



STATE OF VERMONT
JOINT FISCAL OFFICE

MEMORANDUM

To: Joint Fiscal Committee members
From: Daniel Dickerson, Fiscal Analyst
Date: August 20, 2019
Subject: Grant Request – JFO #2969

Enclosed please find one (1) item, which the Joint Fiscal Office has received from the Administration.

JFO #2969 – \$43,551 from the U.S. Environmental Protection Agency (EPA) to the VT Dept. of Environmental Conservation (DEC). The Department will utilize the funding to provide sub-grants to five Vermont food and beverage businesses for the purposes of establishing anaerobic digesters as an alternative to wastewater and landfill disposal. The EPA announced the grant award in April and the DEC subsequently submitted a “pre-spending notice” to JFO in early July to notify JFC members that it would be spending state dollars on the digester project prior to receiving the final grant award from EPA (EPA had given DEC authority to use grant dollars to backfill State funds). JFO staff determined that DEC should submit the full grant acceptance request as one package since the final award from EPA was forthcoming. The EPA made the final award on 7/31/2019, and the award letter is included in the grant materials.

[JFO received 8/09/19]

Please review the enclosed materials and notify the Joint Fiscal Office (Daniel Dickerson at (802) 828-2472; ddickerson@leg.state.vt.us) if you have questions or would like an item held for legislative review. Unless we hear from you to the contrary by September 4, 2019 we will assume that you agree to consider as final the Governor’s acceptance of these requests.

State of Vermont
 Department of Finance & Management
 109 State Street, Pavilion Building
 Montpelier, VT 05620-0401

Agency of Administration

[phone] 802-828-2376
 [fax] 802-828-2428

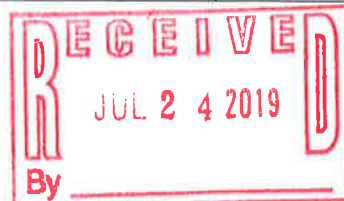
**STATE OF VERMONT
 FINANCE & MANAGEMENT GRANT REVIEW FORM**

Grant Summary:	EPA grant to ANR-DEC to help fund the implementation of an anaerobic digester to generate energy from food waste from Vermont food and beverage businesses.				
Date:	7/24/2019				
Department:	Department of Environmental Conservation				
Legal Title of Grant:	Supporting Local Infrastructure for Anaerobic Digestion				
Federal Catalog #:	66.808				
Grant/Donor Name and Address:	US Environmental Protection Agency, 5 Post Office Square, Suite 100, Boston, MA 02109-3912				
Grant Period:	7/1/2019	To:	9/30/2020		
Grant/Donation	\$43,551				
	SFY 1	SFY 2	SFY 3	Total	Comments
Grant Amount:	\$32,664	\$10,887	\$	\$43,551.00	No State matching funds.
Position Information:	# Positions	Explanation/Comments			
Additional Comments:					
Department of Finance & Management		<i>MS</i>	(Initial)		
Secretary of Administration		<i>BZ</i>	(Initial)		
Sent To Joint Fiscal Office		<i>8/9/19</i>	Date		



STATE OF VERMONT REQUEST FOR GRANT (*) ACCEPTANCE (Form AA-1)

BASIC GRANT INFORMATION				
1. Agency:	Agency of Natural Resources			
2. Department:	Department of Environmental Conservation			
3. Program:	Environmental Assistance Office			
4. Legal Title of Grant:	Supporting Local Infrastructure for Anaerobic Digestion			
5. Federal Catalog #:	66.808			
6. Grant/Donor Name and Address: US Environmental Protection Agency, 5 Post Office Square, Suite 100, Boston, MA 02109-3912,				
7. Grant Period:	From: 07/01/2019		To: 9/30/2020	
8. Purpose of Grant: Increase utilization of anaerobic digesters for management of food and beverage process wastes, as an alternative to wastewater or landfill disposal				
9. Impact on existing program if grant is not Accepted: Without this grant, food and beverage businesses generating high-strength process wastes may not be able to implement side-streaming of their high-strength process wastes. The value to businesses of participating in the Business Sustainability Cohorts, through which they commit to reduce environmental impacts in wastewater, waste, water, and energy, will be diminished, leading to fewer participants and less reduction in critical metrics.				
10. BUDGET INFORMATION				
	SFY 1	SFY 2	SFY 3	Comments
Expenditures:	FY 20	FY 21	FY	
Personal Services	\$	\$	\$	
Operating Expenses	\$	\$	\$	
Grants	\$32,664	\$10,887	\$	
Total	\$32,664	\$10,887	\$	
Revenues:				
State Funds:				
Cash	\$	\$	\$	
In-Kind	\$	\$	\$	
Federal Funds:				
(Direct Costs)	\$	\$	\$	
(Statewide Indirect)	\$	\$	\$	
(Departmental Indirect)	\$	\$	\$	
Other Funds:				
Grant (source EPA)	\$32,664	\$10,887	\$	
Total	\$32,664	\$10,887	\$	
Appropriation No:		Amount:	\$	
			\$	
6140020000		32,664	\$	
			\$	
			\$	
			\$	



STATE OF VERMONT REQUEST FOR GRANT (*) ACCEPTANCE (Form AA-1)

			\$
		Total	\$432,664

PERSONAL SERVICE INFORMATION

11. Will monies from this grant be used to fund one or more Personal Service Contracts? Yes No
 If "Yes", appointing authority must initial here to indicate intent to follow current competitive bidding process/policy.

Appointing Authority Name: _____ Agreed by: _____ (initial)

12. Limited Service Position Information:	# Positions	Title
Total Positions		

12a. Equipment and space for these positions: Is presently available. Can be obtained with available funds.

13. AUTHORIZATION AGENCY/DEPARTMENT

I/we certify that no funds beyond basic application preparation and filing costs have been expended or committed in anticipation of Joint Fiscal Committee approval of this grant, unless previous notification was made on Form AA-1PN (if applicable):

	Signature: <i>Joana Pallito</i>	Date: <i>7/18/19</i>
	Title: <i>Acting DEC Commissioner</i>	
	Signature: _____	Date: _____
	Title: _____	

14. SECRETARY OF ADMINISTRATION

<input checked="" type="checkbox"/>	Approved: _____ <small>(Secretary or designee signature)</small>	Date: <i>7/29/19</i>
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15. ACTION BY GOVERNOR

<input checked="" type="checkbox"/>	Check One Box: Accepted		
<input type="checkbox"/>	Rejected	<small>(Governor's signature)</small> <i>[Signature]</i>	Date: <i>8/10/19</i>

16. DOCUMENTATION REQUIRED

Required GRANT Documentation	
<input type="checkbox"/> Request Memo <input type="checkbox"/> Dept. project approval (if applicable) <input type="checkbox"/> Notice of Award <input type="checkbox"/> Grant Agreement <input type="checkbox"/> Grant Budget	<input type="checkbox"/> Notice of Donation (if any) <input type="checkbox"/> Grant (Project) Timeline (if applicable) <input type="checkbox"/> Request for Extension (if applicable) <input type="checkbox"/> Form AA-1PN attached (if applicable)

End Form AA-1

(*) The term "grant" refers to any grant, gift, loan, or any sum of money or thing of value to be accepted by any agency, department, commission, board, or other part of state government (see 32 V.S.A. §5).

MEMO

To: Senator Ann Cummings, Chair, Joint Fiscal Committee

Through: Susanne Young, Secretary of Administration
Emily Boedecker, Commissioner of Department of Environmental Conservation *EB*
Tracy LaFrance, Department of Environmental Conservation Financial Director

From: Kim Greenwood, Director of Environmental Compliance, Department of Environmental Conservation

Cc: David Pasco

Date: June 24, 2019

Re: Pre-AAI Notice to Conduct Work on Supporting Local Infrastructure for Anaerobic Digestion Grant

Attached: Form AA-1PN (separate)
Work timeline from grant proposal
EPA press release announcing grant award
E-mail from EPA allowing pre-award costs to be incurred

Attached is a Form AA-1PN requesting authorization for the DEC Environmental Compliance Division, to begin work as described in its submittal to the Supporting Local Infrastructure for Anaerobic Digestion grant, Federal Catalog No. 66.808; Funding Opportunity Number EPA-OLEM-ORCR-SC1801.

The Department is requesting commencement of this work prior to grant award for the following reasons:

- the work is time-sensitive;
- receipt of funds has been delayed by EPA (EPA's original timeline estimated funds would be awarded in January (see attached); and
- EPA has provided notice that the grant has been awarded
- EPA has provided reasonable assurances that pre-award costs will be covered (see email from EPA)
- The grant work involves construction and the 2019 construction season is currently underway.

The work is directly tied to the Department's Business Sustainability Cohorts, which are already underway, and timely execution of the work outlined in the grant is critical to successfully meeting the objectives.

The costs that the Department expects to incur prior to award finalization relate only to staff time to launch the grant work. Because most grant funds will be distributed through subawards, work must begin now to allow adequate time to issue a state Request for Proposals, review proposals, draft contracts, create guidance, and coordinate with internal DEC programs as well as other state agencies.

No subaward contracts will be executed without a finalized award from EPA.

We believe beginning work in advance of award finalization to be relatively low risk. EPA issued a press release about our award in April (see attached). Their grant administrator has also indicated in an email that we may incur costs before finalization, and that they will specifically approve those costs in the award document (see attached). In the event that funding is not received from EPA, funds from a current Pollution Prevent Grant will be used.

EPA Press Release

News Releases

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News Releases from Region 01

EPA to Award \$43,551 to Food Waste Management and Infrastructure Project in Vermont

04/09/2019

Contact Information:

Emily Bender (bender.emily@epa.gov)

617-918-1037

Montpelier, VT — Today, the U.S. Environmental Protection Agency (EPA) announced that the Vermont Department of Environmental Conservation was selected to receive funding for projects to help reduce food waste and loss and divert food waste from landfills by expanding anaerobic digester capacity in the United States. These projects further the federal government's efforts set forth in the *Winning on Reducing Food Waste Initiative*.

"Last fall, EPA, USDA, and FDA came together to create the Winning on Reducing Food Waste Initiative to elevate and streamline our efforts across the federal government," said **EPA Administrator Andrew Wheeler**. "Funding these innovative projects not only demonstrates EPA's commitment to this initiative, but also supports waste management infrastructure that can transform food waste into fuel or fertilizer."

Anaerobic digestion is a process used in waste management to break down organic materials such as food waste, scraps, manure and sewage sludge that could otherwise contribute to methane emissions in landfills. Through this process, food waste gets a second useful life as renewable energy, fertilizers and soil additives.

"Vermont makes the finest beer, cheese, and other specialty food products in the nation, but businesses and town wastewater treatment facilities may not have the infrastructure needed to handle high strength wastes like whey and spent brewery yeast," said **Vermont Department of Environmental Conservation (DEC) Commissioner Emily Boedecker**. "With this grant funding we can help food and beverage makers send waste to nearby anaerobic digesters, turning a waste problem into an energy resource."

The **Vermont Department of Environmental Conservation** has been selected to receive \$43,551 of EPA funds to purchase and install storage tanks and pipes and conduct wastewater sampling for five food and beverage businesses. This infrastructure will enable these businesses to anaerobically digest their organic waste.

Other entities selected for this funding include:

The **City of Madison, Wisconsin** has been selected to receive \$39,000 of EPA funds to assess the feasibility of developing a regional organic waste collection program for the city and surrounding communities in Dane County. If deemed viable, this organic waste collection program and digestion facility could create biogas and compost from organic materials that are discarded by households, restaurants and grocery stores.

The **Washington State University's Energy Program** has been selected to receive \$27,500 of EPA funds to conduct workshops in Washington state that promote anaerobic digestion projects by wastewater treatment facilities, food processing companies, municipal solid waste agencies, and agriculture producers. The workshops will include detailed market knowledge and innovative approaches to sharing costs in developing anaerobic digestion infrastructure.

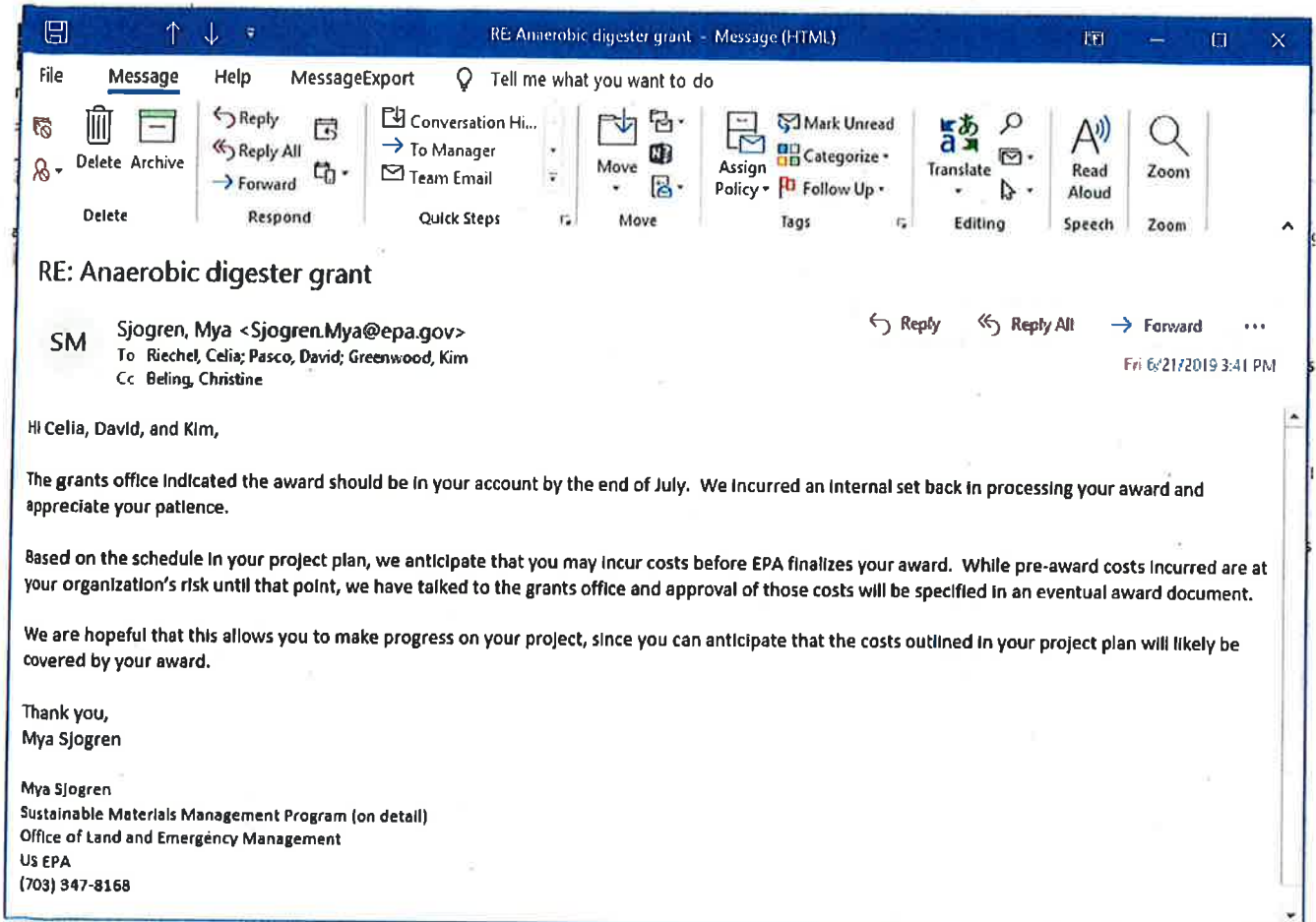
EPA anticipates the next round of funding for local anaerobic digestion infrastructure will take place later in 2019.

Background: In the United States, around 95 percent of the food we discard ends up in landfills and combustion facilities. Anaerobic digestion is a strategy used to help address this problem and is included in EPA's [food recovery hierarchy](#), a tool developed by EPA that is used by those outside the federal government looking to implement effective food waste reduction strategies that work best for their unique businesses and communities. Today, EPA along with the U.S. Department of Agriculture, and the U.S. Food and Drug Administration is hosting an event where state and local governments, as well as their non-profit partners, will share best practices on these and other strategies in the hierarchy that have helped reduce food waste in their communities. To view the event live, beginning at 2 p.m. ET, visit www.epa.gov/live.

For more information on anaerobic digestion, visit <https://www.epa.gov/anaerobic-digestion>.

[Contact Us](#) to ask a question, provide feedback, or report a problem.

Email from EPA grant coordinator allowing spending in advance of award finalization



RE: Anaerobic digester grant - Message (HTML)

File Message Help MessageExport Tell me what you want to do

Delete Archive Reply Reply All Forward Conversation Hi... To Manager Team Email Move Assign Policy Categorize Follow Up Mark Unread Translate Read Aloud Zoom

RE: Anaerobic digester grant

SM Sjogren, Mya <Sjogren.Mya@epa.gov>
To: Riechel, Celia; Pasco, David; Greenwood, Kim
Cc: Beling, Christine

Reply Reply All Forward

Fri 6/21/2019 3:41 PM

Hi Celia, David, and Kim,


The grants office indicated the award should be in your account by the end of July. We incurred an internal set back in processing your award and appreciate your patience.

Based on the schedule in your project plan, we anticipate that you may incur costs before EPA finalizes your award. While pre-award costs incurred are at your organization's risk until that point, we have talked to the grants office and approval of those costs will be specified in an eventual award document.

We are hopeful that this allows you to make progress on your project, since you can anticipate that the costs outlined in your project plan will likely be covered by your award.

Thank you,
Mya Sjogren

Mya Sjogren
Sustainable Materials Management Program (on detail)
Office of Land and Emergency Management
US EPA
(703) 347-8168

	U.S. ENVIRONMENTAL PROTECTION AGENCY Cooperative Agreement	GRANT NUMBER (FAIN): 83950901 MODIFICATION NUMBER: 0 PROGRAM CODE: X1	DATE OF AWARD 07/31/2019
		TYPE OF ACTION New	MAILING DATE 08/07/2019
		PAYMENT METHOD: ACH	ACH# 10114
		RECIPIENT TYPE: State	
RECIPIENT: Vermont D.E.C. 1 National Life Drive Main Building, 2nd Floor Montpelier, VT 05620-3522 EIN: 03-6000274		PAYEE: Vermont D.E.C. Attn: Financial Director 1 National Life Drive Main Building Montpelier, VT 05620-3522	
PROJECT MANAGER Celia Riechel 1 National Life Drive Main Building, 2nd Floor Montpelier, VT 05620-3522 E-Mail: celia.riechel@vermont.gov Phone: 802-477-2669		EPA PROJECT OFFICER Mya Sjogren 1200 Pennsylvania Ave, NW, 5306P Washington, DC 20460 E-Mail: Sjogren.mya@epa.gov Phone: 202-564-2213	
EPA GRANT SPECIALIST Shana Etheridge 1200 Pennsylvania Ave, NW Washington, DC 20460 , 3903R E-Mail: Etheridge.Shana@epa.gov Phone: 202-564-9777			
PROJECT TITLE AND DESCRIPTION Infrastructure to enable anaerobic digestion of food and beverage process waste This project will fund the purchase and installation of storage tanks, piping, associated supplies, the purchase of a composite sampler, and laboratory analysis of wastewater samples, to enable businesses participating in food and beverage sector "cohorts" to separate and divert high strength process wastes to serve as anaerobic digester feedstocks. The infrastructure will be installed in businesses participating in Cohorts, which are businesses who formally commit to making improvements in multiple areas such as energy efficiency, water use, and waste generation, and to work towards membership in the VT Green Business Program, administered by EAO.			
BUDGET PERIOD 07/01/2019 - 02/28/2022	PROJECT PERIOD 07/01/2019 - 02/28/2022	TOTAL BUDGET PERIOD COST \$43,551.00	TOTAL PROJECT PERIOD COST \$43,551.00
NOTICE OF AWARD			
<p>Based on your Application dated 11/28/2018 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$43,551. EPA agrees to cost-share <u>100.00%</u> of all approved budget period costs incurred, up to and not exceeding total federal funding of \$43,551. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.</p>			
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)		AWARD APPROVAL OFFICE	
ORGANIZATION / ADDRESS Grants and Interagency Agreement Management Division 1200 Pennsylvania Ave, NW Mail code 3903R Washington, DC 20460		ORGANIZATION / ADDRESS Environmental Protection Agency Office of Land and Emergency Management 1200 Pennsylvania Ave, NW Washington, DC 20460	
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY			
Digital signature applied by EPA Award Official for Jill Young - Chief - Grants Management Branch Phillip Schindel - Award Official delegate			DATE 07/31/2019

EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 43,551	\$ 43,551
EPA In-Kind Amount	\$	\$	\$ 0
Unexpended Prior Year Balance	\$	\$	\$ 0
Other Federal Funds	\$	\$	\$ 0
Recipient Contribution	\$	\$	\$ 0
State Contribution	\$	\$	\$ 0
Local Contribution	\$	\$	\$ 0
Other Contribution	\$	\$	\$ 0
Allowable Project Cost	\$ 0	\$ 43,551	\$ 43,551

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.808 - Solid Waste Management Assistance Grants	Solid Waste Disposal Act: Sec. 8001	2 CFR 200 2 CFR 1500 and 40 CFR 33

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
-	1931MRP007	1920	B	31M	000DA2	4183			43,551
									43,551

Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$6,092
2. Fringe Benefits	\$2,361
3. Travel	\$0
4. Equipment	\$0
5. Supplies	\$3,124
6. Contractual	\$1,000
7. Construction	\$0
8. Other	\$29,481
9. Total Direct Charges	\$42,058
10. Indirect Costs: <u>24.51%</u> Base Salaries&Wages	\$1,493
11. Total (Share: Recipient <u>0.00</u> % Federal <u>100.00</u> %.)	\$43,551
12. Total Approved Assistance Amount	\$43,551
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$43,551
15. Total EPA Amount Awarded To Date	\$43,551

Administrative Conditions

A. EPA General Terms and Conditions Effective 10-01-2018

The recipient agrees to comply with the current EPA general terms and conditions available at : <https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-october-1-2018>. These terms and conditions are in addition to the assurances and certifications made as a part of the award and the terms , conditions, or restrictions cited throughout the award.

The EPA repository for the general terms and conditions by year can be found at <http://www.epa.gov/grants/grant-terms-and-conditions>.

B. Prompt Payment Act

In accordance with Section 2(d) of the Prompt Payment Act (P.L. 97-177), Federal funds may not be used by the recipient for the payment of interest penalties to contractors when bills are paid late nor may interest penalties be used to satisfy cost sharing requirements . Obligations to pay such interest penalties will not be obligations of the United States .

C. The recipient understands that none of the funds for this project (including funds contributed by the recipient as cost sharing) may be used to pay for the travel of Federal employees or for other costs associated with Federal participation in this project . Except however, if a Federal agency is selected through the recipient's procurement process to carry out some of the work as a contractor to the recipient , funds may be used to allow necessary Federal travel and other costs associated with Federal participation in this project.

D. UTILIZATION OF SMALL , MINORITY AND WOMEN 'S BUSINESS ENTERPRISES (MBE/WBE)

GENERAL COMPLIANCE , 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements , contained in 40 CFR, Part 33.

REPORTING PROVISION

Based on EPA's review of the planned budget, this award does not meet the condition below and is not subject to the reporting requirements of the Disadvantaged Business Enterprise (DBE) Program.

However, if during the performance of the award the total of all funds expended for direct procurement by the recipient and procurement under subawards or loans in the "Other" category exceeds \$250,000, annual reports will be required in accordance with the reporting paragraph below and you are required to notify the Regional or Headquarters point of contact defined in the correspondence condition , if applicable, for additional instructions .

The recipient also agrees to request prior approval from EPA for procurements that may activate DBE Program reporting requirements .

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR, Part 33, Section 33.502; however, the other requirements outlined in 40 CFR Part 33 remain in effect, including the Good Faith Efforts requirements as described in 40 CFR Part 33 Subpart C and Fair Share Objectives negotiation as described in 40 CFR Part 33 Subpart D and explained below .

MBE/WBE REPORTING , 40 CFR, Part 33, Subpart E

When required, MBE/WBE reports must be submitted annually. The recipient agrees to complete and

submit a “MBE/WBE Utilization Under Federal Grants and Cooperative Agreements” report (EPA Form 5700-52A) on an annual basis. The current EPA Form 5700-52A can be found at the EPA Grantee Forms Page at <https://www.epa.gov/grants/epa-grantee-forms>.

MBE/WBE reporting is required annually for assistance agreements where there are funds budgeted for procuring construction, equipment, services and supplies, including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the “Other” category with a cumulative total that exceed the threshold amount of \$250,000, including amendments and/or modifications. The recipient must make reporting a requirement of all sub-awards/loans. All procurement actions are reportable, not just that portion which exceeds \$250,000.

When completing the annual report, recipients are instructed to check the box titled “annual” in section 1B of the form. For the final report, recipients are instructed to check the box titled “annual” and the box indicated for the “last report” of the project in section 1B of the form. Annual reports are due by October 30th of each year. Final reports are due by October 30th or 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on total procurements. Recipients with expended and/or budgeted funds for procurement are required to report annually whether the planned procurements take place during the reporting period or not. If no budgeted procurements take place during the reporting period, the recipient should check the box in section 5B when completing the form.

FAIR SHARE OBJECTIVES , 40 CFR, Part 33, Subpart D

This assistance agreement is a Technical Assistance Grant (TAG); or the award amount is \$250,000 or less; or the total dollar amount of all of the recipient’s financial assistance agreements from EPA in the current Federal fiscal year is \$250,000 or less. Therefore, the recipient of this assistance agreement is exempt from the fair share objective requirements of 40 CFR, Part 33, Subpart D, and is not required to negotiate fair share objectives/goals for the utilization of MBE/WBEs in its procurements.

SIX GOOD FAITH EFFORTS , 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained :

- (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules , where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process . This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process .
- (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- (e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

CONTRACT ADMINISTRATION PROVISIONS , 40 CFR, Section 33.302

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

BIDDERS LIST , 40 CFR, Section 33.501(b) and (c)

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

E. Payment to consultants. EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors shall be limited to the maximum daily rate for a Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. As of January 1, 2019, the limit is \$638.16 per day and \$79.77 per hour. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with their normal travel reimbursement practices).

Subagreements with firms for services which are awarded using the procurement requirements in Subpart D of 2 CFR 200, are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. See 2 CFR 1500.9.

F. PRE-AWARD COSTS

In accordance with 2 CFR 1500.8, the grantee may change the pre-award costs (both Federal and non-Federal matching shares) incurred from **07/12/2019** to the actual award date provided that such costs were contained in the approved application and all costs are incurred within the approved budget period.

G. Rights to inventions made under this assistance agreement are subject to the provisions of Title 37 Code of Federal Regulations (CFR), Part 401, 'Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements', as revised through the date of this assistance agreement.

Programmatic Conditions

A. PERFORMANCE REPORTING

(1) Quarterly Reports: The recipient will submit quarterly reports highlighting work status, progress, difficulties encountered, preliminary results and a statement of activity anticipated during the subsequent reporting period. In accordance with 2 CFR Parts 200 and 1500 (specifically, 200.328 monitoring and reporting program performance), the recipient agrees to submit performance reports that include brief information on each of the following areas:

- a. comparison of actual accomplishments to the outputs/outcomes established in the work plan for the period;
- b. the reasons for slippages if established outputs/outcomes were not met;
- c. additional pertinent information, including when appropriate, including analysis and information of cost overruns; and
- d. changes of key personnel concerned with the project.

(2) In accordance with 2 CFR 200.328 (d) (1), the recipient agrees to inform the EPA Project Officer as soon as problems, delays or adverse conditions become known which will materially impair the ability to

meet the outputs/outcomes specified in the assistance agreement work plan . This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation .

(3) Final Report: In accordance with grant regulations (2 CFR 200.328), the recipient agrees to submit to the EPA Project Officer within 90 days after the expiration or termination of the approved project period a final report documenting project activities over the entire project period .

(4) Sufficient Progress: EPA may terminate the assistance agreement for failure of the recipient 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 workplan 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 .

(5) Subawards: The recipient must report on its subaward monitoring activities under 2 CFR 200.331(d). Such reporting include:

- a. Summaries of results from financial and programmatic reports .
- b. Summaries of findings from site visits and/or desk reviews to ensure effective subrecipient performance.
- c. Environmental results the subrecipient achieved .

B. SUBSTANTIAL FEDERAL INVOLVEMENT

(1) Monitoring Progress: EPA will closely monitor the recipient performance to verify expected results proposed by the recipient. The EPA Project Officer or Technical Contact will maintain substantial involvement in the conduct of this project, including collaborative efforts with the recipient's Project Manager in planning and monitoring project activities and evaluation and review of progress throughout the phases of the project. The recipient will discuss the reporting elements for the information presented in the quarterly progress reports with the EPA Project Officer .

(2) Review and Comment: EPA may:

- a. Review and comment on any proposed changes in the work plan and/or budget including tasks/deliverables and reports prepared under the cooperative agreement. However, the recipient will make the final decision on the content of these products.
- b. Participate in meetings and/or conference calls with the recipient as needed , as well as comment on the quarterly reports.
- c. Review and approve the substantive terms of contracts and subawards to verify consistency with the EPA approved scope of work. However, EPA personnel will not select the recipient's contractors or subawardees. In addition, the EPA Project Officer or Technical Contact will review any proposed procurements in accordance with the regulations at 2 CFR Parts 200 and 1500.

(3) Key Personnel: As provided in 2 CFR 200.308, the recipient must request prior written approval for a change in key personnel specified in the application or award document or the absence for more than three months, or a 25 percent reduction in time devoted to the project, by the recipient's project director identified in its EPA approved application for funding .

C. State Grant Cybersecurity Condition

(a) The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State law cybersecurity requirements .

(b) (1) EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure.

For purposes of this Section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information . Transitory, user-controlled connections such as website browsing are excluded from this definition .

If the recipient's connections as defined above do not go through the Environmental Information Exchange Network or EPA's Central Data Exchange, the recipient agrees to contact the EPA Project Officer (PO)

and work with the designated Regional/Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data. (2) The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under 2 CFR 200.331(d), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and EPA.

D. Leveraging

The recipient agrees to provide the proposed leveraged funding, including any voluntary cost-share contribution or overmatch, that is described in its proposal dated **11/28/2018**. If the proposed leveraging does not materialize during the period of award performance, and the recipient does not provide a satisfactory explanation, the Agency may consider this factor in evaluating future proposals from the recipient. In addition, if the proposed leveraging does not materialize during the period of award performance then EPA may reconsider the legitimacy of the award; if EPA determines that the recipient knowingly or recklessly provided inaccurate information regarding the leveraged funding the recipient described in its proposal dated **11/28/2018** EPA may take action as authorized by 2 CFR 200 and 2 CFR 1500.