

## **Chapter 2: Assistance Recommendations**

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## **I. Summary**

The Assistance to States Workgroup is composed of state representatives from New York, North Carolina, Minnesota, Wisconsin, Ohio, Kansas, Illinois, and Michigan, as well as EPA staff from OERR, the Office of General Counsel, the Office of Grants Debarment, Region 3, Region 5, and Region 8. This chapter has been condensed from a more detailed report that represents the deliberations of the Assistance to States Workgroup, and focuses mainly on recommendations contained in the master report for providing technical and financial assistance to state and tribal Superfund programs.

In summary, this chapter recommends that EPA strategically plan and budget to provide Superfund training and technical assistance to states and tribes to develop state and tribal capability to respond to the release, or threat of release, of hazardous substances. Assessing readiness of individual states and tribes to assume Superfund implementation will result in a shared understanding of the near-term and longer-term program capabilities and expertise needed for implementation. Training and technical assistance should be specifically tailored to the need for technical resources and training on the part of individual states and tribes. This chapter further recommends that EPA formally assess, on an ongoing annual basis, the technical needs of state Superfund programs, and that EPA meet those needs through training and access to federal personnel, contracts, and equipment. Some resources are available currently to implement additional technical assistance. In future years, disinvestments and reinvestments may be needed to support training needs of states and tribes. Assistance Workgroup recommendations comprehensively discuss ways this can be accomplished.

One of the principal recommendations in Chapter 2 is to give states and tribes greater flexibility in implementing the various Superfund program components. To that end, greater or lesser involvement in implementation may be accomplished by varying the type and scope of assistance agreement offered, depending on the extent of state or tribal readiness, the combination of program elements requested by the state or tribe, and the need for substantial EPA involvement in the implementation of the activity. Possible changes to provisions of the Superfund administrative regulation, 40 CFR Part 35, Subpart O, are being examined for assistance agreements issues. A related recommendation is to streamline and consolidate the budget and reporting requirements prescribed by 40 CFR Part 35, Subpart O, the program regulation governing “Cooperative Agreements and Superfund State Contracts for Superfund Response Actions.” Options for advancing these recommendations can be found in the body of this report.

## **II. Introduction**

Chapter 2 presents technical assistance and funding recommendations to facilitate an increased state and tribal role in Superfund. The technical assistance section of this chapter explores areas for enhancement identified by state and EPA workgroup members. The funding section of this chapter evaluates recommendations for enhancing state and tribal involvement in Superfund through more flexible assistance agreements and improved administration of current agreements.

### III. Technical Assistance

Three areas that have been identified by the Assistance to States Workgroup as important components of assistance to states and tribes are training, state and tribal access to federal resources, and management and technological program enhancements.

#### A. Training

##### 1. *Assessment and Delivery of State Training Needs*

More than 275 courses relating to Superfund are presently offered by EPA; these are listed in Appendix B. Of these courses, 152 are contained in the OSWER Training Database and Videotape Inventory, and 124 are contained in the National Enforcement Training Institute's (NETI) catalogue. In addition, there are 312 videotapes available in the OSWER Training Database and Videotape Inventory for training purposes. The Workgroup recommends that EPA regional offices, in coordination with state and tribal partners, annually identify state and tribal training needs. EPA Headquarters would oversee and coordinate the regional effort, to ensure that the training objectives are met; to report, as necessary, on the technical needs of state and tribal programs; and to seek federal resources required to meet those needs. A mechanism for recording needed Superfund training and assistance can be the implementing agreement between EPA regions and the states and tribes, as described in *Chapter 3: Agreement Recommendations*.

To deliver training resources, individual training could be offered within states to meet the needs of state and tribal personnel hampered by travel restrictions. For those states and tribes not restricted by travel limitations, it is recommended that the Superfund Academy concept, which is currently available primarily to federal employees (as space permits, several courses are available currently to states and tribes), be expanded to provide training for states and tribes. The Academy could offer "one-stop shopping" for Superfund-related training. In addition, courses presently offered by state universities and colleges could be reviewed and "approved" by EPA, then used as training resources for states and tribes. Training is also offered by other government agencies, such as the Department of Energy and USACE. Coordination among these agencies and EPA in evaluating and delivering Superfund training needs could facilitate the overall federal ability to transfer federal experience and capabilities to states and tribes, and promote more comprehensive Superfund training.

##### 2. *Program Assistance*

States and tribes would like to access other sources of information through personnel and resources at EPA. Examples of possible sources include the Management Assistance Review program for review of state and tribal programs. Development of manuals similar to the Region 4 Environmental Investigations Division's field sampling standard operating procedures manual could be applied across all regions, which would help to promote consistency and identify accepted operating procedures that could be adopted by states and tribes. This application could also assist in regular regional reporting requirements.

## **B. State and Tribal Access to Federal Resources**

### ***1. Expert Assistance***

States and tribes have expressed a desire to more fully utilize federal resources to expand their role in Superfund. Forming and providing state access to multi-disciplinary teams of technical and scientific experts on either a regional or national basis is recommended to support state remediation efforts. This concept is similar to the Environmental Response Team located in Edison, New Jersey, which is available to mobilize for situations demanding specialized expertise. Multi-disciplinary teams could be assembled from regional resources, on a regional basis, and be made available to assist on-site where specialized expertise is needed by states and tribes, when states and tribes do not otherwise have access to such resources, or they cannot cost-effectively maintain such resources. Access to teams for more routine site issues could be accomplished via the Internet, through a published directory of technical and scientific personnel with identified expertise for direct access, or through a chat room/bulletin board. Availability to states and tribes of federal personnel with specialized expertise through Inter-Agency Personnel Agreements (IPAs), or detail assignments, as well as EPA labs, information databases, equipment pools, and contracts, could be more widely employed to maximize the use of resources and benefits to states and tribes.

### ***2. Contract Lab Program and Other Labs***

Additional ability to utilize the Contract Lab Program (CLP) will become increasingly important if the state and tribal role in Superfund is expanded. In addition, state and tribal ability to assess risks posed by Superfund sites could be enhanced by providing additional state and tribal access to the U.S. EPA Environmental Monitoring System Laboratories in Ada, Oklahoma, Las Vegas, Nevada, and Cincinnati, Ohio. A possible improvement in this area suggested by state workgroup participants is to combine contracts so that one lab would be available to do more than one type of analysis under variable turn-around time requirements. Near-term availability would be valuable in completing the hundreds of projected remedial actions anticipated by the year 2000.

### ***3. Use of BoR and USACE***

Many investigative, technical, and remediation services are available through USACE and BoR. An enhanced communications strategy to highlight the resources available through BoR and USACE could promote greater utilization of existing federal resources. A description of the services provided by, or links to, USACE and BoR, for example, could be added to the EPA home page. It is recommended that states and tribes be invited to attend coordinating meetings between EPA, USACE, and BoR to promote meaningful involvement when federal services are requested.

### ***4. Access to and Compatibility with U.S. EPA and Other Databases, and Additional Sources of Information***

Superfund's information systems have evolved with the program's expansion over time, and include CERCLIS (WasteLAN), the Grants Information Control System (GICS), the Internal Financial Management System (IFMS), and the Superfund Comprehensive Accomplishments Plan (SCAP). With the implementation of WasteLAN, Superfund information will no longer be maintained across a diverse network of regional and national systems and databases. Instead, WasteLAN enables Superfund staff to

share comprehensive data across the program, across EPA and, eventually, with other federal partners and the public. Currently, all EPA regions are performing data entry in WasteLAN. In addition, the “One-Stop Shopping” program, which links WasteLAN and other Superfund databases together for easy access by interested parties, is being implemented in thirteen states to facilitate the sharing of this comprehensive data.

The Workgroup recommends that state access to WasteLAN be provided in the near term and that training be offered on WasteLAN and other databases that are or will become available to states and tribes. The Workgroup also recommends that additional strategies that increase state, tribal, and EPA interconnectivity be identified, developed, and adopted. State participants in the Assistance to States Workgroup have recommended that to generate and maintain an awareness of available databases, EPA should create a continuously updated directory of information sources. This directory could have a broad key word search capability that could include publications, databases, Internet home pages, bulletin boards, and other electronic resources, as well as contacts and participants in workgroups and task forces related to Superfund. It would be beneficial to include, on the EPA home page or on the individual EPA regional home pages, a directory of technical experts in each region. The states and tribes would then generally be able to access this information.

## ***5. Enforcement Assistance***

NETI offers many training courses on environmental enforcement for EPA, state, and tribal personnel. States and tribes should continue to access these courses, which are offered in subject areas such as criminal enforcement training, case support training, and international training. A complete list of the courses offered by NETI is included in Appendix B.

## ***6. Contracts***

States have indicated a desire to have greater access to federal contracts, and they believe that access to these federal contracts would be of greatest value during transition periods to greater state involvement. Current EPA policy provides that state employees on an IPA to the EPA can be a Work Assignment Manager (WAM). State employees who are not on an IPA cannot be a WAM, but can offer advice and provide recommendations to EPA. It would appear that as long as the proper legal relationship (i.e., IPA) is created, and the IPA personnel are trained and certified in federal contracts management principles and practices, these personnel could be reassigned to the state to carry out the work assignment, and states could thereby gain greater access to federal contracts. Guidance would need to be developed to implement this practice.

## ***7. Frequently Used Equipment, and Specialized or Infrequently Used Equipment***

Many regions presently maintain some response equipment or equipment pools, but there is no general policy and approach to more widely assuring the availability of equipment. Specific types of equipment that are needed on a frequent basis could be purchased by the states and tribes through the Core Program cooperative agreement as a way to outfit programs with necessary equipment. Infrequently used equipment could be purchased by the region and maintained for loan, as needed. Operational policies and procedures regarding equipment should be developed that would be implemented in all regions for the purchase or loan of response equipment.

## C. Research

Superfund research and development should remain centralized and be conducted generally in the present manner. The current centralized approach to technology development is considered by the Workgroup to be the most effective and appropriate method. Centralized development and testing of new technologies is generally viewed by the Workgroup as the most appropriate mechanism for fostering broader application of these technologies in remediation. By continuing to test technologies, EPA will be able to identify viable options and develop guidance so that technologies are utilized consistently throughout the regions. EPA Headquarters will also be able to evaluate the cost effectiveness of the technologies and pass these findings along to the regions, states, and tribes.

## IV. Funding

The Federal Grant and Cooperative Agreement Act of 1977 governs the use of grants, cooperative agreements (CAs), and contracts. Contracts are used for acquisition by purchase, lease, or barter of property or services for the direct use of the federal government. Grants and CAs are used to transfer money, property, services, or anything of value to the state, tribe, local government, or other recipient in order to accomplish a public purpose of support authorized by federal statute.

The application and administration process is essentially the same for grants and CAs, and they are governed by the same regulations; the difference is in implementation. A grant is used in cases where no substantial involvement is anticipated between the Executive Agency and state, tribe, local government, or other recipient during the contemplated activity. CAs are used in cases where substantial involvement in implementation between the Executive Agency and recipient is deemed necessary.

The current mechanism for providing financial assistance in the Superfund program is the Superfund Cooperative Agreement. Authority to enter into CAs is provided in Section 104 of CERCLA and is regulated by 40 CFR Part 35, Subpart O (“Cooperative Agreements and Superfund State Contracts for Superfund Response Actions”), Office of Management and Budget circulars and directives, and other rules that ordinarily apply to assistance agreements.

Subpart O describes six types of site- and non-site-specific CAs with states and tribes to implement the Superfund program, including: Removal, Pre-Remedial, Remedial, Enforcement, Support Agency, and Core Program. While each type of CA is intended to fulfill a unique purpose, the award and administration requirements of multiple CAs can limit the flexibility and discretion of EPA regions, states, and tribes to more readily address their highest priority needs. Multiple CAs add significantly to the Superfund administrative workload. Two key issues have been identified as concerns in the current Superfund CA award and funding processes:

- ◆ Regulations at 40 CFR, Part 31 and Part 35 limit the transfer of CA funds between

- different sites and activities, which reduces the flexibility of regions, states, and tribes to address changing priorities.
- ◆ Regions are restricted by budget categories and processes, as well as by the CA award process, in their discretion to shift resources to meet states' and tribes' needs.

The following sections describe how the CA funding process impacts regions', states', and tribes' flexibility, and identifies options to improve the administration of Superfund Assistance Agreements.

## **A. Current Cooperative Agreement Process**

### *1. Statutory and Regulatory Framework*

As discussed above, CERCLA, Section 104, provides that EPA may enter into a CA with a state or tribe in order to carry out Superfund response actions. 40 CFR, Part 35, Subpart 0, codifies requirements for administering CERCLA-funded CAs.

### *2. Advice of Allowance Process*

Currently, EPA Regions fund CAs with states and tribes through Advices of Allowance (AOAs), which provide the authority to commit, obligate, and expend funds. Each fiscal quarter, funds pass from Headquarters to regions according to AOAs, which are based on Phase III Operating Plan projected obligations for each quarter. Five AOAs allocate resources to states and tribes for the following site-specific and non-site-specific activities: Site Characterization, Remedial Actions, Removals, Other Response, and Enforcement.

In response to changing workloads and site conditions during any given fiscal year, regions often need to shift funds between sites and activities. According to EPA policy, only certain types of shifts in funds between and within AOAs are allowable.

The chart below summarizes the restrictions on shifting funds between and within AOAs.

<b>Shifting Funds Between and Within AOAs</b>		
<b>Type of Move</b>	<b>Allowable</b>	<b>Not Allowable</b>
<b>Between different AOAs</b> <i>(Requires HQ approval)</i>	<ul style="list-style-type: none"> <li>✓ From Site Characterization, Other Response, or Enforcement to any other AOA, except Other Response.</li> <li>✓ Between Enforcement and Other Response. If shift is over \$500K, Congressional notification must be initiated.</li> </ul>	<ul style="list-style-type: none"> <li>✗ From Remedial Actions or Removals to any other AOA.</li> <li>✗ From any AOA into Other Response.</li> </ul>
<b>Between projects within an AOA</b> <i>(Does not require HQ approval, but WasteLAN must be revised to reflect the shift)</i>	<ul style="list-style-type: none"> <li>✓ From projects within Site Characterization, Removals, Other Response, or Enforcement to other projects within that same AOA.</li> </ul>	

Given these restrictions on movement of funds among AOAs, Regions, states and tribes are limited in their ability to make pre- or post-award adjustments to CA budgets. Due to the inflexibility of the AOA process, the Workgroup recommends a review of the AOA structure, with a view toward relaxing current restrictions. Only a small number of Block Funding Pilots are now permitted to transfer funds from Core Program CAs to pre-remedial CAs, or to transfer funds from one site to another under site-specific CAs. Deviations from 40 CFR, Parts 31 and 35 have allowed the State of Illinois, under its Block Funding Pilot, to cut at least three months out of the remedial process for one Superfund site and have ensured that construction would not be delayed into the next construction season. Further, the State of Illinois is reporting an 85% drop in the preparation and processing of fiscal paperwork due to regulatory deviations from certain reporting, amendment, and funds transfer requirements that the state received under its Block Funding Pilot.

### 3. Accounting

Certain accounting practices must be observed to ensure that monies are spent on authorized Superfund activities. Presently, Superfund monies are tracked by site number and within the site cleanup by activity level (e.g., remedial investigation) and by operable unit. This detailed accounting supports recovery of Superfund dollars expended at cleanups and reporting to Congress on Superfund dollars spent, and it should be maintained.

#### ***4. Adjustments***

Minor and major adjustments to CAs are sometimes required. Minor project adjustments, such as small budget changes or small changes in a Statement of Work, are currently managed through memoranda or letters and do not require significant administration. Major project adjustments are initiated through formal amendments when there are significant transfers of funds within the CA and/or significant changes in the scope of work, such as the addition of new duties or the elimination of existing duties. Transfer of more than 10% of funds within the cost categories triggers an amendment. The current amendment process takes from 30 to 120 days to complete and requires several levels of review. Deviations from the above procedures have produced savings for all participating states.

Pilot projects now underway are testing methods to reduce the reporting requirements required by 40 CFR, Part 35, Subpart O to identify opportunities to reduce administration requirements while maintaining fiscal accountability in the expenditure of Superfund dollars. These projects, which consolidate CAs and CA budgets, are having a positive impact on lowering transaction costs. The Workgroup recommends that these streamlining approaches be more widely utilized.

#### ***5. Reporting and Accountability***

States and tribes are required to report quarterly to the regions about progress on the CA scope of work (40 CFR, Part 35.6650). Financial status reports are required annually, or as specified in the CA (40 CFR, Part 35.6650). The need to report on Superfund expenditures in support of cost recovery, and monitoring the use of the Trust Fund are crucial to ensuring that Trust-related funds are properly directed to Superfund activities. Expenditure data is also needed to provide information to taxpayers, Congress, and Superfund stakeholders. However, less frequent reporting is generating considerable savings in pilot projects with no apparent cost to reporting abilities. It is recommended that site- and activity-specific information be reported from the states and tribes to EPA annually, as well as during the fiscal year when activities (e.g., CERCLA-funded response) are completed, and that procedures be developed to submit both reports and original CA applications electronically.

#### ***6. Allocating Remedial Action Funding***

New start remedial actions, removal actions that cannot be undertaken within the Region's base budget, and enforcement projects are reviewed by the National Risk-Based Priority Panel. All projects in these categories are evaluated by the Panel. Funding priorities are established within the three individual categories, not across them. This procedure is designed to promote a programmatic funding balance between projects of characteristically different natures. The enforcement projects that the Panel presently evaluates include mixed funding sites; take-over projects; allocation sites; and sites settling 106(b) petitions.

The National Prioritization Panel, comprised of national program experts from regional offices and Headquarters, ranks projects based on five criteria: risks to human population exposed; stability (mobility of contaminant, site structure, institutional and physical controls); contaminant characteristics; threat to a significant environment, and program management considerations. Projects are presented by the region and/or state in which they are located. The nine other regions and Headquarters then score the

project. A rank-ordered list of national priority projects is then produced, which is used to allocate resources; projects are funded in order of scoring.

Regions and states support continuing this concept, and modifying it to include a front-end state/regional prioritization panel. This two-tiered proposal has regions, with the opportunity extended for full state participation, determining the relative priority of all projects in the region. Highest ranking projects would advance to the National Prioritization Panel.

## **B. Cooperative Agreement Pilots**

This section describes current CA and budget administration processes, practices, and pilots. The pilots currently in place combine two or more of the following CA types: Core Program, Pre-Remedial/Remedial Planning, and Support Agency. Three strategies have been identified that some regions are implementing within the current CA award and administration process, and one option has been identified but is not currently in effect. These are:

1. Integrating the Core CA into an existing Multi-Site Cooperative Agreement (MSCA);
2. Obligating CAs generically and disbursing CAs site-specifically;
3. Funding CAs incrementally for three years; and
4. Obligating and disbursing CAs generically (not implemented).

Strategies 1, 2 and 3 have been implemented by deviating from current regulations in the areas of funding shifts, reporting frequency and scope, scope of work changes, and budget consolidation.

### ***1. Integrating the Core Program CA into an Existing MSCA***

Several regions use MSCAs with their states and tribes; these MSCAs are broader in scope than traditional site-specific CAs. Through one lump award, MSCAs can fund activities at multiple sites for site assessment, remedial investigation/feasibility (RI/FS) study, remedial design (RD), and Support Agency activities. Region 6, for example, has developed a Multi-Project CA (MPCA). Functioning in a manner similar to a Support Agency CA, the MPCA obligates funds by different account numbers for site assessment, PRP searches, RI/FS and RD, Core Program, and management assistance. Funds allocated to the Core Program require a 10% match from the recipient, unless the match is waived. In addition, budgets are combined whenever possible to make re-budgeting easier. These pilots did not require deviation from current regulations.

### ***2. Obligating CAs Generically and Disbursing CAs Site-Specifically***

A second funding option is to obligate CA monies generically and disburse these funds site-specifically. This approach is currently being tested in a pilot program, as several regions, states, and tribes have opted to obligate a combination of Core Program, Pre-Remedial, and/or Support Agency CAs together under a lump award. Thus, the targeting of monies to specific sites is not necessary, but when site activity is conducted, activity expenditures are accounted for and drawn down site-specifically, maintaining the cost-recovery and reporting requirements.

### **3. Funding CAs Incrementally for Three Years**

A Region 8 pilot program funds each CA incrementally for three years. The CA application package, however, is reviewed and potentially modified on an annual basis. Changes to the CA are made possible through a letter rather than a formal amendment. The primary benefit to this pilot is that states and tribes are able to shift resources more freely among sites and activities. The elimination of separate object class breakouts saves time and paperwork for EPA and the states and tribes. The amendment process is reduced by allowing larger shifts in resources. The three-year CA also reduces the number of applications that states and tribes need to prepare and offers the recipient a more secure planning window, which facilitates more stable staffing levels.

### **4. Obligating and Disbursing CAs Generically (not implemented)**

In this concept, a region would obligate and disburse funds under one generic account number. As proposed, the region would only be required to approve one disbursement rather than many, and a state or tribe would notify the EPA award official when funds are transferred among projects, then report on expenditures after they occur. Reporting of disbursements could be required to IFMS through regional or Headquarters offices, or via end-of-the-fiscal-year reports. States and tribes would track disbursements by separate account numbers in the state accounting system for each site, activity, and operable unit to facilitate cost recovery, as is currently required in 40 CFR Part 35, Subpart O. States and tribes would be required to provide internal accounting documentation for all costs.

An advantage of this concept is that it promotes maximum flexibility for states and tribes to shift funds among projects when necessary, within the limits specified in the funding agreement and without formal amendments, and to focus more on what activities must be done rather than on what categories and funding processes must be used. This option minimizes the need to process amendments to multiple CAs throughout the year, and could allow states and tribes to more easily address changing site and program needs.

EPA is currently relying on state financial systems to provide site-specific expenditure information for cost recovery. To implement this concept, EPA could specify reporting requirements for states and tribes to follow in the CA. For example, states and tribes could be required (in the terms of the agreement) to electronically report site-specific expenditures at specified intervals or upon request. Reporting could be required at the time of disbursements by the states and tribes, or periodically throughout the fiscal year. Some regions believe that this option would more accurately reflect obligations and disbursements than the current system, which reports on obligations to activities that may not be performed when funds are de-obligated, re-obligated, and disbursed to different activities. Region 5 proposed generic obligations and disbursements for a pilot CA with the State of Illinois, but the state's request for deviation was denied over reporting and accountability concerns. Discussion of these issues continues, but this option is not currently available for pilot projects.

## **C. Flexible Federal Involvement and Oversight**

The consensus of the workgroup is that maximum flexibility in the use of Superfund management tools is desirable. The principal recommendation is to give states and tribes greater flexibility in

implementing the various Superfund program components. To that end, greater or lesser involvement in implementation may be accomplished by varying the type and scope of assistance agreement offered, depending on the extent of state or tribal readiness, the combination of program elements requested by the state or tribe, and the need for substantial EPA involvement in the implementation of the activity. Possible changes to provisions of the Superfund administrative regulation, 40 CFR Part 35, Subpart O, are being examined for assistance agreements issues.

The National Environmental Performance Partnership System (NEPPS) is the foundation for both Environmental Partnership Agreements (EnPA), also known as Performance Partnership Agreements (PPAs), and Performance Partnership Grants (PPGs). The objective of NEPPS is to assist states and tribes in setting environmental priorities while concentrating EPA oversight where it is most needed. PPGs provide states and tribes with the option of combining two or more of EPA's 16 categorical grants into a multi-program grant that does not require the tracking of funds back to individual programs. Because of the current structure of the Superfund Trust Fund as mandated by statute, and PPG authorizing language, Superfund CAs cannot be combined with PPGs, but block funding approaches to consolidating CAs currently being piloted in Superfund effect a similar concept. While Superfund CAs and PPGs cannot be combined, there is a possibility of greater utilization of the PPA in documenting the use of Superfund in concert with other environmental programs. Some Superfund-related work is already being incorporated in PPAs with states. A benefit of using either a PPG or consolidated Superfund CA is that either instrument allows for appropriate oversight by EPA. Oversight will vary depending upon a particular state's or tribe's situation and comfort level with implementing the Superfund program.

#### **D. Distribution of Funding**

The current approach to distribution is through annual negotiations with states and tribes based on historical activity and planned new activity. A common funding distribution approach for delegated programs is formulaic. The SMC has recommended that distribution of funding questions be discussed at a future point, when greater certainty exists over the levels and uses of funding. However, it may be beneficial to consider what may enter into a formula for the distribution of resources among the states and tribes. Such a formula might encompass such indicator values as the number and types of facilities the state is requesting responsibility for, the number of NPL sites, the number of other high priority facilities, and other factors such as personnel requirements, staffing ratios, possible relative risk of sites, available state resources, program components requested, and alternative funding available at the state level. Untested and prescriptive distribution methodologies, however, are to be avoided, and states and tribes should be involved in developing a distribution methodology. Non-formula-based local negotiations between the EPA regions and states and tribes to identify annual activities and workload, which are then further negotiated at the Headquarters level to meet national dollar targets, have been successful in the past. Until a future program change more clearly establishes the ground rules for development of a formula-based allocation, it is recommended that the current annual negotiation process continue as a basis for funding distribution.

## **V. Recommendations**

### **A. Two-Phase Program**

A two-phase program is recommended that has the following features:

- ◆ Combine all or several of the Pre-Remedial, Support Agency, Core Program, Enforcement, and Removal Capability CAs into a single assistance agreement reflecting the desired level of EPA involvement and the activity(ies) sought by the state or tribe; and
- ◆ Manage remedial activity and large-dollar, non-time-critical removal actions separately, and prioritize these actions nationally, utilizing a modified version of the current national priority-setting process.

Other two-phase program features are:

- ◆ Flexible EPA involvement/oversight depending on a state's or tribe's interest and experience in managing Superfund;
- ◆ Utilizing current authorities and block funding strategies more broadly to identify strengths and weaknesses in the two-phase strategy approach;
- ◆ Utilizing multi-year funding, based on state or tribal and regional negotiations, to enhance state and tribal strategic planning for Superfund implementation; and
- ◆ Reworking the AOA process to increase the flexibility to redirect resources.

The options listed below are specific examples of currently available tools for implementing the Superfund program, and are advocated by the Workgroup for continued use in the future.

### **B. Block Funding within Superfund**

It is recommended that Block Funding Pilot projects be expanded to include more states and tribes. Allowing regions to obligate funds generically and disburse funds site-specifically would advance this option. This pilot option would enable states and tribes to target resources toward the most crucial Superfund activities. In addition, the need to process amendments to multiple CAs would be reduced and states and tribes could more easily address changing site and program needs.

### **C. Modify Priority Panel**

Regions and states are supportive of continuing a National Risk-Based Priority Panel to prioritize new start remedial actions, removal actions that cannot be undertaken within the region's base budget and

enforcement projects. Projects in these categories should be evaluated by the Panel. It is proposed that the Panel include a front-end state/regional prioritization panel. This two-tiered proposal has the regions, with full state participation, determine the relative priority of all projects in the region. Highest-ranking projects would advance to the National Panel.

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