

**NATIONAL ESTUARY PROGRAM FY 2012 FUNDING GUIDANCE
FOR NATIONAL ESTUARY PROGRAM DIRECTORS**

National Estuary Program FY 2012 Funding Guidance

This Funding Guidance contains 11 major sections and an Appendix. Individual sections can be accessed electronically by clicking (Ctrl + click) on the following hyperlinks:

- I. [**FY 2012 Deliverable Deadlines**](#) (page 3)
 - II. [**Expediting Funds Obligation**](#) (page 4)
 - III. [**Expediting Funds Expenditure**](#) (page 4)
 - IV. [**Management Conference-Approved FY 2012 Work Plan Contents**](#) (page 5)
 - V. [**Federal Government Performance and Results Act \(GPRA\) Reporting Requirements**](#)
 - A. [**Environmental Results**](#) (page 9)
 - B. [**Leveraged Resources**](#) (page 10)
 - VI. [**50 Percent Match Requirement**](#) (page 13)
 - VII. [**Required National Meeting Attendance**](#) (page 14)
 - VIII. [**NEP Program Evaluation**](#) (page 14)
 - IX. [**Fund-raising vs. Grant Writing Clarification**](#) (page 14)
 - X. [**Prohibition on Use of CWA Section 320 Funds by Association of National Estuary Programs**](#) (page 15)
 - XI. [**Conclusion**](#) (page 15)
- [**APPENDIX**](#) (page A-1)

I. Deliverable Deadlines

Please see Table 1 on page 3 for NEP FY 2012 reporting deadlines. Descriptions of each required deliverable can be accessed by clicking (Ctrl + click) on the hyperlinks.

II. Expediting Funds Obligation

The Federal government has adopted a policy promoting the expedited obligation of Federally-appropriated funds. This Funding Guidance document supports implementation of that policy by calling for the expedited obligation of Section 320 funds as described below:

- A. NEPs should begin work plan development in the fall, before the current fiscal year annual Appropriations Act is signed and before funding allocation information is available. In general, NEPs are encouraged to base early work plan drafts on the previous year's final work plan.
- B. To expedite project implementation once annual grant funds become available, NEPs should target proposed projects that could be completed in two years. Note that under the terms of Grants Policy 11-01 described in the Appendix, project periods cannot exceed seven years. This includes project periods for projects that have been granted no-cost extensions.
- C. NEPs are required to include the information described in section **IV.B** beginning on page 7 for each project proposal, with the exception of long-term infrastructure upgrade, targeted research, or complex restoration project proposals.
- D. Once EPA Headquarters provides annual funding allocation information, NEPs should immediately finalize draft work plans and provide them to Management Conferences for review and approval.
- E. If, during the course of Regional review of the full grant application, the Region proposes revisions to the draft work plan, the Management Conference should review and approve those proposed revisions in a timely manner.

III. Expediting Funds Expenditure

The Federal government also has made expedited funds expenditure a priority. EPA strongly urges its assistance agreement recipients, including the NEPs, to spend down funds in an expeditious manner, implementing and completing projects whenever possible within two years of the assistance award date. Note: funds that are not expended within two years could be vulnerable to being swept by the agency.

NEPs that provide sub-grants using Section 320 funds should consider taking one or more of the following steps to ensure timely funds expenditure and project implementation:

- A. NEPs that spend most of their CWA Section 320 funds on salaries and expenses should set an equivalent expenditure target for the 12-month period following the date when the NEP Federal FY 2012 assistance agreement is awarded. That expenditure amount must be drawn down by September 30, 2013.
- B. Every NEP should expedite spending 50 percent or more of the CWA Section 320 funds budgeted in an annual work plan, expending those funds within 18 months of the assistance award date.
- C. An NEP that is uncertain about whether or not it will spend its funds within two years **must discuss with the NEP Regional Coordinator what specific steps it should take to expedite the expenditure of its unspent funds.**

IV. Management Conference-Approved FY 2012 Work Plans

Annual work plans are required to provide the following information:

A. Summary Information

- Identify which Comprehensive Conservation and Management Plan (CCMP) goals the Program will focus on in the coming year.
- Provide a budget breakdown of proposed work plan expenditures, including match.
- List NEP staff and their official responsibilities.

B. Reporting Requirements for Each New and Ongoing Project

The annual work plan must include information about each element below **for every proposed new project and for every ongoing project.** The Program may provide the required information in either the same format used in the past four reporting years or in your own preferred format.

Please note: addressing nutrient pollution is one of EPA's national priorities, and EPA is aware that many NEP study areas are especially challenged by excess nutrient loads from both upstream and downstream sources. Many NEPs facing the challenge of nutrient pollution already are demonstrating leadership of local and state efforts by implementing projects to help protect against and mitigate nutrient impacts.

EPA supports those NEPs' continued efforts and beginning in FY 2012, encourages all other NEPs challenged by nutrient pollution to: (1) propose actions in FY 2012

that will help prevent or mitigate that pollution, (2) describe those actions under the “Clean Water Act Core Program” section below, and (3) report on results of major completed projects that targeted nutrient reduction in the section below entitled “**Reporting Requirements for Major Completed Projects/Activities**”. Also note that EPA considers addressing climate change as an EPA priority. Beginning in FY 2012, we encourage each NEP to consider proposing climate adaptation and/or climate vulnerability activities in its FY 2012 work plan and to report on results of major completed projects related to climate adaptation and/or climate vulnerability in the section entitled “**Reporting Requirements for Major Completed Projects/Activities**”.

See below for brief examples of what information is required for each work plan reporting element.

- Project/activity **Name**; indicate whether it is a “**New**” or “**Ongoing**” project.
- Project/activity **Objective(s)**; describe in one or more sentences; e.g., “The objectives are to restore twenty acres of coastal wetland habitat and to reduce non-point source runoff.”
- Project/activity **Description**; e.g., “This project will engage multiple partners in the restoration of wetlands that formerly served as habitat for several endangered bird species and helped filter storm water runoff from a nearby road.”
- **CCMP and Annual Work Plan Priority Problems/Goals** the project would address; e.g., “The project would address the CCMP priority problem and FY 2012 work plan goals of restoring native habitat and addressing water body pollution from non-point source runoff.”
- **(Potential) Partners and Their Role(s)** (if available); e.g., “The State Department of Natural Resources, the County Planning Department, the U.S. Fish and Wildlife Service, and community NGOs are potential partners on this effort.”
- **(Proposed) Outputs/Deliverables**; e.g., “Projected output includes a workshop for the public, 20 acres of restored endangered species wetland habitat and reduction in pollution of nearby stream from polluted runoff.”
- **Estimated Milestones**; e.g., “(1) Within three months of project start date, all partners will have been identified; (2) within six months of project start date, on-the-ground implementation will have begun; (3) within one year of start-up, 25 percent of site will have been restored . . . ”

- **Estimated Budget**; e.g., “Total budget is estimated at “\$20,000.”
- **Anticipated Results**
 - **Short-term Deliverables**; e.g., “Workshop to: (1) educate public about value of restored habitat and of non-point source runoff management, (2) garner support for project, and (3) invite participation in project implementation.”
 - **Intermediate Outcomes**; e.g., “Twenty acres of endangered species habitat will be restored and storm water runoff from nearby road into local stream will be decreased by 30 percent.”
 - **Changes (+/-) in pressure targets**; e.g., “Project will increase amount of local high-value habitat available to X and Y endangered species.
“Non-point source pollution from local roadway runoff will be reduced.”
 - **Long-term Outcomes**; e.g., “Increase in number of high-value habitat acres is expected to result in a 50 percent increase in native X and Y populations in the sub-watershed and to restore water quality in local stream to 1980 condition.”
- If applicable, the **CWA core program(s)** the project supports¹; e.g., “wetlands” and “controlling non-point source pollution on a watershed basis.”

C. Reporting Requirements for Major Completed Projects/Activities

- For **completed major projects**, the Program is required to indicate:
 - Project objective.
 - Name of lead project implementer(s).
 - Amount of Section 320 funds spent on project implementation. If project came in under budget, the Program is required to describe how remaining funds have or will be re-allocated to ensure full expenditure during the project period.
 - Project deliverable(s): see Section B., **Anticipated Results**, above, indicating what changed as a result of project implementation. Include outcomes and/or environmental results of projects to which Program staff contributed substantial time even if projects were funded by a non-NEP entity.
- The Program is required to highlight success stories/examples of transferable activities, tools, etc.

¹ CWA core programs are: (1) strengthening water quality standards, (2) improving water quality monitoring, (3) developing total maximum daily loads, (4) controlling non-point source pollution on a watershed basis, (5) strengthening National Pollutant Discharge Elimination System permits, and (6) supporting sustainable wastewater infrastructure. In addition, though the wetlands program is not officially a CWA core program, EPA encourages NEPs to report on their implementation of that program.

- If applicable, the Program should describe the primary or significant role it played in implementing a CWA core program project; use the following descriptions adapted from the 2007 NEP Program Evaluation Guidance:
 - Primary role: The Program played the central role implementing a CWA tool.
 - Significant role: The Program actively participated in, but did not lead, implementation of a CWA tool (e.g., the NEP worked with a partner to replace aging septic systems).
- If applicable, the Program should describe external constraints:
 - Overall work plan implementation and attainment of project-specific objectives.
 - Achievement of project milestones and/or ability to produce deliverables.
 - Which adaptive management strategies the Program used to address those constraints.

D. Documenting CWA Section 320 Funds Used for Travel

EPA considers personal, face-to-face contact with peers and colleagues essential for information sharing and technology transfer. The Agency also considers technology transfer from NEPs to other communities essential to promoting coastal watershed protection. If necessary, CWA Section 320 funds may be used to fund travel for the purpose of information sharing and technology transfer among stakeholders, partners, and other NEPs. Note that when using CWA Section 320 funds for travel, NEPs should use the least expensive means possible and minimize air travel whenever possible.

- An NEP may use CWA Section 320 funds to cover the cost of travel by staff and/or stakeholders from other NEPs or watershed organizations who collaborate with the Program on issues of common interest; stakeholders may include members of the general public and of environmental and public interest organizations, business or industry representatives, academicians, scientists, and technical experts.
- CWA Section 320 funds may be used to cover the cost of a conference, meeting, workshop, or event that advances CCMP implementation. CWA Section 320 funds also may be used to cover the cost of a project described in the annual work plan and the cost of renting facilities.
- CWA Section 320 funds **may not be used** to cover the travel costs of Federal employees.
- Federal policies require recipients of assistance agreement funds to document 12 months of travel supported by those Federal funds. Since NEP annual work plans

- are developed, approved by Management Conferences, and submitted to Regional Offices before the end of the current annual work plan year, i.e., FY 2012, this Guidance requests that FY 2012 annual work plans include documentation for:
 - Section 320-funded travel **taken** between October 1, 2011 and the date when each FY 2012 annual work plan is approved by an NEP's Management Conference; and
 - Section 320-funded **planned** travel for the remainder of FY 2012, i.e., travel that will occur by September 30, 2012.
- Travel documentation is required to include the following:
 - Number of personnel who have traveled and who plan to travel during FY 2012;
 - Travel dates for trips taken and planned for FY 2012;
 - Purpose of each trip taken and planned for FY 2012;
 - Location of site(s) visited and sites that will be visited during 2012; and
 - Final cost of trips taken plus estimated cost(s) of trips planned for remainder of FY 2012.

E. Use of Section 320 Funds for Land Purchase

Purchase or acquisition of land, including appraisals, and its operation and maintenance is an allowable use of Section 320 funds if purchase/acquisition is identified as one type of an action or activity in an approved CCMP. Also, real property (land) may be used as match if the land was not purchased or acquired using Section 320 or other Federal funds and if the way the land will be used as described in an approved CCMP. Please consult with your NEP Regional Coordinator and Regional Grants Project Officials for information about the appropriate documentation required for real estate transactions and for use as match.

V. Federal Government Performance and Results Act (GPRA) Reporting Requirements

A. Environmental Results

Government Performance and Results Act (GPRA) requires Federal programs to annually depict their progress toward meeting established program goals, Strategic Plan performance measures, and internal agency targets.

EPA's *FY 2011–2015 Strategic Plan*, Goal 2: Protecting America's Waters includes an annual performance target for the number of habitat acres protected and restored by

all 28 NEPs. To depict this progress, EPA requires each NEP to report on habitat protected and restored by the NEP and its partners between October 1 and September 30 of the current Federal fiscal year.

Please note that since EPA reports these data to Congress and posts them on the EPA website, habitat data entries must meet the following requirements to ensure accuracy and transparency:

- **Data reflect results** of project implementation and the project must have addressed a CCMP Action and/or an annual work plan goal.
- **Data clearly describe** on-the-ground habitat protection and restoration project work **completed** during Federal fiscal year 2012. **Note:** providing a grant or collecting data **does not qualify** as on-the-ground project work.
- **Entries must be complete**, i.e., data must be entered in each required field for every project.
- **Data for each project should be aligned** across all relevant fields, e.g., data entered into the Project Description field should be aligned with data entered into the Restoration Technique and Habitat fields.
- **Entries should reflect data for the entire Federal fiscal year;** NEP submissions are due in early September but must include habitat data for the entire reporting period, i.e., for the period October 1, 2011 through September 30, 2012. NEPs that need to estimate the number of acres to be protected and restored between the submission due date of September 10, 2012 and the end of the reporting period-- September 30, 2012-- must include that estimate in the data totals entered into NEPORT.
- **NEPs must comply with submission deadlines;** each NEP is required to enter all data by the deadline of September 10, 2012. Unless there is a documented malfunction of the NEPORT system that prevents data entry as described in this document, **NEP data not entered by September 10, 2012 will be excluded from the final habitat acreage tally.**
- A link to NEPORT is available at: <https://yosemite.epa.gov/water/neport.nsf> (enter your name and password)
- A link to a NEPORT *Frequently Asked Questions* document is available at: <https://yosemite.epa.gov/water/neport.nsf/helpview>
- For more information, please contact Nancy Laurson at: (202) 566-1247 or via e-mail at: laurson.nancy@epa.gov.

B. Leveraged Resources

As part of CCMP implementation, each NEP works to ensure its long-term financial sustainability by pursuing leveraging opportunities; i.e., financial or in-kind resources committed above and beyond the Federal funding provided under the Section 320 grant. Leveraged resources include both resources that are administered by the NEP

and those that are not. Leveraged resources are a performance measure in EPA's Strategic Plan. As in previous years, EPA Headquarters requests each NEP to report annually on those resources. Leveraging reports **are not** to include information for projects that would have been implemented without the NEP, e.g., projects that pre-date NEP involvement.

- Report leveraged resources information using NEPORT; links to NEPORT can be found at <https://yosemite.epa.gov/water/neport.nsf> (enter your name and password). EPA recognizes that in order to meet the September 12, 2012 deadline, the NEP and its partners may have to calculate a total for the reporting year by estimating the leveraged resources between September 12 and September 30. NEP Regional Coordinators will do a preliminary review and approval of data prior to EPA Headquarters approval. Unless there is a documented malfunction of the NEPORT system which prevents entry of data during the entry period, EPA requires each NEP to enter its completed leveraged resources reports into the NEPORT system by September 10, 2012. **NEP data not entered by September 10, 2012 will be excluded from the final leveraged resources tally.**

NEP Leveraging Role Definitions and Examples--NEP Directors and staff should use the following leveraging role definitions and examples to help them when entering NEP leveraging data into NEPORT. Please clearly explain the role the NEP played in obtaining the leveraged resources in NEPORT Field #3 (Project Description).

Primary role definition: the NEP Director, staff, and/or committees played the central role in obtaining leveraged resources that helped implement the CCMP.

For example, the NEP Director, staff, and/or committees:

- wrote a grant proposal that helped fund the implementation of a CCMP action;
- convened a workgroup that created a stormwater utility that raised funds for CCMP implementation;
- organized meetings with State, local government, and/or the public on the importance of habitat restoration that lead to the funding of habitat restoration actions in the CCMP;
- partnered with stakeholders so that non-NEP resources (e.g., Supplemental Environmental Project funds) were directed to CCMP activities;
- solicited and received funds and in-kind support for NEP operations (e.g., office space); or
- received CCMP project funds from partners based on NEP's demonstrated ability to execute work (i.e., a preferred contractor).

Significant role definition: the NEP Director, staff, and/or committees actively participated in, but did not lead, the effort to obtain additional resources for CCMP implementation.

For example, the NEP Director, staff, and/or committees:

- wrote parts of a grant proposal that was funded to help implement the CCMP;
- provided matching funds partners needed to obtain grants that helped implement the CCMP;
- established a local land trust that raised money for CCMP implementation;
- actively participated in a stormwater utility workgroup that raised funds for CCMP implementation;
- provided funds to partners for use as match for grants that helped implement the CCMP;
- developed lists of lands for acquisition to help implement the CCMP and funders used these lists to make acquisition decisions; or
- developed a list of priority projects that resulted in grants that helped implement the CCMP.

Support role definition: the NEP Director, staff, and/or committees played a minor role in channeling resources toward CCMP implementation.

For example, the NEP Director, staff, and/or committees:

- wrote a letter of support for a partner grant application that helped fund CCMP action(s);
- included habitat acquisition as a CCMP action, but other entities raised funds and identified lands for acquisition;
- included invasive species as a CCMP action, but other entities conducted activities that resulted in eradicating invasive species in the watershed; or
- included climate change adaptation as a CCMP action, but other entities conducted activities that helped implement this action.

Please note that NEP Regional Coordinators have responsibility for conducting quality assurance/quality control reviews needed to ensure the accuracy of reported leveraging data. NEP Regional Coordinators should make every effort to ensure that the data are accurate and be comfortable with the NEP's explanation of the role they played in obtaining leveraged resources. The role information should be clearly explained by the NEP in NEPORT Field #3 (Project Description).

For more information, please contact Tim Jones at (202) 566-1245 or via e-mail at jones.tim@epa.gov.

VI. 50 Percent Match Requirement

Section 320 requires that non-Federal partner contributions fund at least 50 percent of an NEP's aggregate funding for the work plan year. The Section 320 assistance agreement recipient is responsible for ensuring that this 50 percent match requirement is met. If a recipient's structure includes multiple organizations which each receive a portion of the annual Section 320 allocation, the combined match provided by those organizations must meet the Section 320 50 percent match requirement.

Recipients of Section 320 assistance agreement funds are required to show how they will match those funds over the project period, i.e., the match must be verifiable (well documented) and identified in the assistance agreement approved budget. At the end of a project period, the total match provided by the NEP grantee is required to equal the total Section 320 funds received during that period.

Cost-share can be in the form of cash or in-kind contributions or services with the following caveats:

- Other Federal agency or other EPA funds may not be used as cost-share for funds provided under Section 320.
- Project partner or other government agency staff serving in a professional capacity on NEP committees can be counted as match as long as they are not paid by the NEP or counted as match for another Federally-assisted program.
- In-kind contributions are resources like staff time, space and equipment (e.g. office/lab space, photocopiers), or other services provided by partners in support of Management Conference activity such as CCMP implementation and revising a CCMP.
- Volunteer services may be used as in-kind match if they are integral to and a necessary part of a project. Those services must be provided by a volunteer who has the requisite skill or is professionally qualified to carry out a specific task (e.g., a carpenter who volunteers to construct a wooden boardwalk). Services provided by volunteers who do not have project-specific skills or professional qualifications to carry out specific tasks may **not** be considered as in-kind match.

It is important to develop and maintain a recordkeeping system that depicts how professional staff and volunteer time is allocated across Program activities and projects. Accompanying documentation should indicate the dollar value of each task/activity and the time spent by each individual on every task/activity. When possible, sign-in sheets should be made available at the site of an activity so that the NEP has supporting documentation that depicts the services provided by every individual associated with the activity.

VII. Required National Meeting Attendance

Every NEP Director **is required** to attend the annual NEP national meeting held in the Washington, D.C. area, any EPA Region - NEP meetings convened by a Regional Administrator or his/her designee, and any scheduled NEP workshop directly targeting a specific NEP. Each FY 2012 final assistance agreement must include a Programmatic Term and Condition stating: “as a requirement of this Agreement, the grantee Director (NEP Director’s name) is required to attend all national or regional meetings called on behalf of the program.” Under extenuating circumstances such as a family emergency or a conflict in meeting dates caused by a previously-scheduled event, an NEP Director may delegate attendance at a required EPA meeting to a senior staffer from that NEP.

VIII. NEP Program Evaluation Every Five Years

EPA recently issued an update of the September 28, 2007 NEP Program Evaluation Guidance. The update announced that the cycle of Program Evaluations had been extended from three to five years, and featured a change to one reporting element.

The new Program Evaluation five-year cycle begins in FY 2012. Seven Programs will be evaluated during each of the following Federal fiscal years--2012, 2013, 2014, and 2015--such that all 28 programs will have been evaluated once over the Federal fiscal year period of 2012 - 2015. No evaluations will be conducted during the fifth year of the cycle--Federal fiscal year 2016. During Federal fiscal year 2016, a report summarizing the results of all 28 evaluations will be prepared and issued.

IX. Fund-raising vs. Grant Writing

Non-profit organizations, State, local, and Tribal governments are prohibited from conducting fund-raising activities with Federal funds. Examples of fund-raising activities are silent auctions and fund-raising dinners. These activities, and staff time dedicated to their planning and implementation, may be conducted only if paid for by non-Federal, non-match monies. Since fund-raising is a prohibited activity, NEPs should not propose fund-raising activities as Section 320 work plan activities.

Conversely, NEP proposal writing or grant application development whose purpose is to fund CCMP implementation projects is a permitted activity and is not considered to be a type of fund-raising. NEPs are permitted to charge grant-writing and proposal-writing to their grants, since they are required to plan and implement which activities require financial resources and grant writing is necessary to identifying those resources.

Grant/proposal writing costs are typically charged to a grant only as indirect costs (grant writing is considered a component of administrative tasks, which are built into a grant's indirect cost estimate). But, they can be categorized as direct costs as long as they are expressly approved by the NEP Regional Coordinator.

X. Prohibition on Use of Section 320 Funds by Association of National Estuary Programs (ANEP)

As stated in previous Funding Guidance documents, **ANEP membership, services, and lobbying activities must be paid for by non-Federal sources and cannot be used as match** for funds received from EPA under CWA Section 320 authority. EPA considers ANEP to be an important organization for building public awareness about and promoting technology transfer of approaches and tools to enhance estuarine and coastal resource protection and restoration. However, with respect to membership dues or services and lobbying activities, it is important to clearly demonstrate that ANEP: (1) is independent of EPA, (2) does not receive Federal funds allocated by EPA, and (3) is viewed as independent by its members and the public. EPA will notify each NEP of any changes to this policy.

XI. Conclusion

FY 2012 Management Conference-approved work plans **are due to NEP Regional Coordinators no later than June 1, 2012**. Please provide one electronic copy of your entire grant application package to Dr. Bernice Smith and one to your NEP EPA Headquarters Coordinator.

If you have any questions or need further information, please contact Dr. Bernice Smith at 202-566-1244 or via e-mail at smith.bernicel@epa.gov.

cc: Denise Keehner
Darrell Brown
Dr. Bernice Smith
Denise Benjamin-Sirmons, Grants and Interagency Agreement Management Division
Office of General Counsel
Regional Water Division Directors
National Estuary Program Regional Coordinators
National Estuary Program Headquarters Coordinators

APPENDIX

I. New Assistance Agreement Orders and Policies; Other Policy Updates

A. Orders and Policies Issued Since October 2010.

The following information highlights policies that apply to EPA assistance agreements awarded after October 2010, including NEP FY 2011 agreements. Detailed information about and copies of the policies are available at the listed websites, and Regional Grants Officials are available to provide additional clarification and guidance on the policies.

1. Grants Policy Issuance 11-01—Managing Unliquidated Obligations and Ensuring Progress under EPA Assistance Agreements.

Purpose: To ensure that recipients¹ of assistance agreement funds like the NEPs spend those funds and make progress implementing their work plans in a timely manner.

- Several EPA resource management offices are increasing their scrutiny of the pace of assistance agreement expenditures. EPA’s Office of Grants and Debarment has developed this new policy to promote more rapid expenditure of assistance agreement funds and to reduce unliquidated obligation balances. It requires that every assistance agreement include the following standard national Term and Condition language:

“EPA may terminate the assistance agreement for failure to make sufficient progress so as to reasonably ensure completion of the project within the project period, including any extensions. EPA will measure sufficient progress by examining the performance required under the work plan in conjunction with the milestone schedule, the time remaining for performance within the project period, and/or the availability of funds necessary to complete the project.”

- See Policy 11-01 at:
http://www.ogd/policy/final_grants_policy_issuance_11_03_state_grant_workplans.pdf

2. Federal Funding Accountability and Transparency Act (FFATA) Reporting Requirements for Sub-award and Executive Compensation.

Purpose: To describe new Federal reporting requirements for EPA assistance agreement recipients.

¹ A “recipient” is an organization receiving financial assistance directly from Federal awarding agencies to carry out a project or program. Recipients include public and private institutions of higher education, public and private hospitals, and other quasi-public and private non-profit organizations such as community action agencies, research institutes, educational associations, and health centers. 40 CFR Part 30.2

- If, during the preceding fiscal year, a prime recipient or sub-recipient¹ **meets all three criteria** listed below, then for each sub-award of \$25,000 or more that the recipient provides, the recipient must enter into the FFATA Subaward Reporting System (FSRS) the total compensation of its five most highly-paid executives:
 - the recipient received 80% or more of its annual gross revenue in Federal procurement contracts and financial assistance, **and**
 - the recipient received \$25,000,000 or more in annual gross revenues from Federal procurement contracts and financial assistance, **and**
 - there are no regularly-filed, publicly-available reports depicting the total compensation of the recipient’s five most highly-paid executives.
- The policy is available at: www.epa.gov/ogd/ and at: <http://usaspending.gov/news>

B. Updates of Food and Promotional Item Policies

1. Food Policy

Purpose: To describe allowable costs for light refreshments and meals at meetings, conferences, training workshops, and during outreach events like those sponsored by NEPs.

- Unless otherwise prohibited by the terms of the agreement, costs for Light Refreshments and Meals at meetings, conferences, training workshops, and outreach activities (events) are allowable under the OMB Cost Principles if reasonable and necessary for performance of an activity described in the scope of work of an assistance agreement. Determinations regarding the reasonableness and necessity of costs for light refreshments and meals will be made on a case by case basis. Guidelines for cost determinations are as follows:
 - **Eligibility Determination:** To be eligible for funding under assistance agreements, the light refreshment and meal costs must not be prohibited by statute, regulation, appropriation, or program guidance. This includes program guidance contained in a grant solicitation or the terms of the assistance agreement.
 - **Purpose Determination:** To be eligible for funding under assistance agreements, the purpose of the event must be to: (1) disseminate environmental information, (2) offer environmental or public health education, (3) discuss environmental science, policy, or programs, (4) conduct outreach to the public on environmental concerns or issues, (5) obtain community involvement in an activity described by the EPA approved scope of work, or (6) be otherwise necessary for the recipient to carry out the EPA approved scope of work. At least one condition above must be met for a purpose determination.

¹ A “prime” recipient is the recipient of record, the entity to which the Federal government makes an award.
A “sub-recipient” is a sub-awardee at any other level down from the prime recipient.

- **Time Determination:** The length or timing of the event must be such that light refreshments or meals are necessary for the effective and efficient achievement of its purpose.
 - **Budget Determination:** To be eligible for funding under assistance agreements, the costs for light refreshments and meals must be identified in the budget in order to determine the reasonableness for costs on a per event basis.
 - **Reasonableness Determination:** The recipient must demonstrate that the costs for light refreshments and meals are reasonable given such factors as the purpose of the event and costs for similar publicly funded business events at the facility. If the recipient cannot establish that the costs for meals and light refreshment represent prudent expenditures of public funds, the costs are unallowable.
- Note that costs for light refreshments and meals for recipient staff meetings and similar day-to-day activities are not allowable under EPA assistance agreements. When a recipient's scope of work provides information sufficient for the project officer to determine that the costs for light refreshments and meals are allowable under these standards and the Award Official approves the scope of work, the costs are allowable if otherwise reasonable (e.g. the prices for light refreshments and meals are not excessive).

2. Advertising and Public Relations Costs

Purpose: To describe allowable costs for promotional items and for public relations.

- Section 320 funds may be used to purchase promotional items and to fund public relations expenses that are included in an NEP's EPA-approved scope of work or detailed budget. Note that it is costs for promotional items and other advertising and public relations costs that are "specifically required" to perform work under the grant that are allowable. For example, Section 320 funds can be used to purchase promotional items for a conference or to communicate an environmental message if those activities were included in an EPA-approved scope of work.
- If a grantee indicates in the scope of work or detailed budget that it will purchase promotional items (e.g., for a conference in order to convey an environmental message) or incur other advertising and public relations costs, and EPA approves the scope of work/budget, the costs are allowable if otherwise reasonable (e.g. the per unit price for the items are not excessive). Detailed information regarding (1) allowable advertising and public relations costs, (2) unallowable advertising and public relations costs, and (3) requirements in determining whether costs are allowable under more than one Federal award is provided in the OMB Cost Principles.

C. Highlights of Major Assistance Agreement Policies and Orders Applicable to NEPs (from previous Funding Guidance Documents)

1. EPA Order No. 5700.7--“Environmental Results Under EPA Assistance Agreements”-- establishes policy for addressing environmental results under EPA assistance agreements. This Order can be accessed at: <http://www.epa.gov/ogd/grants/award/5700.7.pdf>.

Note the following clarifications about information collection and renewal of existing information collections:

- Description of an “Information Collection Request” (ICR): An ICR is a set of documents **that must be submitted by a Federal** agency to the Office of Management and Budget (OMB) for approval before that agency can legally collect information from the public. Without approval, enforcement of the collection may be at risk. A completed ICR provides an overview of the collection effort, including what information will be collected, why the information is needed, what members of the public would need to respond to the information collection request, and what is the estimated burden the request would place on the public.
- For NEPs that receive **cooperative agreement** assistance funding under Section 320:
 - If the recipient’s scope of work includes a survey or the collection of identical information from ten or more non-Federal respondents within a 12-month period, **and cooperative agreement funding will be used, then the EPA Project Officer, i.e., the NEP Regional Coordinator, must prepare and submit an ICR describing the survey** to the Office of Management and Budget (OMB) for review and approval;¹ This applies regardless of whether or not EPA has requested or influenced the design of the information collection.
 - If the recipient **does not charge** to its agreement the cost of designing and administering the survey, **and EPA has not requested and/or helped design the survey, then an ICR is not required.** Cooperative Agreement funds **may be used for analysis of the survey data and publication of the results.**
 - If an NEP cooperative agreement funding recipient includes monitoring, reporting, or recordkeeping requirements imposed on or requested of non-Federal respondents, **the EPA Project Officer, i.e., the NEP Regional Coordinator, must prepare and submit** an ICR to OMB for approval:
- For NEPs that receive **grant** funding under Section 320:
 - If the recipient’s scope of work includes the survey/collection of identical information from ten or more persons **and EPA has requested or wants to**

¹ Under the Paperwork Reduction Act, Federal agencies must obtain approval from the Office of Management and Budget (OMB) to collect information from the public. To comply with this requirement, Federal agencies must submit information collection requests explaining what information will be collected, why the information is needed, which members of the public would be asked to respond to the information request, and what estimated burden the request would place on the public.

influence, design, or develop survey activities, **the EPA Project Officer, i.e., the NEP Regional Coordinator, must prepare and submit** an ICR describing the survey to the Office of Management and Budget for review and approval.

- If EPA has **not** directed an NEP grantee to conduct the survey or directed the survey design or implementation, OMB approval is not required.
 - Since it typically takes six to nine months to develop and obtain OMB approval for an ICR, NEPs should plan ahead and start the process early in order to allow sufficient time before the proposed activity is scheduled to begin. Additional information about the information collection provision appears at: <http://www.epa.gov/icr>
2. EPA Order No. 5700.5A1, “Competition in Assistance Agreements” went into effect on January 1, 2008. In 2007, the Agency had issued a “Policy on Sub-awards under EPA Assistance Agreements” that applies to sub-award work under awards and supplemental amendments issued after May 15, 2007. The policy clarifies sub-recipient eligibility, addresses sub-award competition requirements, and provides guidance regarding the distinctions between procurement contracts and sub-awards. For more information, see: <http://www.epa.gov/ogd/grants/regulations.htm>

Under the terms of this Order, CWA Section 320 grants provided to NEPs under the regulations at 40 CFR Subpart 35.9000 are exempt from competition (consistent with the understanding reached at an August 9, 2007 meeting between the Office of Water and the Office of Grants and Debarment). However, in determining the distribution of EPA funds, the Management Conference for each NEP may consider whether it would be feasible and practical to have EPA conduct a competition for certain projects. In considering the suitability of competition, the Management Conference may consider such factors as the nature of the project, whether competition could foster innovation, and cost effectiveness. Note that if EPA, at the direction of a Management Conference, competes a portion of an NEP’s CWA Section 320 funds, EPA must compete the funds in compliance with the Competition Policy.

3. EPA Order 5700.8—EPA Policy on Assessing Capabilities of Non-Profit Applicants for Managing Assistance Awards. In October 2007, the Agency issued new National Term and Condition language requiring that staff from any non-profit whose application has been approved by a Region must complete mandatory on-line training before EPA will release award funds to the non-profit. The training--“EPA Grant Management Training for Non-Profit Applicants and Recipients”--must be completed by two of a non-profit’s employees--the assistance agreement project manager and the staffer authorized to draw down funds. The training course can be accessed at: <http://www.epa.gov/ogd/grants/regulations.htm>

D. Grants Policy Issuance (GPI) 10-01: Best Practices Guidance for the Allowability and Reasonableness of Certain Selected Items of Cost Under Assistance Agreements
Policy: This policy guidance addresses certain selected items of costs that are allowable and unallowable. Additionally, this policy guidance deals with the use of appropriated funds to purchase light refreshments and meals under assistance agreements awarded by EPA.

1. Entertainment Costs

- According to the OMB Cost Principles, the costs of entertainment are unallowable. The costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets, transportation, and gratuities) are unallowable.
- EPA grant funds may not be used for (1) evening receptions, or (2) evening banquets without a justification from the assistance recipient and express approval by an EPA Award Official.
- EPA considers evening receptions, banquets, or other events where alcohol is present to be entertainment. The Agency will not approve the use of grant funds for any portion of an event where alcohol is served, purchased, or otherwise available even if grant funds are not used to purchase the alcohol.

2. Costs for Alcoholic Beverages

- According to the OMB Cost Principles, the costs of alcoholic beverages are unallowable.
- Please note that EPA approval of the scope of work, work plan, or budget does not constitute approval of costs that would otherwise be unallowable based on the OMB Cost Principles. For example, EPA's approval of the budget for an event does not make costs for unallowable items such as alcohol or entertainment allowable.

3. Fund Raising and Investment Management Costs

- According to the OMB Cost Principles, the costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions are unallowable, regardless of the purpose for which the funds will be used.

4. Travel Costs

- The expenses for transportation, lodging, subsistence, and related items incurred by employees and program participants who are in travel status on official business related to activities by the recipient may be allowable. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the recipient's non-Federally-sponsored activities.

- In the absence of a written organization policy regarding travel costs acceptable to EPA or the organization's cognizant audit agency, the rates and amounts established under regulations issued to implement subchapter I of Chapter 57, Title 5, United States Code ("Travel and Subsistence Expenses Mileage Allowances") by the Administrator of General Services, or by the President (or his or her designee) shall apply to travel under Federal awards. However, recipients may not use EPA funds to pay the travel costs of Federal employees.

5. Program Participant Support Costs

- Travel allowances and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with meetings, conferences, symposia, or training projects are allowable with the prior approval of the Environmental Protection Agency (EPA) Award Official. An award with a work plan and budget containing or describing participant support costs demonstrates EPA approval. However, in the absence of specific statutory authority, Federal employees may not be program participants under EPA financial assistance awards.