

Chapter 7

Superfund Program Support Activities

7.1 Overview of Program Support Activities

The Superfund program's other support activities primarily focus on enhancing community involvement, disseminating public information, and promoting partnerships with states and Indian tribes. This section provides an overview of new and ongoing program support activities conducted by the Superfund program during FY97.

7.1.1 Community Involvement

Superfund's community involvement efforts demonstrate EPA's commitment to informing potentially affected citizens about Superfund sites and involving them in the cleanup process. EPA focuses on:

- Informing the public of planned or ongoing actions;
- Giving the public an opportunity to comment on and provide input for technical decisions; and
- Identifying and resolving conflicts.

The guideline for EPA's proactive community involvement effort is "early, often, and always." EPA is committed to beginning outreach activities early in the Superfund process, meeting with citizens on a regular basis, and always listening to citizens' concerns.

EPA's policy of enhancing community involvement is demonstrated by its continued efforts

to tailor activities to each community's needs and to identify effective approaches for reaching concerned citizens. Each community is unique and requires an individual communication strategy. EPA, while satisfying statutory and regulatory requirements, also promotes the following innovative involvement techniques:

- Sponsoring open houses and public availability sessions for local citizens to meet one-on-one with EPA Superfund site teams to discuss community concerns or site information;
- Promoting greater public understanding and encouraging public participation in site activities to convey information from EPA to local citizens using various media, such as public access television and public monitoring equipment; and
- Conducting introduction to Superfund workshops and video presentations to educate affected citizens about the Superfund cleanup process and opportunities for involvement in the process.

Under the Superfund Accelerated Cleanup Model (SACM) and Superfund Administrative Improvements, the Agency remains committed to promoting meaningful community involvement in decision-making during all phases of site cleanup. EPA views early and frequent community involvement as critical to the success of EPA's mission to protect human health and the environment. The Agency continued offering Technical Assistance Grants (TAGs) to communities to enable them to participate more fully in Superfund cleanup and decision making. Other efforts include

the establishment of Community Advisory Groups (CAGs).

Fiscal Year 1997 Highlights

During FY97, EPA continued to improve the vigorous community involvement efforts by emphasizing the importance of public participation through a variety of means. In particular, a workgroup convened to put guidance into practice that would reduce EPA oversight at sites where PRPs are deemed “cooperative and capable.” EPA’s involvement in a DoD/DOE public participation workgroup also strengthened community involvement at federal facilities through enhanced coordination and cooperation within the “federal family.” EPA provided the opportunity for greater involvement in the Superfund process for stakeholders through the continued support of a Regional Ombudsmen program in all 10 EPA Regions. This program, based on an administrative reform, provides a point of contact for stakeholders to resolve issues when normal channels fail. Guidance documents on Prospective Purchaser Agreements (PPAs) were issued which help people in purchasing contaminated land for redevelopment while releasing them from future liability. Finally, EPA introduced a minority worker training program to the job training initiative to provide training to community residents and promote their employment with Superfund site cleanup contractors.

Enhanced Community Involvement Through Administrative Improvements

The enhancement of meaningful community involvement is one of the areas where EPA is changing Superfund through the administrative improvements. Efforts focused on identifying ways to increase community involvement in the Superfund program, enhance outreach between EPA and communities, and ensure environmental justice by addressing concerns of minority and low-income communities.

Technical Outreach Services for Communities

The Agency continued support for the technical outreach program through initiation of an evaluation

effort to assess the three year-old Technical Outreach Services for Communities (TOSC) program. TOSC expands EPA’s tools for community outreach by providing an alternative, independent source of technical information. EPA’s Office of Research and Development’s Office of Exploratory Research provides a national network of five Hazardous Substance Research Centers (HSRCs). Authorized by SARA Title III, Section 311(d), the HSRCs are supported by a network of 23 universities nationwide. Each HSRC supports two EPA Regions and provides technology transfer and training. The HSRCs also provide services that are flexible and tailored to each community’s needs. For example, the technical expert at the HSRC may review site-related documents, attend public meetings, explain technical process information, or provide an independent assessment of site activities.

Community Advisory Groups

CAGs are committees, task forces, or boards made up of residents affected by a hazardous waste site. CAGs enhance public participation in the cleanup process by providing a public forum where community representatives can discuss their diverse interests, needs, and concerns about the cleanup. Strong community initiative in forming and operating CAGs, as well as technical expertise by CAG members are important factors for successful CAGs. During FY97, the Agency continued to support the CAG program, providing information and other tools to assist the communities in establishing CAGs and actively participating in the decision-making process.

Technical Assistance Grants Under CERCLA Section 117(e)

The TAG Program, authorized by CERCLA Section 117(e), as amended by SARA, provides eligible communities affected by NPL sites with grant funds to hire independent technical advisors. Only communities affected by sites listed on the NPL or sites proposed to the NPL with response actions underway are eligible for such funds. By allowing communities to hire independent advisors, TAGs enable communities to become more knowledgeable about the technical and scientific aspects of a Superfund sites. Communities are able to participate in the decision making surrounding their sites using

their increased understanding of site-specific cleanup strategies. Because TAG regulations require recipients to share their information with the entire affected community, the broader community benefits as well. Initial TAG awards are for \$50,000 but additional funds are available for more complex sites.

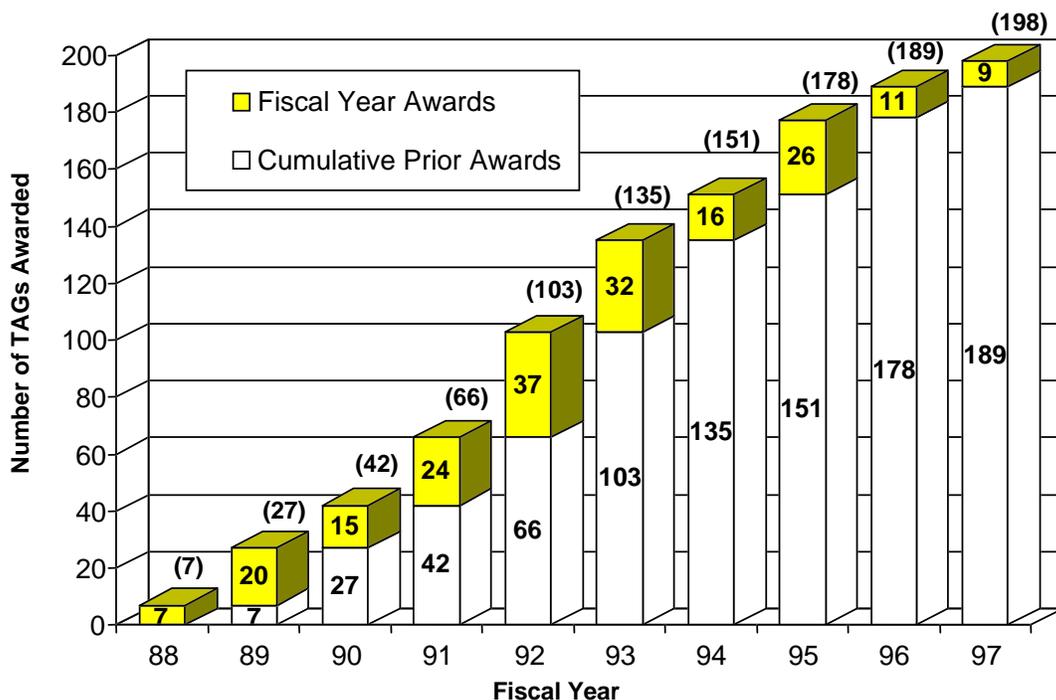
EPA continues to improve the TAG Program by establishing efficient lines of communication between potential TAG recipients and the Agency, including communication between the Regional offices and Headquarters. EPA sponsored a national conference to bring together regional TAG coordinators for a discussion on TAG issues as a key initiative to foster this regional/headquarter communication.

EPA’s revision of the TAG rule throughout FY97 also played an important component in further streamlining and improving the program. Revisions proposed for the TAG rule included:

- Reduction in reporting requirements for TAG recipients;
- Elimination of the cap on administrative expenses; and
- Inclusion of interpretation of congressional intent regarding the “not more than one grant may be made ...with respect to a single facility” language, to allow multiple, non-concurrent grant recipients.

As illustrated in Exhibit 7.1-1, since the TAG program began in FY88, EPA has awarded 198 TAGs, which are worth more than \$13 million to support community involvement in Superfund cleanup. This total includes 9 TAGs awarded during FY97. Because of the benefits of the TAGs, many TAG recipients choose not to close-out their grant award as they mature, but rather request additional funds through a waiver or deviation. EPA has awarded almost \$3 million additional grant dollars through waivers and deviations.

**Exhibit 7.1-1
Number of Technical Assistance Grants Awarded
from Fiscal Year 1988 Through Fiscal Year 1997**



Source: Office of Emergency and Remedial Response/Hazardous Site Control Division.

7.1.2 Public Information

A Coordinated Approach to Public Information

The Agency's public information outreach program is built on a system of information coordination and management. Under this program, EPA is committed to providing quick public access to high-quality documents.

All Superfund documents available to the public are listed in the *Catalog of Superfund Program Information Products* and its regular update bulletins. Copies of the catalog and updates are available from the Superfund Document Center or from the Department of Commerce's National Technical Information Service (NTIS). Electronic access to the catalog and updates is available through Agency internal electronic bulletin boards or through the NTIS FEDWORLD gateway to the Internet system which is advertised nationwide to the general public.

During FY97, EPA continued to participate in the full implementation of the EPA-NTIS Superfund partnership, a comprehensive interagency effort to provide maximum public access to Superfund documents. Through this partnership, the Agency and NTIS conduct an outreach and marketing program to inform the public about the availability of Superfund documents from NTIS. This partnership effort has provided the public with rapid delivery of Superfund documents and has conserved EPA resources.

The public can also access information about Superfund through other information sources, such as the Superfund Docket and the Resource Conservation and Recovery Act (RCRA)/Superfund Hotline. Further information on public information services is provided below.

The National Technical Information Service

The Department of Commerce's NTIS serves as a permanent archive and general source of federal publications, including Superfund documents. Before the EPA-NTIS partnership, EPA had fulfilled requests for more than two million documents free of

charge. Due to resource constraints, however, free document distribution was no longer possible. To fulfill its commitment to ensure that Superfund documents are available to the public, EPA has worked to maximize public access to and promote the availability of Superfund documents through NTIS.

The Agency's joint effort with NTIS provides the public with ready access to the entire Superfund collection. Using NTIS employees provided considerable savings to the government and facilitates access to the many production services housed at the NTIS headquarters in Springfield, Virginia.

NTIS also maintains a Superfund Order Desk where users may purchase single copies of documents or customized subscriptions for categories of documents pertinent to their needs. Prepublication documents are available at the Superfund Order Desk prior to being formally printed and distributed.

The Superfund Docket

The Superfund Docket provides public access to the materials that support proposed and final regulations. In compliance with the Freedom of Information Act, the public is allowed access to docket materials following approval of the material by the Office of General Counsel and announcement of the proposed or final regulation in the *Federal Register*.

Other Information Sources

The RCRA/Superfund Hotline, managed by EPA Headquarters, provides information to the public and EPA personnel concerning hazardous waste regulations and policies. The hotline is a comprehensive source of general information about ongoing Superfund program developments.

EPA also maintains the Hazardous Waste Superfund Collection at EPA Headquarters and Regional libraries. The collection contains documents ranging from records of decision to commercially produced books on hazardous waste and the Superfund program.

7.1.3 EPA's Partnership with States and Indian Tribes

EPA continues to promote and maintain its partnership with states, federally recognized Indian tribes, commonwealths, territories, and political subdivisions in the Superfund cleanup process. (States, commonwealths, and territories will be referred to as states for the purposes of this Report.) Subpart F of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) provides mechanisms for ensuring meaningful state and tribal involvement in implementing Superfund response activities, as required by Sections 104 and 121(f) of CERCLA. Subpart O of 40 CFR Part 35 provides additional detail on requirements for transferring funds and responsibilities to states and Indian tribes to undertake response actions, as well as on building their overall program capabilities.

The following sections describe performance partnership grants response agreements and core program cooperative agreements (CPCAs) between EPA and states, tribes, or political subdivisions because these agreements serve as a tool to enable states to participate in the Superfund cleanup process. In addition, FY97 highlights of EPA efforts to promote involvement of states and Indian tribes in Superfund response activities are provided.

Performance partnership grants (PPGs) allow states and tribes to consolidate funds from their categorical grants into one or more PPGs. Each PPG requires a National Environmental Performance Partnership System (NEPPS) agreement which describes goals and objectives and other items related to program accomplishment. Although PPGs cannot specifically designate Superfund resources, some states use some of their PPG money to fund Superfund programs.

Response Agreements and Core Program Cooperative Agreements

Response agreements provide states, tribes, and political subdivisions with the opportunity to participate in response activities at sites under their jurisdiction. Superfund CPCAs assist states and tribes in developing their overall Superfund response

capabilities. This section discusses each type of agreement in detail.

Response Agreements: Response agreements fall into two categories: Superfund state contract (SSCs) and cooperative agreements (CAs). Both serve as the contractual tools through which states, tribes, and political subdivisions work with EPA to conduct or support Superfund response activities.

SSCs and remedial action CAs document assurances required from a state, tribe, or political subdivision by CERCLA Section 104. Before EPA provides funding to conduct a remedial action (RA) in a state (i.e., a Fund-financed RA), for example, the state must provide the Agency with the following assurances, required by CERCLA Section 104 and formalized in the SSC or remedial action CA:

- Provide for 100 percent of RA operation and maintenance;
- Provide 10 percent of the RA cost;
- Ensure the availability of a 20-year capacity for the disposal or treatment of hazardous wastes;
- Provide for off-site disposal, if necessary; and
- Acquire or accept transfer of interest in property, if necessary.

Assurances are not required for Fund-financed response actions that are not RAs. Where a state or a political subdivision was an operator at the facility at the time when hazardous substances were disposed, the state must provide at least 50 percent of the cost of the removal, remedial planning, and RA in cases where a CERCLA-funded RA is conducted. Tribes are exempt from providing most of the CERCLA assurances, but may need to provide the assurance to acquire or accept interest in property in certain cases. The following sections describe SSCs and CAs.

Superfund State Contracts: State or tribe must enter into an SSC with the Agency when EPA conducts (i.e., is the lead for) a Fund-financed RA. The SSC, which must be signed before EPA conducts the RA, documents the CERCLA

assurances that have been made with a state or Indian tribe. The SSC also includes provisions detailing the cost-share required and specifying the process for the collection of cost-share payments.

A three-party SSC among the state/political subdivision/EPA is required when a political subdivision assumes the lead for remedial activities. The three-party SSC parties include EPA, the state, and the political subdivision. The SSC must be in place before EPA can transfer funds, through a remedial CA, to the political subdivision. Also, although the political subdivision will conduct the remedial activity, the state still is responsible for providing the required CERCLA assurances in the SSC.

Cooperative Agreements: Superfund CAs are the vehicle through which EPA provides funds to states, tribes, and political subdivisions to ensure their meaningful involvement in implementing Superfund. The following five types of response CAs, described in 40 CFR Part 35 Subpart O, are available for site-specific response activities:

- Pre-remedial CAs are awarded to states, tribes, and political subdivisions to conduct pre-remedial activities, including preliminary assessments (PAs) and Site Investigations (SIs).
- Remedial CAs allow states, tribes, or political subdivisions to receive Superfund money for taking the lead in remedial planning, remedial design (RD), and RAs at specified sites within their jurisdiction. When a state or tribe takes the lead for an RA, the remedial CA documents the state or tribe's CERCLA Section 104 assurances, and an SSC is not required. When a political subdivision takes the lead for a remedial activity, a three-way SSC must be signed. This three-way SSC documents the state's CERCLA assurances.
- Removal CAs are awarded to states, tribes, or political subdivisions that lead a non-time-critical removal action (NTRC). Such actions are taken when a planning period of more than six months is available. Cost-share payment is not required (unless the facility was operated by the state or political subdivision, as described

above), but EPA encourages cost-sharing for removal actions that cost more than \$2 million.

- Enforcement CA funds may be used by a state, tribe, or political subdivision to conduct potentially responsible party (PRP) searches, issue notice letters for negotiation activities, implement administrative and judicial enforcement actions, or oversee PRP response actions. Subpart O contains specific enforcement-related criteria that an applicant must meet to be eligible for an enforcement CA. Enforcement CAs support enforcement under state law when PRPs are unwilling to pay oversight costs.
- Support agency cooperative agreements (SACAs) allow states, tribes, and political subdivisions that do not have lead-agency responsibility to actively participate in response activities at sites under their jurisdiction. SACAs may assist the state, tribe, or political subdivision in facilitating investigations, response selection, and implementation through the sharing of information and expertise. They may not be used, however, to document CERCLA assurances.

In addition to describing response CAs, 40 CFR Part 35 Subpart O also specifies financial, administrative, and other requirements with which a state, tribe, or political subdivision must comply in order to receive funds. A multi-site cooperative agreement, which has the same requirements as the other types of agreements, is a multi-purpose agreement that has been used to consolidate funding for various response activities at different sites.

Core Program Cooperative Agreements

Congress has expressed the intent to include CERCLA funding to states and tribes for certain basic, or core, activities that are not attributable to a specific site but are necessary to implement CERCLA response capabilities. The legislative history of CERCLA Section 104(d), as amended, demonstrates this intent to support the development of Superfund infrastructure. Through CPCAs, EPA offers states and tribes the opportunity to develop comprehensive, self-sufficient Superfund programs.

CPCAs have a single budget and scope of work designed to enhance state or tribal program activities. Approval of the budget request and scope of work is dependent on the developmental needs of a state or tribal program, demonstrated progress in meeting previous core objectives, and funds availability. States are required to provide a 10 percent cost-share for Core Program awards.

The Core Program is intended to lay the groundwork for the implementation of an integrated EPA/state/tribal approach for meeting Superfund goals. EPA typically budgets and annually distributes \$20 million to \$22 million among the ten Regional offices for CPCAs. Regions also may provide additional funding if resources are available.

State and Tribal Highlights

EPA continued to build the state/EPA partnership through outreach initiatives with states. These initiatives included meetings with states on special topics of interest, such as soil screening levels, integrated assessments, and communications between EPA and state removal managers.

Under the administrative improvements initiative to enhance states' role in cleanup, the Agency continued developing the Superfund state deferral program. Under this program, EPA may defer consideration of certain sites for listing on the NPL, while interested states or tribes compel and oversee response actions conducted and funded by PRPs. Thirty sites in 11 states are serving as pilots for the deferral program.

In FY97, the Superfund program was actively involved in addressing hazardous waste problems on Native American lands and in assisting tribes to assume regulatory and program management responsibilities. Tribes received funding, technical assistance, and training for Superfund implementation through SSCs, CAs, SACAs, CPCAs, and other agreements.

The development and enhancement of voluntary cleanup programs is being promoted by EPA in conjunction with states and tribes. Voluntary clean-

up programs, which fall under Core Program CAs, encourage private parties to undertake protective cleanups of contaminated sites. During FY97, EPA awarded 43 States or Tribes approximately 9.4 million to help either develop State voluntary cleanup programs or enhance existing voluntary cleanup programs.

7.2 Minority Firm Contracting

Section 105(f) of CERCLA (P.L. 99-499) requires EPA to annually consider minority contractors for procurement opportunities when awarding contracts for Superfund work. EPA contracts include direct procurement awarded by the Agency; indirect procurement that result from Superfund financial assistance awards, i.e., contracts and subcontracts emanating from cooperative agreements awarded to the states and contracts from interagency agreements with other federal agencies.

This section of the FY97 report has been prepared by EPA's Office of Small and Disadvantaged Business Utilization (OSDBU), which has the responsibility to ensure that the Agency complies with Section 105(f) of CERCLA. The requirements of the Administrative Provisions of P.L. 102-389 directs the Agency to establish an 8 percent goal for disadvantaged businesses. All programs funded by EPA are included in this requirement. This report reflects EPA's accomplishments.

EPA achieved its goal of reaching a 7.0 percent rate for its combined direct contracting and indirect contracting efforts with minority and other disadvantaged businesses during FY97. Additionally, EPA's Superfund program transfers funds to other federal agencies by means of interagency agreements (IAGs). In the conduct of the transfer of funds, contracts and subcontracts were awarded to minority firms.

During FY97, contracts worth \$51,538,071 were awarded to minority contractors to perform Superfund work. As Exhibit 7.2-1 illustrates, EPA's cooperative agreements with states resulted in \$871,604 to minority contractors. Other federal

**Exhibit 7.2-1
Minority Contract Utilization During Fiscal Year 1997**

Type of Activity	Total Dollars Obligated	Minority Contractor Participation ¹	Percentage of Total
Direct Procurement	\$510,897,183	\$11,607,588	2.3
Cooperative Agreements	33,714,294	871,604	2.6
Interagency Agreements ²	195,946,471	39,058,879	19.9
Total	\$740,557,948	\$51,538,071	7.0

¹This does not include women's business enterprise participation data and there is no way to identify if such entities are owned and controlled by minority women.
²This is the total dollar amount awarded. There is no way of extracting the subagreement dollars available for minority contractor participation from the computer data system.

Source: U.S. EPA Office of Small and Disadvantaged Business Utilization (OSDBU).

agencies awarded \$39,058,879 in contracts, subcontracts and purchase orders to minority firms, with funds transferred from the Superfund program via IAGs. Under the Agency's direct federal agencies awarded \$39,058,879 in contracts, subcontracts and purchase orders to minority firms, with funds transferred from the Superfund program via IAGs. Under the Agency's direct procurement program minority business enterprises received \$11,607,588 in Superfund contracts through various contracting methods, i.e., Small Business Administration (SBA) 8(a) awards, direct minority awards and subcontracts.

Minority firms provide three types of services to the Superfund program: professional, field support

and construction, Exhibit 7.2-2 illustrates examples of tasks performed under each category.

7.2.1 EPA Efforts to Identify Qualified Minority Firms

OSDBU conducted a number of outreach activities during FY97, to increase the number of qualified minority firms that would be available to receive contract and subcontract opportunities through the Superfund program. Some of the activities include:

- The National Association of Minority Contractors and OSDBU conducted four training sessions designed to help culturally

**Exhibit 7.2-2
Services Provided by Minority Contractors**

Professional	Field Support	Construction
Health Assessments	Drilling/Well Installation	Site Cleanup
Community Relations	Laboratory Analysis	Excavations
Feasibility Studies		Waste Hauling & Drilling
Data Management Security		Security
Geophysical Surveys		Site Support
Remedial Investigations		Facilities
Expert Witness		
Editing		
Air Quality Monitoring		

Source: U.S. EPA Office of Small and Disadvantaged Business Utilization (OSDBU).

disadvantaged contractors become more successful in winning Superfund direct prime contract and subcontract awards. Sixty-nine attendees participated in the training sessions held in Boston, Massachusetts; Charleston, South Carolina; Seattle, Washington and San Diego, California.

- EPA in cooperation with the Colorado District SBA Office and the Genesis Environmental Team (GET) conducted several seminars to provide information on Superfund contracting and subcontracting opportunities in the Colorado region, and to increase minority Superfund contracting participation. Over 150 minority and women-owned firms attended these sessions. In addition to these seminars, directories were distributed among prime contractors and governmental agencies to assist them in identifying qualified minority firms.
- EPA became a planning participant in late FY97 to assist in the preparation of a 1998 National Reservation Conference to be held in Denver, Colorado. The Conference will be focused toward Native American businesses and will provide information on procurement opportunities, including Superfund.

7.2.2 Efforts to Encourage Other Federal Agencies and Departments to Use Minority Contractors

OSDBU, continues to work with other federal agencies to enhance the involvement of minority contractors. Numerous conferences, workshops, and seminars were held by other federal agencies to encourage minority business participation in the Superfund program. OSDBU has ensured that a special condition is included in each interagency agreement between EPA and any other agency or department receiving Superfund monies. The special condition ensures that agencies or departments receiving Superfund money are aware of the requirements of CERCLA Section 105(f) and P.L. 102-389. One of these special conditions requires that departments or agencies undertaking Superfund work submit an annual report to EPA on minority contractor utilization.

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