the budget such as "other" and "contractual". All subgrant funding should be located in the "other" cost category. Describe itemized costs in sufficient detail for EPA to determine the

reasonableness and allowability of costs for each work plan component/task (as described in evaluation factor V.A.e). Also indicate whether the Tribe has requested a hardship waiver (cost share/match may be reduced to 10%), or the competitive funds will be added to a PPG (cost share/match may be reduced to 5% for the first two years of the project and then increased to 10%);

- a. Total costs must include both Federal and cost-share/matching (non-Federal) components;
  - b. The use of funding for the development of a watershed-based plan will be limited to 20 % of the Federal portion of the competitive award;
  - c. Administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against activities and programs carried out with the assistance agreement shall not exceed 10 % of the federal portion of the grant award. The costs of implementing enforcement and regulatory activities, education, training, technical assistance, demonstration projects, and technology transfer are not subject to this limitation;
  - d. When formulating budgets for proposals, applicants must not include management fees or similar charges in excess of the direct costs and indirect costs at the rate approved by the applicants' cognizant audit agency, or at the rate provided for by the terms of the agreement negotiated with EPA. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs that are not allowable under EPA assistance agreements. Management fees or similar charges may not be used to improve or expand the project funded under the agreement, except to the extent authorized as a direct cost of carrying out the scope of work;
- v. Estimated work years for each work plan component (as described in evaluation factor V.A.f). Such information includes, but is not limited to, the following:
- a. Identifies a specific "start" and "end" date for each work plan component;
  - b. An estimate of the specific work years for each work plan component; and
  - c. Interim milestone dates for achieving each work plan component;
- vi. Roles and responsibilities of the recipient and partners in carrying out the work plan commitments (as described in evaluation criteria V.A.g). This may include, but is not limited to, the following:
- a. Defining the specific level of effort for the responsible parties for each work plan component;
  - b. Identifying parties who will take the lead in carrying out the work plan commitments; and
  - c. Identifying other programs, parties, and agencies that will provide additional technical and/or financial assistance;

- vii. Reporting schedule and a description of the performance evaluation process that will be used that accounts for:
  - a. A discussion of accomplishments as measured against work plan commitments and anticipated environmental outputs and outcomes;
  - b. A discussion of the cumulative effectiveness of the work performed under all work plan components;
  - c. A discussion of existing and potential problem areas; and
  - d. Suggestions for improvement, including, where feasible, schedules for making improvements; and
  
- viii. Environmental Results Past Performance: Submit a list of Federally-funded assistance agreements (assistance agreements include Federal grants and cooperative agreements but not Federal contracts) that your organization performed within the last three years (no more than 5, and preferably EPA agreements), and describe how you documented and/or reported on whether you were making progress towards achieving the expected results (e.g., outputs and outcomes) under those agreements. If you were not making progress, please indicate whether, and how, you documented why not.

In evaluating applicants under this factor in Section V.A.h, EPA will consider the information provided by the applicant and may also consider relevant information from other sources, including information from EPA files and from current and prior Federal agency grantors (e.g., to verify and/or supplement the information provided by the applicant). If you do not have any relevant or available environmental results past performance information, you must indicate this in the proposal and you will receive a neutral score for this factor under Section V.A.h. Failure to provide any environmental results past performance information, or failure to include a statement that you do not have any relevant or available environmental results past performance information, may result in a zero score for this factor.

- ix. Quality Assurance/Quality Control: If the applicant expects to collect data and information, briefly describe how the applicant will assure and control data quality. If this is not applicable to the project, state so in the work plan narrative. Note: Development of a Quality Assurance Project Plan (QAPP) is required of all EPA assistance agreements that fund data collection and assessment. The cost of QAPP development should be included in the project budget. For more information on QAPP development, see VIII.B.
- c. The work plan must include additional required information, if applicable, relating to:*
- i. Eligibility (e.g., adequate documentation to demonstrate eligibility of intertribal consortium);
  - ii. If the work plan proposes to implement a watershed-based plan, the proposal must include documentation from the EPA Region that the watershed-based plan to be

implemented includes the nine components identified in Attachment A. Typically, this is a letter the applicant has already received from the EPA Region acknowledging that the watershed-based plan has been reviewed and meets these nine components. If the proposal does not contain this documentation, the workplan will not be considered as “implementing a watershed-based plan”. Instead, it will be considered a “watershed project”, and

- iii. Any other supplemental information that may be relevant or applicable to the proposal.

Note: The applicant should also provide in its work plan any additional information, to the extent not already identified above, that addresses the selection criteria found in Section V.

#### **D. Submission Dates and Times**

Proposal submissions sent by hard copy (with optional CD) must be received by the appropriate EPA Regional Contact identified in Section VII by **5:00 P.M. local time December 18, 2009**. Proposals submitted electronically to [319TribalCompetition@epa.gov](mailto:319TribalCompetition@epa.gov) must be submitted by **5:00 P.M. EST December 18, 2009 (which corresponds to 4:00 P.M. Central Standard Time, 3:00 P.M. Mountain Standard Time, 2:00 P.M. Pacific Standard Time)**. Late proposals will not be considered for funding.

#### **E. Confidential Business Information**

In accordance with 40 CFR 2.203, applicants may claim all or a portion of their proposal as confidential business information. EPA will evaluate confidentiality claims in accordance with 40 CFR Part 2. Applicants must clearly mark proposals or portions of proposals they claim as confidential. If no claim of confidentiality is made, EPA is not required to make the inquiry to the applicant otherwise required by 40 CFR 2.204(c)(2) prior to disclosure. However, competitive proposals are considered confidential and protected from disclosure prior to the completion of the competitive selection process.

### **V. APPLICATION REVIEW INFORMATION**

#### **A. Selection Criteria**

The applicable EPA Regional Office contact will determine whether the proposal complies with the threshold evaluation criteria in Section III.C, and will forward those that do to EPA’s Headquarters NPS Control Branch for distribution to EPA’s Watershed Project Review Committee (Committee). Proposals that do not comply with the threshold evaluation criteria will be rejected and not evaluated under this section.

The Committee will evaluate eligible proposals by assigning a value of 0 to 5 (with 5 being highest) for each factor described below based on how well and thoroughly each criterion and/or subcriterion is addressed in the proposal package. Each factor has been assigned a specific weight which will be multiplied by a value of 0 to 5 to calculate a total point score for the particular factor. The scores for each factor are then combined to result in a total score for the overall work plan. The total maximum score available is 850.

*a. The extent, and quality, to which the subcategories of NPS pollution are identified and described. (Weight = 15; 75 points maximum.)*

The proposal will be evaluated based upon the extent, and quality, to which it identifies each significant subcategory of NPS pollution. Since identifying the categories of NPS pollution (e.g., agriculture) is a threshold evaluation criteria, the proposal will be evaluated based upon how well it identifies sources at the *subcategory* level with estimates of the extent to which these subcategories are present in the watershed (e.g., X number of dairy cattle feedlots needing upgrading, including a rough estimate of the number of cattle per facility; Y acres of row crops needing improved nutrient management or sediment control; or Z linear miles of eroded streambank needing remediation).

*b. The extent, and quality, to which the water quality problems or threats to be addressed are identified and described. (Weight = 15; 75 points maximum.)*

The proposal will be evaluated based upon the extent, and quality, to which it identifies each water quality problem or threat to be addressed caused by the subcategories of NPS pollution identified in evaluation factor (a) above. EPA encourages Tribes to incorporate specific descriptions of water quality problems or threats, for example, in relation to impairments to water quality standards or other parameters that indicate stream health (e.g., decreases in fish or macroinvertebrate counts).

*c. The extent, and quality, to which the goals and objectives of the project specifically identify the project location and activities to be implemented. (Weight = 20; 100 points maximum.)*

The proposal will be evaluated based upon how well it specifically identifies where the NPS project will take place and the waterbody affected by the NPS pollutants; and the level of detail provided in relation to the specific activities that will be implemented (e.g., identifies specific management measures and practices to be implemented).

*d. The extent to which significant water quality benefits will be achieved as a result of the project. (Weight = 20; 100 points maximum.)*

The proposal will be evaluated based upon the extent and quality to which it describes how significant water quality benefits will be achieved as a result of the project, either through restoring NPS-impaired waters or addressing threats to unimpaired waters. EPA encourages Tribes to incorporate specific water quality-based goals that are linked to: load reductions; water quality standards for one or more pollutants/uses; NPS total maximum daily load allocations; measurable, in-stream reductions in a pollutant; and/or improvements in a parameter that indicates stream health (e.g., increases in fish or macroinvertebrate counts). If information is not available to make specific estimates, water quality-based goals may include narrative descriptions and best professional judgment based on existing information.

*e. The adequacy and specificity of the budget in relation to each work plan component/task. (Weight = 15; 75 points maximum.)*

The proposal will be evaluated based upon the extent and quality to which the proposal demonstrates the reasonableness of the budget and estimated funding amounts for each work plan component/task. Proposals will be evaluated based on the adequacy and specificity of the

information provided in the detailed budget and whether the proposed costs are reasonable and allowable. Total project costs must include both Federal and the required cost share/match (non-Federal) components. Describe cost-effectiveness and reasonableness of all costs (Federal and non-Federal components).

*f. The level of detail in relation to the schedule for achieving the activities identified in the work plan. (Weight = 15; 75 points maximum.)*

The proposal will be evaluated based upon the extent and quality to which the proposal demonstrates a level of detail and clarity in relation to the schedule of activities for each work plan component. Such information includes, but is not limited to, the following: identifies a specific “start” and “end” date for each work plan component; an estimate of the specific work years for each work plan component; and interim milestone dates for achieving each work plan component. A work plan that includes a schedule that can be implemented with minimal delay upon the award of the assistance agreement (i.e., indicates a “readiness to proceed”) will score higher than work plans which may require significant further action before the project can be implemented.

*g. The extent and quality to which the roles and responsibilities of the recipient and project partners in carrying out the proposed work plan activities are specifically identified. (Weight = 15; 75 points maximum.)*

The proposal will be evaluated based upon how specifically and clearly it defines the roles and responsibilities of each responsible party in relation to each work plan component, which may include, but is not limited to, the following: defining the specific level of effort for the responsible parties for each work plan component; identifying parties who will take the lead in carrying out the work plan commitments; and identifying other programs, parties, and agencies that will provide additional technical and/or financial assistance.

*h. The extent and quality to which the performance evaluation process meets each of the following sub-criteria: (Weight =20; 100 points maximum.)*

(i) Extent and quality to which the proposal demonstrates potential environmental results (i.e., whether the project will result in the protection of water resources), anticipated outputs and outcomes, and how the outcomes are linked to EPA’s Strategic Plan (Refer to Sub-objective 2.2.1 *Protect and Improve Water Quality on a Watershed Basis* of EPA’s 2006-2011 Strategic Plan at [http://www.epa.gov/ocfo/plan/2006/goal\\_2.pdf](http://www.epa.gov/ocfo/plan/2006/goal_2.pdf)). (Value = 2 points maximum.)

(ii) Extent and quality to which the proposal demonstrates a sound plan for measuring and tracking progress toward achieving the expected outputs and outcomes (examples of outputs and outcomes can be found in section B of this announcement). (Value = 1 point maximum.)

(iii) Extent and quality to which the applicant adequately documented and/or reported on progress towards achieving the expected results (e.g., outputs and outcomes) under Federally funded assistance agreements (assistance agreements include grants and cooperative agreements but not contracts) performed within the last 3 years, and if such progress was not being made, whether the applicant adequately documented and/or

reported why not. (Value = 2 points maximum.)

Note: In evaluating applicants under subcriterion iii, EPA will consider the information provided by the applicant in its proposal and may also consider relevant programmatic information from other sources including Agency files and prior/current grantors (e.g., to verify and/or supplement the information supplied by the applicant). Applicants who have no relevant or available environmental results past performance information must indicate that in the proposal and will receive a neutral score for this subcriterion (i.e., one point). Failure to provide any environmental results past performance information, or failure to include a statement in your proposal that you do not have any relevant or available environmental past performance information, may result in a zero score for this subcriterion.

*i. The extent and quality to which the proposal addresses one of the following four factors. (Weight = 35; 175 points maximum.)*

*(i) The proposal develops a watershed-based plan and implements a watershed-based plan.*

If a proposal includes a plan to develop a watershed-based plan, it will be evaluated based on the extent and quality to which it: includes a commitment to incorporate the nine components of a watershed-based plan described in Attachment A; clearly identifies the geographical coverage of the watershed; includes a specific schedule for developing the watershed-based plan; and clearly identifies the estimated funds that will be used to develop the watershed-based plan (not to exceed 20 % of the Federal competitive grant).

A proposal to implement a watershed-based plan will be evaluated based on the extent to which it: is accompanied by a statement that the Region finds that the watershed-based plan to be implemented includes the nine components of a watershed-based plan identified in Attachment A; identifies and briefly summarizes the watershed-based plan that will be implemented; and describes how the work plan will make progress towards achieving the overall goals of the watershed-based plan and the specific water quality-based goals identified in the watershed-based plan.

*(ii) The proposal develops a watershed-based plan and implements a watershed project (that does not implement a watershed-based plan).*

If a proposal includes a plan to develop a watershed-based plan, it will be evaluated based on the extent and quality to which it: includes a commitment to incorporate the nine components of a watershed-based plan described in Attachment A; clearly identifies the geographical coverage of the watershed; includes a specific schedule for developing the watershed-based plan; and clearly identifies the estimated funds that will be used to develop the watershed-based plan (not to exceed 20 % of the Federal competitive grant).

If a proposal is designed to implement a watershed project that is not implementing a watershed-based plan, it will be evaluated based on the extent to which it

can be linked to or expanded upon to address NPS impairments or threats on a watershed-wide basis. For example, a work plan that sets a precedent for future implementation on a watershed-basis will be ranked higher than a work plan that implements an individual demonstration project designed to address an individual threat or problem.

*(iii) The proposal implements a watershed-based plan.*

A proposal to implement a watershed-based plan will be evaluated based on the extent and quality to which it is accompanied by a statement that the Region finds that the watershed-based plan to be implemented includes the nine components of a watershed-based plan identified in Attachment A; identifies and briefly summarizes the watershed-based plan that will be implemented; and describes how the work plan will make progress towards achieving the overall goals of the watershed-based plan and the specific water quality-based goals identified in the watershed-based plan.

*(iv) The proposal implements a watershed project that is a significant step towards solving NPS impairments or threats on a watershed-wide basis.*

A proposal designed to implement a watershed project that is not implementing a watershed-based plan will be evaluated based on the extent to which it can be linked to or expanded upon to address NPS impairments or threats on a watershed-wide basis. For example, a work plan that sets a precedent for future implementation on a watershed-basis will be ranked higher than a work plan that implements an individual demonstration project designed to address an individual threat or problem.

## **B. Review and Selection Process**

All proposals received by EPA in hard copy or received by EPA via e-mail by the submission deadline will first be screened by the appropriate EPA Regional Contact against the threshold criteria in Section III of the announcement. Proposals that do not pass the threshold review will not be evaluated further or considered for funding. Proposals that meet the threshold evaluation criteria will be forwarded to EPA's Headquarters NPS Control Branch.

EPA will establish a Watershed Project Review Committee (Committee) to review eligible proposals. Typically, this Committee is comprised of EPA Regional State NPS Coordinators, EPA Regional Tribal NPS Coordinators, staff members of the EPA Headquarters NPS Control Branch, and staff members of the EPA's American Indian Environmental Office. Scores for each proposal will be developed by each Committee member based on evaluating the proposal against the factors and weighting system described above in section V.A. Based on these scores, EPA will calculate the average score for each proposal and then rank the proposals based on the resulting average scores. The ranking list will be provided to the Selection Official who makes final funding decisions. In making final funding decisions, the Selection Official will evaluate average proposal scores and may also give priority consideration to high quality work plans that are designed to develop or implement a watershed-based plan (as described in Attachment A).

## **VI. AWARD ADMINISTRATION INFORMATION**

## A. Award Notices

Following EPA's evaluation of proposals, all applicants, including those who are not selected for funding, will be notified regarding their status by e-mail or phone call, followed by a formal letter through the U.S. Postal Service. Final applications will be requested from those eligible entities whose proposal has been successfully evaluated and preliminarily recommended for award. Those entities will be provided with a due date for submittal of the final application package. (See 40 CFR 30.12 and 31.10). Required forms and instructions for preparing and submitting the completed application will be provided at that time.

a. EPA anticipates notification to *successful* applicant(s) will be made by the appropriate EPA Regional contact via e-mail or phone call, followed by a formal letter through the U.S. Postal Service Mail on or around March 19, 2010. This notification, which advises that the applicant's proposal has been selected and is being recommended for award, is not an authorization to begin performance. The award notice signed by the EPA Award Official is the authorizing document and will be provided through U.S. Postal Mail. At a minimum, this process can take 90 days from the date of selection notification.

b. EPA anticipates notification to *unsuccessful* applicant(s) will be made by the appropriate EPA Regional contact via e-mail or phone call, followed by a formal letter through the U.S. Postal Service Mail within 15 calendar days after final selection of successful applicants. The notification will be sent to the authorization official of the proposal.

c. The appropriate EPA Regional contact will notify applicants who do not meet the threshold eligibility criteria under section III.C via e-mail or phone call, followed by a formal letter through the U.S. Postal Service Mail within 15 calendar days of EPA's decision on applicant eligibility.

EPA reserves the right to negotiate and/or adjust the final grant amount and work plan narrative prior to award, as appropriate and consistent with Agency policy including the Competition Policy, EPA Order 5700.5A1.

### An approvable final work plan narrative is required to include:

1. Components to be funded under the assistance agreement;
2. Estimated work years and the estimated funding amounts for each component;
3. Commitments for each component and a timeframe for their accomplishment;
4. Performance evaluation process and reporting schedule; and
5. Roles and responsibilities of the recipient and EPA (for cooperative agreements only) in carrying out the commitments.

In addition, successful applicants will be required to certify that they have not been Debarred or Suspended from participation in federal assistance awards in accordance with 40 CFR Part 32.

Any additional information about this RFP will be posted on EPA's website at <http://www.epa.gov/owow/nps/tribal/index.html>. Deadline extensions or other modifications if any, will be posted on this website and [www.grants.gov](http://www.grants.gov).

## **B. Administrative and National Policy Requirements**

### *1. Grant Requirements*

The general applicable award and administration process for assistance agreements to be funded under this announcement are governed by regulations at 40 CFR Part 31 (States, Tribes, interstate agencies, intertribal consortia and local governments). In addition, all applicable legal requirements including, but not limited to, EPA's regulations on environmental program grants for Tribes (*see* 40 CFR 35.500 to 35.735) and regulations specific to NPS grants for Tribes (*see* 40 CFR 35.630 to 35.638), apply to all section 319 grants. A description of the Agency's substantial involvement in the cooperative agreement will be included in the final agreement.

### *2. Administrative Costs*

Pursuant to CWA section 319(h)(12), administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against activities and programs carried out with the grant shall not exceed 10 % of the grant award. The costs of implementing enforcement and regulatory activities, education, training, technical assistance, demonstration projects, and technology transfer are not subject to this limitation.

### *3. Satisfactory Progress*

For a Tribe that received section 319 funds in the preceding fiscal year, section 319(h)(8) of the CWA requires that the Region determine whether the Tribe made "satisfactory progress" during the previous fiscal year in meeting the schedule of activities specified in its approved NPS management program in order to receive section 319 funding in the current fiscal year. The Region will base this determination on an examination of Tribal activities, reports, reviews, and other documents and discussions with the Tribe in the previous year. Regions must include in each section 319 grant award (or in a separate document, such as the grant-issuance cover letter, that is signed by the same EPA official who signs the grant), a written determination that the Tribe has made satisfactory progress during the previous fiscal year in meeting the schedule of milestones specified in its NPS management program. The Regions must include brief explanations that support their determinations.

### *4. Operation and Maintenance*

Each section 319 grant must contain an award condition requiring that the Tribe assure that any management practices implemented for the project be properly operated and maintained for the intended purposes during its life span. Operation includes the administration, management, and performance of non-maintenance actions needed to keep the completed practice safe and functioning as intended. Maintenance includes work to prevent deterioration of the practice, repairing damage, or replacement of the practice to its original condition if one or more components fail. Management practices and projects that are damaged or destroyed due to a natural disaster (i.e., earthquakes, storm events, floods, etc.) or events beyond the control of the grantee are exempt from this condition.

The condition must require the Tribe to assure that any subrecipient of section 319 funds similarly include the same condition in the subaward. Additionally, such condition must reserve the right of EPA and the Tribe, respectively, to conduct periodic inspections during the life span

of the project to ensure that operation and maintenance are occurring, and shall state that, if it is determined that participants are not operating and maintaining practices in an appropriate manner, EPA or the Tribe, respectively, will request a refund for the project supported by the grant.

The life span of a project will be determined on a case-by-case basis, tailored to the types of practices expected to be funded in a particular project, and should be specified in the grant condition. For assistance in determining the appropriate life span of the project, Tribes may wish to examine other programs implementing similar practices, such as the U.S. Department of Agriculture's conservation programs. For example, for conservation practices, it may be appropriate to construct the life span consistent with the life span for similar conservation practices as determined by the Commodity Credit Corporation (pursuant to the implementation of the Environmental Quality Incentives Program). Following the approach used in many Federal funding programs, practices will generally be operated and maintained for a period of at least 5 to 10 years.

5. In making grant awards to Tribes who are part of an intertribal consortia, Regions must include a brief finding in the final award package that the Tribe has demonstrated the existence of the partnership and the authorization of the consortium by its members to apply for and receive the grant.

6. In making grant awards to Tribes that provide for a reduced match requirement, Regions must include a brief finding in the final award package that the Tribe has demonstrated that it does not have adequate funds to meet the required cost-share/match, or that the Tribe may include the 319 competitive grant funds in a PPG.

### **C. Reporting**

In general, recipients are responsible for managing the day-to-day operations and activities supported by the assistance funding, to assure compliance with applicable Federal requirements, and for ensuring that established milestones and performance goals are being achieved. Recipients must submit performance reports and financial reports according to the schedule (at least annually, but no more than quarterly) determined by the Regional EPA contact. Copies of the performance evaluation reports are placed in the official files and provided to the recipient. Performance reports and financial reports are due 30 days after the reporting period. The final report is due 90 days after the assistance agreement has expired. Recipients will be required to report direct and indirect environmental results from the work accomplished through the award. If negotiating a cooperative agreement, EPA will work closely with the recipient to incorporate appropriate performance measures and reporting requirements in the work plan consistent with 40 CFR 31.40, 31.41, 35.507, 35.515, and 35.638. All section 319 grants must include a set of reporting requirements and a process for evaluating performance. Some of these requirements have been explicitly incorporated into the required work plan components that all Tribes must include in order to receive section 319 grant funding.

### **D. DUNS Number**

All applicants are required to provide a Dun and Bradstreet (D&B) Data Universal

Numbering System (DUNS) number when applying for a Federal grant or cooperative agreement. Applicants can receive a DUNS number, at no cost, by calling the dedicated tollfree DUNS Number request line at 1-866-705-5711, or visiting the D&B website at:

<http://www.dnb.com/>

### **E. Competition-Related Dispute Procedures**

Assistance agreement competition-related disputes will be resolved in accordance with the dispute resolution procedures published in 70 FR (Federal Register) 3629, 3630 (January 26, 2005) which can be found at <http://www.epa.gov/ogd/competition/resolution.htm>. Copies of these procedures may also be requested by contacting the EPA Regional Contact listed in section VII below.

## **VII. AGENCY CONTACTS: EPA HEADQUARTERS AND REGIONAL TRIBAL NPS COORDINATORS**

Note to Applicants: In accordance with EPA's Assistance Agreement Competition Policy (EPA Order 5700.5A1), EPA staff will not meet with individual applicants to discuss draft proposals, provide informal comments on draft proposals, or provide advice to applicants on how to respond to ranking criteria. Applicants are responsible for the contents of their proposals. However, consistent with the provisions in the announcement, EPA will respond to questions from individual applicants regarding threshold eligibility criteria, administrative issues related to the submission of the proposal, and requests for clarification about the announcement. Questions must be submitted in writing and must be received by the EPA Regional Contact identified below by December 11, 2009. Written responses will be posted on EPA's website at <http://www.epa.gov/owow/nps/tribal>.

**EPA Headquarters** – Nancy Arazan, Office of Wetlands, Oceans, and Watersheds, Assessment and Watershed Protection Division, telephone: 202-566-0815; e-mail: [arazan.nancy@epa.gov](mailto:arazan.nancy@epa.gov).

**Region 1** - *Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont*  
Beth Edwards; mailing address: U.S. EPA Region 1, 1 Congress Street, Suite 1100 (MC: CWN), Boston, MA 02114; telephone: 617-918-1840; e-mail: [edwards.beth@epa.gov](mailto:edwards.beth@epa.gov).

**Region 2** - *New Jersey, New York, Puerto Rico, U.S. Virgin Islands*  
Richard Balla; mailing address: U.S. EPA Region 2, 290 Broadway - 24<sup>th</sup> Floor (MC DEPP:WPB), New York, New York 10007; telephone: 212-637-3788; e-mail: [balla.richard@epa.gov](mailto:balla.richard@epa.gov).

**Region 3** - *Delaware, Maryland, Pennsylvania, Virginia, West Virginia, Washington, DC*  
Fred Suffian; mailing address: U.S. EPA Region 3, 1650 Arch Street, Philadelphia, PA 19103; telephone: 215-814-5753; e-mail: [suffian.fred@epa.gov](mailto:suffian.fred@epa.gov).

**Region 4** - *Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee*

Yolanda Brown; mailing address: U.S. EPA Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, GA 30303; telephone: 404-562-9451; e-mail: [brown.yolanda@epa.gov](mailto:brown.yolanda@epa.gov).

**Region 5** - *Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin*  
Daniel Cozza; mailing address: U.S. EPA Region 5, 77 West Jackson Blvd. (MC: WS-15J),

Chicago, IL 60604; telephone: 312-886-7252; e-mail: cozza.daniel@epa.gov.

**Region 6** - *Arkansas, Louisiana, New Mexico, Oklahoma, Texas*

George Craft; mailing address: U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202; telephone: 214-665-6684; e-mail: craft.george@epa.gov.

**Region 7** - *Iowa, Kansas, Missouri, Nebraska*

Jennifer Ousley; mailing address: U.S. EPA Region 7, 901 N 5<sup>th</sup> Street, Kansas City, KS 66101; telephone: 913-551-7498; e-mail: ousley.jennifer@epa.gov.

**Region 8** - *Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming*

Mitra Jha; mailing address: U.S. EPA Region 8, 1595 Wynkoop St. (MC: EPR-EP), Denver, CO 80202; telephone: 303-312-6895; e-mail: jha.mitra@epa.gov.

**Region 9** - *Arizona, California, Hawaii, Nevada, American Samoa, Mariana Islands, Guam*

Tiffany Eastman; mailing address: U.S. EPA Region 9, 75 Hawthorne Street (MC: WTR-10), San Francisco, CA 94105; telephone: Dial 711 first then use 415-972-3404; e-mail: eastman.tiffany@epa.gov.

**Region 10** - *Alaska, Idaho, Oregon, Washington*

Krista Mendelman; mailing address: U.S. EPA Region 10, 1200 6<sup>th</sup> Avenue, Suite 900, (MC: OWW-137), Seattle, WA 98101; telephone: 206-553-1571; e-mail: mendelman.krista@epa.gov.

## **VIII. OTHER INFORMATION**

### **A. Copyrights**

In accordance with 40 CFR 31.34 for State, local and Indian Tribal governments or 40 CFR 30.36 for other recipients, EPA reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, for Federal Government purposes copyrighted works developed under a grant, subgrant or contract under a grant or subgrant. Examples of Federal purpose include but are not limited to: (1) Use by EPA and other Federal employees for official Government purposes; (2) Use by Federal contractors performing specific tasks for the Government; (3) Publication in EPA documents provided the document does not disclose trade secrets (e.g. software codes) and the work is properly attributed to the recipient through citation or otherwise; (4) Reproduction of documents for inclusion in Federal depositories; (5) Use by State, tribal and local governments that carry out delegated Federal environmental programs as “co-regulators” or act as official partners with EPA to carry out a national environmental program within their jurisdiction; (6) Limited use by other grantees to carry out Federal grants provided the use is consistent with the terms of EPA’s authorization to the grantee to use the copyrighted material.

### **B. Quality Assurance/Quality Control (QA/QC)**

Quality Assurance/Quality Control (QA/QC) requirements are applicable to these assistance agreements (see 40 CFR 30.54 and 40 CFR 31.45). QA/QC requirements apply to the collection of environmental data. Environmental data are any measurements or information that describe environmental processes, location, or conditions; ecological or health effects and consequences; or the performance of environmental technology. Environmental data include information collected directly from measurements, produced from models, and compiled from other sources such as databases or literature. Applicants should allow sufficient time and

resources for this process. EPA can assist applicants in determining whether QA/QC is required for the proposed project. If QA/QC is required for the project, the applicant is encouraged to work with the EPA QA/QC staff to determine the appropriate QA/QC practices for the project. Contact the Agency Contact (See Section VII for Agency Contact information) for referral to an EPA QA/QC staff.

Applicants who have been collecting water quality data under section 106 and have an EPA approved QAPP (Quality Assurance Project Plan), may or may not need to develop a QAPP for section 319 monitoring related to their proposed project. EPA can assist applicants in determining whether QA/QC is required for the proposed project. If QA/QC is required for the project, the applicant is encouraged to work with the EPA QA/QC staff to determine the appropriate QA/QC practices for the project. Contact the Agency Contact (See Section VII above for Agency Contact information) for referral to an EPA QA/QC staff person.

**C. Data Access and Information Release**

The Office of Management and Budget (OMB) Circular A-110 has been revised to provide public access to research data through the Freedom of Information Act (FOIA) under some circumstances. Data that are (1) first produced in a project that is supported in whole or in part with Federal funds and (2) cited publicly and officially by a Federal agency in support of an action that has the force and effect of law (i.e., a regulation) may be accessed through FOIA. If such data are requested by the public, the EPA must ask for it, and the grantee must submit it, in accordance with A-110 and EPA regulations at 40 C.F.R. 30.36.

**D. Exchange Network**

EPA, States, Territories, and Tribes are working together to develop the National Environmental Information Exchange Network. This data sharing network is a secure, internet- and standards-based way to support electronic data reporting, sharing, and integration of both regulatory and non-regulatory environmental data. The Water Quality Exchange (WQX) is an Exchange Network based framework by which EPA compiles water quality monitoring data into the STORET Warehouse. EPA’s presence on the Exchange Network is represented by CDX which authenticates users and validates data submitted through WQX.

If the applicant is awarded 319 dollars as a result of this solicitation, EPA encourages you (i.e. not required) to use the Exchange Network as the standard way of sharing water quality monitoring data collected by this project proposal. More information on the Exchange Network is available at [www.exchangenetwork.net](http://www.exchangenetwork.net). Information regarding WQX is available at <http://www.epa.gov/storet/wqx.html>.

**E. Anticipated Deadlines and Milestones for FY 2011 Competitive Grants**

The following estimated dates are provided in order to assist Tribes in planning for EPA’s FY 2011 funding cycle for competitive grants:

|   |                 |
|---|-----------------|
| Deadline EPA uses to determine eligibility to receive competitive 319 grants. | October 8, 2010 |
|---|-----------------|

|   |                                   |
|---|-----------------------------------|
| Date for receipt of proposals in hard copy by Region or electronically through Grants.gov | December 3, 2010<br>(anticipated) |
| Headquarters notifies Regions/Tribes of selections for competitive 319 grants.            | March 4, 2011<br>(anticipated)    |
| Tribes submit final grant application to Region for competitive 319 grants.               | April 8, 2011<br>(anticipated)    |

***Attachment A - Components of a Watershed-Based Plan:***

1. An identification of the causes and sources or groups of similar sources that will need to be controlled to achieve the goal identified in element 3 below. Sources that need to be controlled should be identified at the significant subcategory level with estimates of the extent to which they are present in the watershed (e.g., X number of dairy cattle feedlots needing upgrading, including a rough estimate of the number of cattle per facility; Y acres of row crops needing improved nutrient management or sediment control; or Z linear miles of eroded streambank needing remediation).

2. A description of the NPS management measures that will need to be implemented to achieve a water quality-based goal described in element 3 below, as well as to achieve other watershed goals identified in the watershed-based plan, and an identification (using a map or a description) of the critical areas for which those measures will be needed to implement the plan.

3. An estimate of the water quality-based goals expected to be achieved by implementing the measures described in element 2 above. To the extent possible, estimates should identify specific water quality-based goals, which may incorporate, for example: load reductions; water quality standards for one or more pollutants/uses; NPS total maximum daily load allocations; measurable, in-stream reductions in a pollutant; or improvements in a parameter that indicates stream health (e.g., increases in fish or macroinvertebrate counts). If information is not available to make specific estimates, water quality-based goals may include narrative descriptions and best professional judgment based on existing information.

4. An estimate of the amounts of technical and financial assistance needed, associated costs, and/or the sources and authorities that will be relied upon to implement the plan. As sources of funding, Tribes should consider other relevant Federal, State, local and private funds that may be available to assist in implementing the plan.

5. An information and education component that will be used to enhance public understanding and encourage early and continued participation in selecting, designing, and implementing the NPS management measures that will be implemented.

6. A schedule for implementing the NPS management measures identified in the plan that is reasonably expeditious.

7. A description of interim, measurable milestones for determining whether NPS management measures or other control actions are being implemented.

8. A set of criteria that can be used to determine whether the water quality-based goals are being achieved over time and substantial progress is being made towards attaining water quality-based goals and, if not, the criteria for determining whether the watershed-based plan needs to be revised.

9. A monitoring component to evaluate the effectiveness of the implementation efforts

over time, measured against the criteria established under element 8 above.