

Dated: January 6, 2006.

**Eric McDonald,**

*Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.*

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**BILLING CODE 3810-FF-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-8021-9]

**Access to Confidential Business Information by Enrollees Under the Senior Environmental Employment Program**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has authorized grantee organizations under the Senior Environmental Employment (SEE) Program, and their enrollees; access to information which has been submitted to EPA under the environmental statutes administered by the Agency. Some of this information may be claimed or determined to be confidential business information (CBI).

**DATES:** Comments concerning CBI access will be accepted on or before January 23, 2006.

**ADDRESSES:** Comments should be submitted to: Susan Street, National Program Director, Senior Environmental Employment Program (MC 3650A), U.S. Environmental Protection Agency; Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Susan Street at (202) 564-0410.

**SUPPLEMENTARY INFORMATION:** The Senior Environmental Employment (SEE) program is authorized by the Environmental Programs Assistance Act of 1984 (Pub. L. 98-313), which provides that the Administrator may "make grants or enter into cooperative agreements" for the purpose of "providing technical assistance to: Federal, State, and local environmental agencies for projects of pollution prevention, abatement, and control." Cooperative agreements under the SEE program provide support for many functions in the Agency, including clerical support, staffing hot lines, providing support to Agency enforcement activities, providing library services, compiling data, and support in scientific, engineering, financial, and other areas.

In performing these tasks, grantees and cooperators under the SEE program and their enrollees may have access to

potentially all documents submitted under the Resource Conservation and Recovery Act, Clean Air Act, Clean Water Act, Safe Drinking Water Act, Federal Insecticide, Fungicide and Rodenticide Act, and Comprehensive Environmental Response, Compensation, and Liability Act, to the extent that these statutes allow disclosure of confidential information to authorized representatives of the United States (or to "contractors" under the Federal Insecticide, Fungicide, and Rodenticide Act). Some of these documents may contain information claimed as confidential.

EPA provides confidential information to enrollees working under the following cooperative agreements:

Cooperative Agreement No.	Organization
<b>National Association for Hispanic Elderly</b>	
CQ-832815 .....	NAHE
CQ-832816 .....	NAHE
CQ-832820 .....	NAHE
<b>National Asian Pacific Center on Aging</b>	
<b>National Caucus and Center on Black Aged, Inc.</b>	
CQ-832550 .....	NCBA
CQ-832790 .....	NCBA
CQ-832791 .....	NCBA
CQ-832792 .....	NCBA
CQ-832793 .....	NCBA
CQ-832794 .....	NCBA
CQ-832795 .....	NCBA
<b>National Council on the Aging, Inc.</b>	
CQ-832227 .....	NCOA
CQ-832396 .....	NCOA
CQ-832718 .....	NCOA
<b>National Older Workers Career Center</b>	
CQ-830918 .....	NOWCC
CQ-830969 .....	NOWCC
CQ-831021 .....	NOWCC
CQ-831022 .....	NOWCC
CQ-831023 .....	NOWCC
CQ-832729 .....	NOWCC
<b>Senior Service America, Inc.</b>	
CQ-832396 .....	SSAI
CQ-832427 .....	SSAI
CQ-832625 .....	SSAI
CQ-832626 .....	SSAI

Among the procedures established by EPA confidentiality regulations for granting access is notification to the submitters of confidential data that SEE grantee organizations and their enrollees will have access. 40 CFR 2.201(h)(2)(iii). This document is intended to fulfill that requirement.

The grantee organizations are required by the cooperative agreements to protect confidential information. SEE enrollees

are required to sign confidentiality agreements and to adhere to the same security procedures as Federal employees.

Dated: December 22, 2005.

**Susan Street,**

*SEE Program Manager, Customer Services Support Center (3661A).*

[FR Doc. E6-403 Filed 1-13-06; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-8021-6]

**Guidelines for Awarding Clean Water Act Section 319 Base Grants to Indian Tribes in FY 2006; Request for Proposals From Indian Tribes for Competitive Grants Under Clean Water Act Section 319 in FY 2006 (CFDA 66.460—Nonpoint Source Implementation Grants; Funding Opportunity Number EPA-OW-OWOW-06-2)**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of guidelines for Section 319 Base Grants and Request for Proposals for Section 319 Competitive Grants.

**SUMMARY:** This notice publishes EPA's national guidelines for the award of base grants and EPA's Request for Proposals (RFP) for the award of supplemental funding in the form of competitive grants under the Clean Water Act (CWA) section 319(h) nonpoint source (NPS) grants program to Indian Tribes in FY 2006. Section 319 of the CWA authorizes EPA to award grants to eligible Tribes for the purpose of assisting them in implementing approved NPS management programs developed pursuant to section 319(b). The primary goal of the NPS management program is to control NPS pollution through implementation of management measures and practices to reduce pollutant loadings resulting from each category or subcategory of NPSs identified in the Tribe's NPS assessment report developed pursuant to section 319(a). EPA intends to award a total of \$7,000,000 to eligible Tribes which have approved NPS assessments and management programs and "treatment-as-a-state" (TAS) status as of October 14, 2005. EPA expects the allocation of funds will be similar to the amount distributed in FY 2005, which included approximately \$2.8 million in base grants awarded to 84 Tribes and \$4.2 million awarded to 31 Tribes through a competitive process. Section A includes

EPA's national guidelines which govern the process for awarding base grants to all eligible Tribes, and section B is the national RFP for awarding the remaining funds on a competitive basis.

**DATES:** This notice is effective January 17, 2006.

**FOR FURTHER INFORMATION CONTACT:** Stacie Craddock, Office of Wetlands, Oceans, and Watersheds, Assessment and Watershed Protection Division, telephone: (202) 566-1204; fax: (202) 566-1331, e-mail: [craddock.stacie@epa.gov](mailto:craddock.stacie@epa.gov). Also contact the appropriate EPA Regional Tribal NPS Coordinator identified in section B.VII.

**SUPPLEMENTARY INFORMATION:**

**Background**

For the seventh year in a row, Congress has authorized EPA to award NPS control grants to Indian Tribes in FY 2006 in an amount that exceeds the statutory cap (in section 518(f) of the CWA) of 1/3 of 1 percent of the total section 319 appropriation. There is continuing recognition that Indian Tribes need increased financial support to implement NPS programs that address critical water quality concerns on Tribal lands. EPA will continue to work closely with the Tribes to assist them in developing and implementing effective Tribal NPS pollution programs.

EPA was pleased by the quality of the Tribes' work plans that formed the basis of the grants awarded to Tribes in FY 2005, which included approximately \$2.8 million in base grants awarded to 84 Tribes and \$4.2 million awarded to 31 Tribes for specific watershed projects through a competitive process. We believe that the FY 2005 grants were directed towards high-priority activities that will produce on-the-ground results that provide improved water quality. We look forward to working with Tribes again in FY 2006 to implement successful projects addressing the extensive NPS control needs throughout Indian country.

*Guidelines for Awarding CWA Section 319 Base Grants to Indian Tribes in FY 2006 (See Section A Below)*

Section 319 of the CWA authorizes EPA to award grants to eligible Tribes for the purpose of assisting them in implementing approved NPS management programs developed pursuant to section 319(b). The primary goal of the NPS management program is to control NPS pollution through implementation of management measures and practices to reduce pollutant loadings resulting from each category or subcategory of NPSs

identified in the Tribe's NPS assessment report developed pursuant to section 319(a). EPA will award section 319 base grants to eligible Tribes in the amount of \$30,000 or \$50,000 (depending on land area). Section 319 base funds may be used for a range of activities that implement the Tribe's approved NPS management program, including: Hiring a program coordinator; conducting NPS education programs; providing training and authorized travel to attend training; updating the NPS management program; developing watershed-based plans; and implementing, alone or in conjunction with other agencies or other funding sources, watershed-based plans and on-the-ground watershed projects.

*Request for Proposals From Indian Tribes for Competitive Grants Under Clean Water Act Section 319 in FY 2006 (See Section B Below)*

*Overview Information:*

This RFP is issued pursuant to section 319(h) of the CWA. Section 319 of the CWA authorizes EPA to award grants to eligible Tribes for the purpose of assisting them in implementing approved NPS management programs developed pursuant to section 319(b). The primary goal of the NPS management program is to control NPS pollution through implementation of management measures and practices to reduce pollutant loadings resulting from each category or subcategory of NPSs identified in the Tribe's NPS assessment report developed pursuant to section 319(a). EPA has set aside a portion of section 319 funds appropriated by Congress for competitive grant awards to Tribes for the purpose of funding: (1) The development of watershed-based plans; and/or (2) the implementation of watershed projects that implement a watershed-based plan; and/or (3) the implementation of other watershed projects not implementing a watershed-based plan. Tribes are strongly encouraged to submit proposals that develop and/or implement watershed-based plans designed to protect unimpaired waters and restore NPS-impaired waters. EPA believes that watershed-based plans provide the best means for preventing and resolving NPS problems and threats. Watershed-based plans provide a coordinating framework for solving water quality problems by providing a specific geographic focus, integrating strong partnerships, integrating strong science and data, and coordinating priority setting and integrated solutions. EPA anticipates awarding approximately 30 competitive grants, subject to availability of funds and the quality of applications submitted. Eligible Tribes may apply for

competitive funding by submitting a proposal for up to a maximum budget of \$150,000 of federal section 319 funding (plus the additional required match of the total project cost).

*Federal Agency Name:* EPA.

*Funding Opportunity Title:* Tribal Nonpoint Source Implementation Grants.

*Announcement Type:* Request for Proposals.

*Funding Opportunity Number:* EPA-OW-OWOW-06-2.

*Catalog of Federal Domestic*

*Assistance (CFDA) Number:* 66.460.

*Dates:*

Date EPA uses to determine eligibility to receive competitive 319 grants. October 14, 2005.

Deadline for Tribes to submit proposals to Region or electronically through grants.gov. March 1, 2006.

Headquarters notifies Regions/Tribes of selections for competitive 319 grants. May 5, 2006.

Tribes submit final grant application to Region for competitive 319 grants. June 5, 2006.

Other than the date EPA will use to determine eligibility to receive 319 grants, the dates above are the anticipated dates for those actions.

Dated: January 9, 2006.

**Benjamin H. Grumbles,**

*Assistant Administrator for Water.*

**Section A. Guidelines for Awarding Clean Water Act Section 319 Base Grants to Indian Tribes in FY 2006**

*I. General*

Each eligible Tribe will receive base funding in accordance with the following land area scale:

Square miles (acres)	Base amount
Less than 1,000 sq. mi. (less than 640,000 acres) .....	\$30,000
Over 1,000 sq. mi. (over 640,000 acres) .....	50,000

The land area scale is the same as used in previous years. EPA continues to rely upon land area as the deciding factor for allocation of funds because NPS pollution is strongly related to land use; thus land area is a reasonable factor that generally is highly relevant to identifying Tribes with the greatest needs (recognizing that many Tribes have needs that significantly exceed available resources).

Section 319 base funds may be used for a range of activities that implement the Tribe's approved NPS management program, including: Hiring a program coordinator; conducting NPS education programs; providing training and

authorized travel to attend training; updating the NPS management program; developing watershed-based plans; and implementing, alone or in conjunction with other agencies or other funding sources, watershed-based plans and on-the-ground watershed projects. In general, base funding should not be used for general assessment activities (e.g., monitoring the general status of reservation waters, which may be supported with CWA section 106 funding). EPA encourages Tribes to use section 319 funding, and explore the use of other funding such as CWA section 106 funding, to support project-specific water quality monitoring, data management, data analysis, assessment activities, and the development of watershed-based plans.

## II. Eligibility and Match Requirements

To be eligible for NPS base grants, a Tribe must: (1) Be federally recognized; (2) have an approved NPS assessment report in accordance with CWA section 319(a); (3) have an approved NPS management program in accordance with CWA section 319(b); and (4) have "treatment-as-a-state" (TAS) status in accordance with CWA section 518(e). To be eligible for NPS grants in FY 2006, Tribes must meet these eligibility requirements as of October 14, 2005 (as announced in the FY 2005 guidelines on December 22, 2004 at 69 FR 76733). Tribes should contact their EPA Regional Tribal NPS Coordinator for further information about the eligibility process (see section B.VII for Agency contact information).

Section 319(h)(3) of the CWA requires that the match for NPS grants is 40 percent of the total project cost. In general, as required in 40 CFR 31.24, the match requirement can be satisfied by any of the following: Allowable costs incurred by the grantee, subgrantee, or a cost-type contractor, including those allowable costs borne by non-federal grants; by cash donations from non-federal third parties; or by the value of third party in-kind contributions.

EPA's regulations also provide that EPA may decrease the match requirement to as low as ten percent if the Tribe can demonstrate in writing to the Regional Administrator that fiscal circumstances within the Tribe or within each Tribe that is a member of the intertribal consortium are constrained to such an extent that fulfilling the match requirement would impose undue hardship (see 40 CFR 35.635). In making grant awards to Tribes that provide for a reduced match requirement, Regions must include a brief finding in the final award package that the Tribe has demonstrated that it

does not have adequate funds to meet the required match.

## III. Application Requirements for Base Allocation Grants

### 1. Address To Request Application Package for Base Allocation Grants

Applicants may download individual grant application forms, or electronically request a paper application package and an accompanying computer CD of information related to applicants/grant recipients roles and responsibilities from EPA's Grants Web site by visiting: [http://www.epa.gov/ogd/grants/how\\_to\\_apply.htm](http://www.epa.gov/ogd/grants/how_to_apply.htm). Please note that only the narrative work plan needs to be included in the initial application. If your application is approved, a complete application package will need to be submitted by June 5, 2006.

### 2. Content and Form of Application Submission for Base Allocation Grants

Section 319 base funds may be used for a range of activities that implement the Tribe's approved NPS management program, including: Hiring a program coordinator; conducting NPS education programs; providing training and authorized travel to attend training; updating the NPS management program; developing watershed-based plans; and implementing, alone or in conjunction with other agencies or other funding sources, watershed-based plans and on-the-ground watershed projects.

The specific content and form of the application for the award of section 319 base grants is as follows:

#### a. Narrative Work Plan

Tribes must submit a work plan to receive base funding for FY 2006. All work plans must be consistent with the Tribe's approved NPS management program and conform to legal requirements that are applicable to all environmental program grants awarded to Tribes (see 40 CFR 35.505 and 35.507) as well as the grant requirements which specifically apply to NPS management grants (see 40 CFR 35.638). As provided in 40 CFR 35.507, 40 CFR 35.515, and 40 CFR 35.638, all work plans must include:

- i. Description of each significant category of NPS activity to be addressed;
- ii. Work plan components;
- iii. Work plan commitments for each work plan component;
- iv. Estimated funding amounts for each work plan component;
- v. Estimated work years for each work plan component;
- vi. Roles and responsibilities of the recipient and EPA in carrying out the work plan commitments; and

vii. Reporting schedule and a description of the performance evaluation process that will be used that accounts for: (a) A discussion of accomplishments as measured against work plan commitments; (b) a discussion of the cumulative effectiveness of the work performed under all work plan components; (c) a discussion of existing and potential problem areas; and (d) suggestions for improvement, including, where feasible, schedules for making improvements.

#### b. Work Plan To Develop a Watershed-Based Plan

If a Tribe submits a work plan to develop a watershed-based plan, it must include a commitment to incorporate the nine components of a watershed-based plan identified in section A.V.1 below.

#### c. Work Plan To Implement a Watershed-Based Plan

If a Tribe submits a work plan to implement a watershed-based plan, it must be accompanied by a statement that the Region finds that the watershed-based plan to be implemented includes the nine components of a watershed-based plan identified in section A.V.1 below.

## IV. Submission Dates and Times for Initial Applications for Base Funding

Eligible Tribes must submit to the appropriate EPA Regional Tribal NPS Coordinator applications for base funding by 5 p.m. local time on March 1, 2006 (see section B.VII for Agency contact information). Each EPA Region will review the proposed work plan for base funding and, where appropriate, recommend improvements to the plan by March 15, 2006. The Tribe must submit a final work plan by April 14, 2006. If a Tribe has not submitted an approvable work plan for base funding by April 14, its allocated amount will be added to the competitive pool which will be used to fund Tribal NPS competitive grants (see section B).

## V. Watershed-Based Plans

EPA strongly encourages Tribes to use section 319 funding for the development and/or implementation of watershed-based plans to protect unimpaired waters and restore NPS-impaired waters. EPA also encourages Tribes to explore the use of other funding such as CWA section 106 funding to support the development of watershed-based plans. EPA believes that watershed-based plans provide the best means for preventing and resolving NPS problems and threats. Watershed-based plans provide a coordinating framework for solving water quality problems by providing a specific geographic focus, integrating strong partnerships,

integrating strong science and data, and coordinating priority setting and integrated solutions. This section outlines the specific information that should be included in all watershed-based plans that are developed or implemented using section 319 funding. This information correlates with the elements of a watershed-based plan outlined in the NPS grants guidelines for States (*see FY 2004 Nonpoint Source Program and Grants Guidelines for States and Territories*, available at <http://www.epa.gov/owow/nps/cwact.html>). One significant difference from the State guidelines is that a watershed-based plan for Tribes provides for the integration of "water quality-based goals" (*see* element (c) below), whereas the State guidelines call for specific estimates of load reductions that are expected to be achieved by implementing the plan. EPA has incorporated this flexibility for Tribes in recognition that not all Tribes have yet developed water quality standards and many Tribes may need additional time and/or technical assistance in order to develop more sophisticated estimates of the NPS pollutants that need to be addressed. Where such information does exist, or is later developed, EPA expects that it will be incorporated as appropriate into the watershed-based plan.

To the extent that information already exists in other documents (*e.g.*, NPS assessment reports or NPS management programs), the information may be incorporated by reference into the watershed-based plan. Thus, the Tribe need not duplicate any existing process or document that already provides needed information.

#### 1. Components of a Watershed-Based Plan

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

b. A description of the NPS management measures that will need to be implemented to achieve a water quality-based goal described in element (c) below, as well as to achieve other watershed goals identified in the

watershed-based plan, and an identification (using a map or a description) of the critical areas which those measures will be needed to implement the plan.

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

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

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

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

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

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

i. A monitoring component to evaluate the effectiveness of the implementation efforts over time, measured against the criteria established under element (h) above.

EPA recognizes the difficulty of developing the information described above with precision and, as these guidelines reflect, believes that there must be a balanced approach to address this concern. On one hand, it is

absolutely critical that Tribes make, at the subcategory level, a reasonable effort to identify the significant sources; identify the management measures that will most effectively address those sources; and broadly estimate the expected water quality-based goals that will be achieved. Without such information to provide focus and direction, it is much less likely that a project that implements the plan can efficiently and effectively address the NPSs of water quality impairments. On the other hand, EPA recognizes that even with reasonable steps to obtain and analyze relevant data, the available information at the planning stage (within reasonable time and cost constraints) may be limited; preliminary information and estimates may need to be modified over time, accompanied by mid-course corrections in the watershed plan; and it often will require a number of years of effective implementation to achieve the goals. EPA fully intends that the watershed planning process described above should be implemented in a dynamic and iterative manner to assure that projects implementing the plan may proceed even though some of the information in the watershed plan is imperfect and may need to be modified over time as information improves.

#### 2. Scale and Scope of Watershed-Based Plans

The watershed-based plan should address a large enough geographic area so that its implementation addresses all of the significant sources and causes of impairments and threats to the waterbody in question. EPA recognizes that many Tribes may face jurisdictional limitations outside reservation boundaries. To the extent possible, EPA encourages Tribes to engage other partners and include mixed ownership watersheds when appropriate to solve the water quality problems (*e.g.*, Tribal, Federal, State, and private lands). While there is no rigorous definition or delineation for this concept, the general intent is to avoid single segments or other narrowly defined areas that do not provide an opportunity for addressing a watershed's stressors in a rational and economic manner. At the same time, the scale should not be so large as to minimize the probability of successful implementation.

Once a watershed-based plan that contains the information identified above has been established, it can be used as the foundation for preparing annual work plans. Like the NPS management program approved under section 319(b), a watershed-based plan may be a multi-year planning document. Whereas the NPS management program

provides overall program guidance to address NPS pollution on Tribal lands, a watershed-based plan focuses NPS planning on a particular watershed identified as a priority in the NPS management program. Due to the greater specificity of a watershed-based plan, it will generally have considerably more detail than a NPS management program, and identified portions may be implemented through highly specific annual work plans. While the watershed-based plan can be considered a subset of the NPS management program, the annual work plan can be considered a subset of the watershed-based plan.

A Tribe may choose to implement the watershed-based plan in prioritized portions (*e.g.*, based on particular segments, other geographic subdivisions, NPS categories in the watershed, or specific pollutants or impairments), consistent with the schedule established pursuant to item (f) above. In doing so, Tribes may submit annual work plans for section 319 grant funding that implement specific portions of the watershed-based plan. A watershed-based plan is a strategic plan for long-term success; annual work plans are the specific “to-do lists” to achieve that long-term success.

#### VI. Base Grant Requirements

##### 1. Performance Partnership Grants

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

A section 319 base grant awarded under this notice should not be included in a PPG unless the work plan upon which a decision is made to award the grant is included in the PPG. If a proposed PPG work plan differs significantly from the section 319 work plan approved for funding, the Regional Administrator must consult with the National Program Manager. (*See* 40 CFR 35.535). The purpose of this requirement is to avoid any potential that the project will not ultimately be implemented once commingled with other grant programs in a PPG.

##### 2. Intertribal Consortia

Some Tribes have formed intertribal consortia to promote cooperative work. An intertribal consortium is a partnership between two or more Tribes that is authorized by the governing bodies of those Tribes to apply for and receive assistance under this program. (*See* 40 CFR 35.502.) Individual Tribes who are a part of an intertribal consortia that is awarded a section 319 base grant may not also be awarded an individual section 319 base grant. (Note that individual Tribes may still be eligible to apply for competitive funds described below in Section B if they do not also submit a proposal for competitive funds as part of an intertribal consortium.) The intertribal consortium is eligible only if the consortium demonstrates that all its members meet the eligibility requirements for the section 319 program and authorize the consortium to apply for and receive assistance in accordance with 40 CFR 35.504. An intertribal consortium must submit to EPA adequate documentation of the existence of the partnership and the authorization of the consortium by its members to apply for and receive the grant. (*See* 40 CFR 35.504.)

##### 3. Non-Tribal Lands

The following discussion explains the extent to which section 319 grants may be awarded to Tribes for use outside the reservation. We discuss two types of off-reservation activities: (1) Activities that are related to waters within a reservation, such as those relating to sources upstream of a waterway entering the reservation; and (2) activities that are unrelated to waters of a reservation. As discussed below, the first type of these activities may be eligible; the second is not.

###### a. Activities That Are Related to Waters Within a Reservation

Section 518(e) of the CWA provides that EPA may treat an Indian Tribe as a State for purposes of section 319 of the CWA if, among other things, “the functions to be exercised by the Indian Tribe pertain to the management and protection of water resources which are \* \* \* within the borders of an Indian reservation” (*see* 33 U.S.C. 1377(e)(2)). EPA already awards grants to Tribes under section 106 of the CWA for activities performed outside of a reservation (on condition that the Tribe obtains any necessary access agreements and coordinates with the State, as appropriate) that pertain to reservation waters, such as evaluating impacts of upstream waters on water resources within a reservation. Similarly, EPA has

awarded section 106 grants to States to conduct monitoring outside of State borders. EPA has concluded that grants awarded to an Indian Tribe pursuant to section 319 may similarly be used to perform eligible section 319 activities outside of a reservation if: (1) The activity pertains to the management and protection of waters within a reservation; and (2) just as for on-reservation activities, the Tribe meets all other applicable requirements.

###### b. Activities That Are Unrelated to Waters of a Reservation

As discussed above, EPA is authorized to award section 319 grants to Tribes to perform eligible section 319 activities if the activities pertain to the management and protection of waters within a reservation and the Tribe meets all other applicable requirements. In contrast, EPA is not authorized to award section 319 grants for activities that do not pertain to waters of a reservation. For off-reservation areas, including “usual and accustomed” hunting, fishing, and gathering places, EPA must determine whether the activities pertain to waters of a reservation prior to awarding a grant.

##### 4. Administrative Costs

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

##### 5. Satisfactory Progress

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

specified in its NPS management program. The Regions must include brief explanations that support their determinations.

#### VII. Technical Assistance to Tribes

In addition to providing NPS grant funding to Tribes, EPA remains committed to providing continued technical assistance to Tribes in their efforts to control NPS pollution. During the past nine years, EPA has presented many workshops to Tribes nationwide to assist them in developing: (1) NPS assessments to further their understanding of NPS pollution and its impact on water quality; (2) NPS management programs to apply solutions to address their NPS problems; and (3) specific projects to effect on-the-ground solutions. The workshops have provided information on related EPA and other programs that can help Tribes address NPSs, including the provision of technical and funding assistance. Other areas of technical assistance include watershed-based planning, water quality monitoring, section 305(b) reports on water quality, and section 303(d) lists of impaired waters. EPA intends to continue providing NPS workshops to interested Tribes in FY 2006 and to provide other appropriate technical assistance as needed. EPA also intends to include special emphasis in the workshops on the development and implementation of watershed-based plans that are designed to address on-the-ground water quality improvements.

#### VIII. Anticipated Deadlines and Milestones for FY 2006 Base Grants

Date for Tribes to be eligible for 319 grants. October 14, 2005.

Tribes submit base grant initial application to Region. March 1, 2006 (anticipated).

Region comments on Tribe's base grant work plan. March 15, 2006 (anticipated).

Tribes submit final base grant work plan to Region. April 14, 2006 (anticipated).

Tribes submit final grant application to Region. June 5, 2006 (anticipated).

Other than the date EPA will use to determine eligibility to receive 319 grants, the dates above are the anticipated dates for those actions.

#### IX. Anticipated Deadlines and Milestones for FY 2007 Base Grants

Beginning in FY 2007, the schedule for submitting work plans and awarding section 319 base grants will be modified to expedite the grant awards process. These modifications are intended to ensure that award decisions are made

earlier in the fiscal year to provide adequate time for Tribes to implement projects within the applicable fiscal year.

Date for Tribes to be eligible for 319 grants. October 13, 2006.

Tribes submit base grant initial application to Region. December 1, 2006 (anticipated).

Region comments on Tribe's base grant work plan. December 15, 2006 (anticipated).

Tribes submit final base grant work plan to Region. January 16, 2007 (anticipated).

Tribes submit final grant application to Region. April 5, 2007 (anticipated).

Other than the date EPA will use to determine eligibility to receive 319 grants, the dates above are the anticipated dates for those actions.

### Section B. Request for Proposals From Indian Tribes for Competitive Grants under Clean Water Act Section 319 in FY 2006 (Funding Opportunity Number EPA-OW-OWOW-06-2)

#### I. Funding Opportunity Description for Competitive Grants

This RFP is issued pursuant to section 319(h) of the Clean Water Act (CWA). Section 319 of the CWA authorizes EPA to award grants to eligible Tribes for the purpose of assisting them in implementing approved nonpoint source (NPS) management programs developed pursuant to section 319(b). The primary goal of the NPS management program is to control NPS pollution through implementation of management measures and practices to reduce pollutant loadings resulting from each category or subcategory of NPSs identified in the Tribe's NPS assessment report developed pursuant to section 319(a). EPA has set aside a portion of the section 319 funds appropriated by Congress for competitive grant awards to Tribes for the purpose of funding: (1) The development of watershed-based plans; and/or (2) the implementation of watershed projects that implement a watershed-based plan; and/or (3) the implementation of other watershed projects not implementing a watershed-based plan. Tribes are strongly encouraged to submit proposals that develop and/or implement watershed-based plans designed to protect unimpaired waters and restore NPS-impaired waters.

Grants awarded under this RFP will advance the protection and improvement of water quality in support of Goal 2 (Clean and Safe Water), Objective 2 (Protect Water Quality), Sub-objective 1 (Protect and Improve Water Quality on a Watershed

Basis) of EPA's Strategic Plan (see <http://www.epa.gov/ocfo/plan/plan.htm>). In support of Sub-objective 2.2.1, and consistent with EPA Order 5700.7 on *Environmental Results under EPA Assistance Agreements* (see <http://www.epa.gov/ogd/grants/award/5700.7.pdf>), grants awarded under this RFP will be expected to accomplish various environmental outcomes and outputs as described below. Applicants must discuss anticipated environmental outcomes and outputs in proposed work plan objectives and performance measures.

Expected environmental outcomes mean the result, effect, or consequence that will occur from carrying out an environmental program or activity that is related to an environmental or programmatic goal or objective. Outcomes may be environmental, behavioral, health-related or programmatic in nature, must be quantitative, and may not necessarily be achieved within an assistance agreement funding period. Examples of outcomes from the grants to be awarded under this RFP may include but are not limited to: an increased number of NPS-impaired waterbodies that have been partially or fully restored to meet water quality standards or other water quality-based goals established by the Tribes; and/or an increased number of waterbodies that have been protected from NPS pollution.

Expected environmental outputs (or deliverables) refer to an environmental activity, effort, and/or associated work product related to an environmental goal or objective, that will be produced or provided over a period of time or by a specified date. Outputs may be quantitative or qualitative but must be measurable during an assistance agreement funding period. Examples of environmental outputs under the grants awarded under this RFP may include but are not limited to: a watershed-based plan, progress reports, or a particular number of on-the-ground management measures or practices installed or implemented during the project period. Including the environmental output of a watershed-based plan furthers progress towards achieving the specific indicator measure for Sub-objective 2.2.1 in EPA's Strategic Plan which measures the number of Tribes that have developed and begun to implement a watershed-based plan for Tribal waters (see Measure WQ-28, EPA's National Water Program Guidance for FY 2006 at <http://www.epa.gov/water/waterplan/#nwp06>).

## II. Award Information

In FY 2005, EPA awarded approximately \$4.2 million to 31 Tribes for specific watershed projects through a competitive process. EPA expects that the amount of competitive funding available in FY 2006 will be similar or slightly lower than the amount available in FY 2005, since the availability of competitive funding is dependent, in part, upon the amount of funding that remains after a portion is first distributed as base grants to all eligible Tribes (which may increase due to additional Tribes entering the NPS program).

EPA anticipates awarding approximately 30 competitive grants, subject to availability of funds and the quality of applications submitted under this RFP. Eligible Tribes may apply for competitive funding by submitting a proposal up to a maximum budget of \$150,000 of federal section 319 funding (plus the additional required match of the total project cost). Proposals evaluated, but not selected for this funding, may be retained for consideration for possible future awards if additional funding materializes. Any additional selections for award under this RFP based on additional funding will be in accordance with the rankings developed by the review Committee (discussed below in section B.V.2) and must be made within six months of the original competitive funding decisions.

EPA reserves the right to make partial awards by funding discrete activities, portions, or phases of the proposal. If EPA decides to partially fund the proposal, it will do so in a manner that does not prejudice any applicants or affect the basis upon which the proposal/application, or portion thereof, was evaluated and selected for award, and that maintains the integrity of the competition and the evaluation/selection process.

## III. Eligibility Information

### 1. Eligible Applicants

To be eligible for NPS grants, a Tribe or intertribal consortium must: (1) Be federally recognized; (2) have an approved NPS assessment report in accordance with CWA section 319(a); (3) have an approved NPS management program in accordance with CWA section 319(b); and (4) have "treatment-as-a-state" (TAS) status in accordance with CWA section 518(e). To be eligible for NPS grants in FY 2006, Tribes must meet these eligibility requirements as of October 14, 2005.

Some Tribes have formed intertribal consortia to promote cooperative work. An intertribal consortium is a

partnership between two or more Tribes that is authorized by the governing bodies of those Tribes to apply for and receive assistance under this program. (See 40 CFR 35.502.) Individual Tribes who are a part of an intertribal consortia that is awarded a section 319 competitive grant may not also be awarded an individual section 319 competitive grant. (Note that individual Tribes may still be eligible to apply for base funds described above in Section A if they do not also submit a proposal for base funds as part of an intertribal consortium.)

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

### 2. Cost Sharing or Matching

Section 319(h)(3) of the CWA requires that the match for NPS grants is 40 percent of the total project cost. In general, as required in 40 CFR 31.24, the match requirement can be satisfied by any of the following: Allowable costs incurred by the grantee, subgrantee, or a cost-type contractor, including those allowable costs borne by non-federal grants; by cash donations from non-federal third parties; or by the value of third party in-kind contributions.

EPA's regulations also provide that EPA may decrease the match requirement to as low as ten percent if the Tribe can demonstrate in writing to the Regional Administrator that fiscal circumstances within the Tribe or within each Tribe that is a member of the intertribal consortium are constrained to such an extent that fulfilling the match requirement would impose undue hardship. (See 40 CFR 35.635.) In making grant awards to Tribes that provide for a reduced match requirement, Regions must include a brief finding in the final award package that the Tribe has demonstrated that it does not have adequate funds to meet the required match.

Performance Partnership Grants (PPG) enable Tribes to combine funds from more than one environmental program grant into a single grant with a single budget. If the Tribe includes the section 319 competitive grant as a part of an approved PPG, the match requirement may be reduced to 5 percent of the allowable cost of the work plan budget

for the first 2 years in which the Tribe receives a PPG; after 2 years, the match may be increased up to 10 percent of the work plan budget (as determined by the Regional Administrator). (See 40 CFR 35.536).

A section 319 grant awarded under this RFP should not be included in a PPG unless the work plan upon which a decision is made to award the competitive grant is included in the PPG. If a proposed PPG work plan differs significantly from the section 319 work plan approved for funding under this RFP, the Regional Administrator must consult with the National Program Manager. (See 40 CFR 35.535). The purpose of this requirement is to avoid any potential that the project will not ultimately be implemented once commingled with other grant programs in a PPG.

### 3. Threshold Evaluation Criteria

In addition to applicant eligibility and cost-share (discussed above in sections B.III.1 and B.III.2, respectively), all of the following additional threshold evaluation criteria must be met in order for a Tribe's application to be evaluated under section B.V and be considered for award.

a. An individual Tribe (or intertribal consortium) may not be awarded competitive funding for more than one competitive grant proposal in a given year.

b. An individual Tribe (or intertribal consortium) may apply for competitive funding by submitting a proposal up to a maximum budget of \$150,000 of federal section 319 funding (plus the additional required match of the total project cost). If a Tribe submits a proposal that exceeds \$150,000 (of federal section 319 funding), it will be rejected from further consideration.

c. All applications must propose to fund activities that are related to waters within a reservation or they will be rejected. Section 319 grants may be awarded to Tribes for use outside the reservation only if they fund activities that are related to waters within a reservation, such as those relating to sources upstream of a waterway entering the reservation.

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

Section 518(e) of the CWA provides that EPA may treat an Indian Tribe as a State for purposes of section 319 of the CWA if, among other things, "the functions to be exercised by the Indian Tribe pertain to the management and protection of water resources which are \* \* \* within the borders of an Indian reservation" (see 33 U.S.C. 1377(e)(2)).

EPA already awards grants to Tribes under section 106 of the CWA for activities performed outside of a reservation (on condition that the Tribe obtains any necessary access agreements and coordinates with the State, as appropriate) that pertain to reservation waters, such as evaluating impacts of upstream waters on water resources within a reservation. Similarly, EPA has awarded section 106 grants to States to conduct monitoring outside of State borders. EPA has concluded that grants awarded to an Indian Tribe pursuant to section 319 may similarly be used to perform eligible section 319 activities outside of a reservation if: (1) The activity pertains to the management and protection of waters within a reservation; and (2) just as for on-reservation activities, the Tribe meets all other applicable requirements.

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

As discussed above, EPA is authorized to award section 319 grants to Tribes to perform eligible section 319 activities if the activities pertain to the management and protection of waters within a reservation and the Tribe meets all other applicable requirements. In contrast, EPA is not authorized to award section 319 grants for activities that do not pertain to waters of a reservation. For off-reservation areas, including "usual and accustomed" hunting, fishing, and gathering places, EPA must determine whether the activities pertain to waters of a reservation prior to awarding a grant.

d. All work plans must be consistent with the Tribe's approved NPS management program and conform to legal requirements that are applicable to all environmental program grants awarded to Tribes (*see* 40 CFR 35.505 and 35.507) as well as the legal requirements that specifically apply to NPS management grants (*see* 40 CFR 35.638). As provided in those regulations, all proposed work plans must include:

- i. Description of each significant category of NPS activity to be addressed;
- ii. Work plan components;
- iii. Work plan commitments for each work plan component, including anticipated environmental outcomes and outputs (as required by EPA Order 5700.7) and the applicant's plan for tracking and measuring its progress towards achieving the expected outcomes and outputs identified in Section B.I of this RFP;
- iv. Estimated funding amounts for each work plan component;
- v. Estimated work years for each work plan component;

vi. Roles and responsibilities of the recipient and EPA in carrying out the work plan commitments; and

vii. Reporting schedule and a description of the performance evaluation process that will be used that accounts for: (a) A discussion of accomplishments as measured against work plan commitments and anticipated environmental outcomes and outputs; (b) a discussion of the cumulative effectiveness of the work performed under all work plan components; (c) a discussion of existing and potential problem areas; and (d) suggestions for improvement, including, where feasible, schedules for making improvements.

#### IV. Application and Submission Information

EPA will respond to questions from individual applicants regarding threshold eligibility criteria, administrative issues related to the submission of the proposal/application, and requests for clarification about the announcement. Questions must be submitted before February 15, 2006 in writing to the appropriate EPA Regional Tribal NPS Coordinator and written responses will be posted on EPA's Web site at: <http://www.epa.gov/owow/nps/tribal>. In accordance with EPA's Competition Policy (EPA Order 5700.5A1), EPA staff will not meet with individual applicants to discuss draft proposals, provide informal comments on draft proposals, or provide advice to applicants on how to respond to ranking criteria. Applicants are responsible for the contents of their applications.

##### 1. Address To Request Application Package

Applicants may download individual grant application forms, or electronically request a paper application package and an accompanying computer CD of information related to applicants/grant recipients roles and responsibilities from EPA's Grants Web site by visiting: [http://www.epa.gov/ogd/grants/how\\_to\\_apply.htm](http://www.epa.gov/ogd/grants/how_to_apply.htm). Applicants may also apply electronically through <http://www.grants.gov> as explained below.

##### 2. Content and Form of Application Submission

Please note that only the one-page Standard Form 424 needs to be included in the initial application, along with the work plan narrative described in this RFP. If your application is selected, the entire grants package will need to be completed by June 5, 2006.

- a. Signed Standard Form 424 (one page)
- b. Narrative Work Plan

Tribes must submit a work plan following the required outline above in

section B.III.3.d to be considered for competitive funding for FY 2006.

#### 3. Submission Dates and Times for Proposals for Competitive Funding

You may submit either a paper proposal or an electronic proposal through <http://www.grants.gov> (but not both) for this announcement. If you submit a paper application, the appropriate EPA Regional Tribal NPS Coordinator must receive the SF 424 and proposed work plan described above for competitive funding by 5 p.m. local time on March 1, 2006 (*see* section B.VII for Agency contact information). If you submit your application electronically through <http://www.grants.gov>, you must meet the requirements for electronic submission outlined in section B.IV.6 below and your proposal must be received through <http://www.grants.gov> no later than 11:59 p.m. on March 1, 2006. Any application packages received after the due date will not be considered for funding.

#### 4. Funding Restrictions

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

#### 5. Confidential Business Information

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

#### 6. Submission Instructions for Electronic Applications Using Grants.gov

In lieu of hard copy submission, you may submit the proposal described above electronically through <http://www.grants.gov> as explained below. The electronic submission of your proposal

must be made by an official representative of your institution who is registered with Grants.gov. For more information, go to <http://www.grants.gov> and click on "Get Started," and then "For AORs" (Authorized Organizational Representative) on the left side of the page. *Note that the registration process may take a week or longer to complete.* If your organization is not currently registered with Grants.gov, please encourage your office to designate an AOR and ask that individual to begin the registration process as soon as possible.

To begin the application process for this grant program, go to <http://www.grants.gov> and click on "Apply for Grants." Then click on "Apply Step 1: Download a Grant Application Package and Application Instructions" to download the PureEdge viewer and obtain the application package ([https://www.apply.grants.gov/forms\\_apps\\_idx.html](https://www.apply.grants.gov/forms_apps_idx.html)). You may retrieve the application package by entering either the CFDA number of 66.460 or Funding Opportunity Number EPA-OW-OWOW-06-2 in the space provided. You may also be able to access the application package by clicking on the button at the bottom right side of the synopsis on <http://www.grants.gov> that says "Apply for Grants Electronically."

Your organization's AOR must submit your complete proposal electronically to EPA through Grants.gov (<http://www.grants.gov>) no later than 11:59 p.m. on March 1, 2006. The application package must include the following materials:

a. Signed Standard Form 424

Complete the form. There are no attachments. Please be sure to include organization fax number and e-mail address in Block 5 of the Standard Form 424.

b. Narrative Work Plan

The work plan must include the minimum components set forth in section B.III.3.d of this RFP and will be evaluated based on the selection criteria set forth below in section B.V.1 of this announcement. Applicants who elect to use <http://www.grants.gov> to apply will need to refer to section B.III.3.d of this RFP when preparing the work plan.

Documents a and b listed above should appear in the "Mandatory Documents" box on the Grants.gov Grant Application page.

For Document a, click on the SF424 form and then click "Open Form" below the box. The fields that must be completed will be highlighted in yellow. Optional fields and completed

fields will be displayed in white. If you enter an invalid response or incomplete information in a field, you will receive an error message. When you have finished filling out the form, click "Save." When you return to the electronic Grant Application Package page, click on the form you just completed, and then click on the box that says, "Move Form to Submission List." This action will move the document over to the box that says, "Mandatory Completed Documents for Submission."

For document b, you will need to attach electronic files containing the information required by section B.III.3.d of this RFP. Prepare your work plan and save it to your computer as an MS Word, PDF, or WordPerfect file. When you are ready to attach your work plan to the application package, click on "Project Narrative Attachment Form," and open the form. Click "Add Mandatory Project Narrative File," and then attach your work plan (previously saved to your computer) using the browse window that appears. You may then click "View Mandatory Project Narrative File Filename;" the file name should be no more than 40 characters long. If there are other attachments that you would like to submit to accompany your proposal, you may click "Add Optional Project Narrative File" and proceed as before. When you have finished attaching the necessary documents, click "Close Form." When you return to the "Grant Application Package" page, select the "Project Narrative Attachment Form" and click "Move Form to Submission List." The form should now appear in the box that says, "Mandatory Completed Documents for Submission."

Once you have finished filling out all of the forms/attachments and they appear in one of the "Completed Documents for Submission" boxes, click the "Save" button that appears at the top of the Web page. It is suggested that you save the document a second time, using a different name, since this will make it easier to submit an amended package later if necessary. Please use the following format when saving your file: "Applicant Name—FY06 Tribal 319 Competitive Grants—1st Submission" or "Applicant Name—FY06 Tribal 319 Competitive Grants—Back-up Submission." If it becomes necessary to submit an amended package at a later date, then the name of the 2nd submission should be changed to "Applicant Name—FY06 Tribal 319 Competitive Grants—2nd Submission."

Once your application package has been completed and saved, send it to your AOR for submission to U.S. EPA

through Grants.gov. Please advise your AOR to close all other software programs before attempting to submit the application package through Grants.gov.

In the "Application Filing Name" box, your AOR should enter your organization's name (abbreviate where possible), the fiscal year (e.g., FY06), and the grant category (e.g., Tribal 319 Grants). The filing name should not exceed 40 characters. From the "Grant Application Package" page, your AOR may submit the application package by clicking the "Submit" button that appears at the top of the page. The AOR will then be asked to verify the agency and funding opportunity number for which the application package is being submitted. If problems are encountered during the submission process, the AOR should reboot his/her computer before trying to submit the application package again. [It may be necessary to turn off the computer (not just restart it) before attempting to submit the package again.] If the AOR continues to experience submission problems, he/she may contact Grants.gov for assistance by phone at 1-800-518-4726 or e-mail at [support@grants.gov](mailto:support@grants.gov).

If you have not received a confirmation of receipt from EPA (not from [support@grant.gov](mailto:support@grant.gov)) within 30 days of the application deadline, please contact the appropriate EPA Regional Tribal NPS Coordinator identified in section B.VII below. Failure to do so may result in your application not being reviewed.

## V. Application Review Information

### 1. Selection Criteria for Competitive Grants

Tribes submitting proposals for competitive grants must comply with all of the threshold evaluation criteria described in section B.III.3 in order to be considered for further evaluation under this section. The EPA Regional Tribal NPS Coordinator will determine whether the proposals comply with the threshold evaluation criteria, and will forward proposals that do to EPA Headquarters NPS Control Branch for distribution to EPA's Watershed Project Review Committee. Proposals that do not comply with the threshold evaluation criteria will be rejected and not evaluated under this section.

EPA's Watershed Project Review Committee will evaluate proposals by assigning a value of 0 to 5 (with 5 being highest) for each factor described below based upon how well the following list of specific elements are represented in the work plan. Each factor has been assigned a specific weight which will be

multiplied (by a value of 0–5) to calculate a total point score for the particular factor. The scores for each factor are then combined to result in a total score for the overall work plan—the total maximum score available is 900.

EPA's Watershed Project Review Committee will evaluate proposals for competitive grants based upon the following evaluation factors (and corresponding weights):

a. The extent, and quality, to which the subcategories of NPS pollution are identified and described. (Weight = 20; 100 points maximum.)

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

b. The extent, and quality, to which the water quality problems or threats to be addressed are identified and described. (Weight = 20; 100 points maximum.)

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

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

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

specific management measures and practices to be implemented).

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

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

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

The work plan will be evaluated based upon the level of specificity of the budget in relation to each work plan component, and the extent to which it outlines the total operational and construction costs of the project (including match). Budget categories may include, but are not limited to, the following items: personnel; travel; equipment; supplies; contractual; and construction costs.

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

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

g. The extent to which the roles and responsibilities of the recipient and project partners in carrying out the work plan activities are specifically

identified. (Weight = 15; 75 points maximum.)

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

h. The extent to which the performance evaluation process includes specific, measurable, and objective factors that are clearly linked to specific work plan activities throughout the project period and the anticipated environmental outcomes and outputs. (Weight = 15; 75 points maximum.)

The work plan will be evaluated based on the extent to which the performance evaluation process includes specific, measurable, and objective factors that are clearly linked to specific work plan activities throughout the project period and how clearly it tracks and measures progress towards achieving the expected outcomes and outputs identified in Section B.I.

i. The extent, and quality, to which the proposal addresses one of the following four factors (for factors 1, 2, and 3 the applicant must include the information described in Attachment A in its work plan). (Weight = 40; 200 points maximum.)

1: The proposed work plan develops a watershed-based plan and implements a watershed-based plan.

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

If a Tribe submits a work plan to implement a watershed-based plan, it will be evaluated based on the extent to which it: Is accompanied by a statement that the Region finds that the watershed-based plan to be implemented includes the nine components of a watershed-

based plan identified in Attachment A; identifies and briefly summarizes the watershed-based plan that will be implemented; and describes how the proposed work plan will make progress towards achieving the overall goals of the watershed-based plan and the specific water quality-based goals identified in the watershed-based plan.

2: The proposed work plan develops a watershed-based plan and implements a watershed project (that does not implement a watershed-based plan).

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

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

3: The proposed work plan implements a watershed-based plan.

If a Tribe submits a work plan to implement a watershed-based plan, it will be evaluated based on the extent to which it: Is accompanied by a statement that the Region finds that the watershed-based plan to be implemented includes the nine components of a watershed-based plan identified in Attachment A; identifies and briefly summarizes the

watershed-based plan that will be implemented; and describes how the proposed work plan will make progress towards achieving the overall goals of the watershed-based plan and the specific water quality-based goals identified in the watershed-based plan.

4: The proposed work plan implements a watershed project that is a significant step towards solving NPS impairments or threats on a watershed-wide basis.

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

2. Review and Selection Process for Competitive Funding

The EPA Regional Tribal NPS Coordinators will determine whether the proposals comply with the threshold evaluation criteria described in section B.III.3, and will forward those proposals that meet the threshold evaluation criteria to EPA Headquarters NPS Control Branch by approximately March 15, 2006.

EPA will establish a Watershed Project Review Committee (Committee) comprised of nine EPA staff, including three EPA Regional State NPS Coordinators, three EPA Regional Tribal NPS Coordinators, two staff members of the EPA Headquarters NPS Control Branch, and one staff member of EPA's American Indian Environmental Office.

EPA Headquarters NPS Control Branch will forward copies of the proposed work plans for competitive funding to the Committee and hold a conference call with the Committee on or around March 29, 2006, to ensure

that all Committee members fully understand how to objectively and consistently apply the criteria discussed above. Scores for each proposal will be developed by each Committee member based on evaluating proposals against the factors identified above in accordance with the weighting system described in section B.V.1.

On or around April 26, 2006, the Committee will forward the scores for each proposal to EPA Headquarters NPS Control Branch. Based on these scores, EPA Headquarters NPS Control Branch will calculate the average score for each proposal and then rank the proposals based on the resulting average scores. On or around May 3, 2006, EPA Headquarters NPS Control Branch will send the resulting average scores and rankings to the Committee and hold a conference call to provide a final opportunity for members of the Committee to discuss the rankings based on the average scores. The Committee will then make funding recommendations to EPA Headquarters NPS Control Branch based on these rankings; however, in making the funding recommendations, in addition to considering the rankings, the Committee may also give priority consideration to high quality proposals that are designed to develop and/or implement a watershed-based plan. EPA Headquarters NPS Control Branch then will make the final funding decision based on the Committee's recommendations.

The Committee will use the following "Competitive Work Plan Evaluation Review Sheet" to rank proposed work plans in accordance with the evaluation criteria discussed above.

**Competitive Work Plan Evaluation Review Sheet**

Tribe Name \_\_\_\_\_  
 Reviewer \_\_\_\_\_ (Weight x Value = Score) (Value: 0 is Lowest; 5 is Highest) (Maximum "Max" Score is 900)

Weight	Evaluation factors	Value	Score
20 .....	(1) The extent, and quality, to which the subcategories of NPS pollution are identified and described. Comments (strengths, weaknesses):	5 Max ..	100 Max.
20 .....	(2) The extent, and quality, to which the water quality problems or threats to be addressed are identified and described. Comments (strengths, weaknesses):	5 Max ..	100 Max.
20 .....	(3) The extent, and quality, to which the goals and objectives of the project specifically identify the project location and activities to be implemented. Comments (strengths, weaknesses):	5 Max ..	100 Max.
20 .....	(4) The extent to which significant water quality benefits will be achieved as a result of the project. Comments (strengths, weaknesses):	5 Max ..	100 Max.
15 .....	(5) The specificity of the budget in relation to each work plan component. Comments (strengths, weaknesses):	5 Max ..	75 Max.
15 .....	(6) The level of detail in relation to the schedule for achieving the activities identified in the work plan. Comments (strengths, weaknesses):	5 Max ..	75 Max.
15 .....	(7) The extent to which the roles and responsibilities of the recipient and project partners in carrying out the work plan activities are specifically identified. Comments (strengths, weaknesses):	5 Max ..	75 Max.

Weight	Evaluation factors	Value	Score
15 .....	(8) The extent to which the performance evaluation process includes specific, measurable, and objective factors that are clearly linked to specific work plan activities throughout the project period and the anticipated environmental outcomes and outputs. Comments (strengths, weaknesses):	5 Max ..	75 Max.
40 .....	(9) The extent, and quality, to which the proposal addresses one of the following four factors: (a) The proposed work plan develops a watershed-based plan and implements a watershed-based plan. (b) The proposed work plan develops a watershed-based plan and implements a watershed project (that does not implement a watershed-based plan). (c) The proposed work plan implements a watershed-based plan. (d) The proposed work plan implements a watershed project that is a significant step towards solving NPS impairments or threats on a watershed-wide basis. Comments (strengths, weaknesses):	5 Max ..	200 Max.
Total Maximum Score		900	

3. Anticipated Announcement and Award Dates

On or around May 5, 2006, EPA Headquarters NPS Control Branch will select the proposals for award and announce to the Regions which Tribes' work plans have been selected for competitive funding. These Tribes will be notified immediately by phone or e-mail, with a written letter to follow.

VI. Award Administration Information

1. Award Notices

Following final selections, all applicants will be notified regarding their application's status.

a. EPA anticipates notification to successful applicant(s) will be made by the appropriate EPA Regional Tribal NPS Coordinator via telephone, electronic, or postal mail on or around May 5, 2006. This notification, which advises that the applicant's proposal has been selected and is being recommended for award, is not an authorization to begin performance. The award notice signed by the EPA award official is the authorizing document and will be provided through postal mail. At a minimum, this process can take 90 days from the date of selection notification.

b. EPA anticipates notification to unsuccessful applicant(s) will be made by the appropriate EPA Regional Tribal NPS Coordinator via electronic or postal mail within 15 calendar days after final selection of successful applicants. In either event, the notification will be sent to the signer of the application.

c. The appropriate EPA Regional Tribal NPS Coordinator will notify applicants which do not meet the threshold eligibility criteria under section B.III.3 within 15 calendar days of EPA's decision on applicant eligibility.

2. Administrative and National Policy Requirements

a. A listing and description of general EPA regulations applicable to the award of assistance agreements may be viewed

at: [http://www.epa.gov/ogd/AppKit/applicable\\_epa\\_regulations\\_and\\_description.htm](http://www.epa.gov/ogd/AppKit/applicable_epa_regulations_and_description.htm).

b. All applicants are required to provide a Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number when applying for a Federal grant or cooperative agreement. Applicants can receive a DUNS number, at no cost, by calling the dedicated tollfree DUNS Number request line at 1-866-705-5711, or visiting the D&B Web site at: <http://www.dnb.com>.

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

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

3. Reporting

As provided in 40 CFR 31.40, 31.41, 35.507, 35.515, and 35.638, all section 319 grants must include a set of reporting requirements and a process for evaluating performance. Some of these requirements have been explicitly incorporated into the required work plan components that all Tribes must include in order to receive section 319 grant funding.

The work plan components required for section 319 funding, specifically those relating to work plan commitments and timeframes for their accomplishment, facilitate the management and oversight of Tribal grants by providing specific activities and outputs by which progress can be monitored. The performance evaluation process and reporting schedule (both work plan components) also establish a formal process by which accomplishments can be measured. Additionally, the satisfactory progress determination (for Tribes that received section 319 funding in the preceding fiscal year) helps ensure that Tribes are making progress in achieving the goals in their NPS management programs.

Regions will ensure that the required evaluations are performed according to the negotiated schedule (at least annually) and that copies of evaluation reports are placed in the official files and provided to the recipient.

4. Dispute Resolution

Assistance agreement competition-related disputes will be resolved in accordance with the dispute resolution procedures published in 70 FR 3629, 3630 (January 26, 2005) which can be found at <http://a257.g.akamaitech.net/7/257/2422/01jan20051800/edocket.access.gpo.gov/2005/05-1371.htm>. Copies of these procedures may also be requested by contacting the EPA Regional Tribal NPS Coordinator listed in section B.VII below.

*VII. Agency Contacts: EPA Headquarters and Regional Tribal NPS Coordinators*

EPA Headquarters—Stacie Craddock, Office of Wetlands, Oceans, and Watersheds, Assessment and Watershed Protection Division, telephone: 202–566–1204; e-mail: [craddock.stacie@epa.gov](mailto:craddock.stacie@epa.gov).

Region I—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont; Warren Howard; mailing address: U.S. EPA Region I, 1 Congress Street, Suite 1100, Boston, MA 02203; telephone: 617–918–1587; e-mail: [howard.warren@epa.gov](mailto:howard.warren@epa.gov).

Region II—New Jersey, New York, Puerto Rico, U.S. Virgin Islands; Donna Somboonlakana; mailing address: U.S. EPA Region II, 290 Broadway—24th Floor (MC DEPP:WPB), New York, New York 10007; telephone: 212–637–3700; e-mail: [somboonlakana.donna@epa.gov](mailto:somboonlakana.donna@epa.gov).

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

Region IV—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee; Yolanda Brown; mailing address: U.S. EPA Region IV, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA 30303; telephone: 404–562–9451; e-mail: [brown.yolanda@epa.gov](mailto:brown.yolanda@epa.gov).

Region V—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin; Daniel Cozza; mailing address: U.S. EPA Region V, 77 West Jackson Blvd. (MC: WS–15J), Chicago, IL 60604; telephone: 312–886–7252; e-mail: [cozza.daniel@epa.gov](mailto:cozza.daniel@epa.gov).

Region VI—Arkansas, Louisiana, New Mexico, Oklahoma, Texas; George Craft; mailing address: U.S. EPA Region VI, 1445 Ross Avenue, Dallas, TX 75202; telephone: 214–665–6684; e-mail: [craft.george@epa.gov](mailto:craft.george@epa.gov).

Region VII—Iowa, Kansas, Missouri, Nebraska; Peter Davis; mailing address: U.S. EPA Region VII, 901 N. 5th Street, Kansas City, KS 66101; telephone: 913–551–7372; e-mail: [davis.peter@epa.gov](mailto:davis.peter@epa.gov).

Region VIII—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming; Mitra Jha; mailing address: U.S. EPA Region VIII, 999 18th Street, Suite 300 (MC: EPR–EP), Denver, CO 80202; telephone: 303–312–6895; e-mail: [jha.mitra@epa.gov](mailto:jha.mitra@epa.gov).

Region IX—Arizona, California, Hawaii, Nevada, American Samoa, Mariana Islands, Guam; Tiffany Eastman; mailing address: U.S. EPA Region IX, 75 Hawthorne Street (MC: WTR–10), San Francisco, CA 94105;

telephone: 1–800–735–2922, relay #415–972–3404; e-mail: [eastman.tiffany@epa.gov](mailto:eastman.tiffany@epa.gov).

Region X—Alaska, Idaho, Oregon, Washington; Krista Mendelman; mailing address: U.S. EPA Region X, 1200 6th Avenue (MC: OWW–137), Seattle, WA 98101; telephone: 206–553–1571; e-mail: [mendelman.krista@epa.gov](mailto:mendelman.krista@epa.gov).

*VIII. Other Information*

**1. Anticipated Deadlines and Milestones for FY 2007 Competitive Grants**

Beginning in FY 2007, the schedule for submitting work plans and awarding section 319 competitive grants will be modified to expedite the grant awards process. These modifications are intended to ensure that award decisions are made earlier in the fiscal year to provide adequate time for Tribes to implement work plans within the applicable fiscal year. The following estimated dates are provided in order to assist Tribes in planning for EPA's FY 2007 funding cycle for competitive grants:

Date for Tribes to be eligible for 319 grants. October 13, 2006.

Tribes submit competitive grant proposals. December 1, 2006 (anticipated).

Headquarters notifies Regions/Tribes of selections. March 5, 2007 (anticipated).

Tribes submit final grant application to Region. April 5, 2007 (anticipated).

Other than the date EPA will use to determine eligibility to receive 319 grants, the dates above are the anticipated dates for those actions.

**2. Right to Reject All Proposals**

EPA reserves the right to reject all proposals or applications and make no award as a result of this announcement. The EPA Grant Award Officer is the only official that can bind the Agency to the expenditure of funds for selected projects resulting from this announcement.

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

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

2. A description of the NPS management measures that will need to be implemented

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

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

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

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

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

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

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

9. A monitoring component to evaluate the effectiveness of the implementation efforts over time, measured against the criteria established under element 8 above.

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**ENVIRONMENTAL PROTECTION AGENCY**

[EPA–HQ–OPP–2004–0337; FRL–7757–3]

**Ferbam Reregistration Eligibility Decision; Notice of Availability; Correction**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice; correction.