



STATE OF VERMONT
JOINT FISCAL OFFICE

MEMORANDUM

To: Joint Fiscal Committee members
From: Daniel Dickerson, Fiscal Analyst *DD*
Date: June 15, 2017
Subject: Limited-Service Position Request #2883

Enclosed please find one (1) item, a request for one (1) limited-service position, which the Joint Fiscal Office has received from the administration.

JFO #2883 – One (1) limited-service position within the Department of Health. The position would both be titled Compliance and Enforcement Advisor and would be a part of the Department's existing Lead Accreditation Certification Program. The state program is being expanded to include the certification of federal requirements under the EPA's Lead Renovation, Repair, and Painting Program rules (40 CFR part 745) and the position will be tasked with providing guidance on the federal statutes and regulations. Funding for the position will come from a recently renewed, ongoing grant from the U.S. Environmental Protection Agency (EPA). The current grant funding period is 1/2/2017 through 12/31/2018. The Department would likely request an extension of position funding to the EPA due to the fact that the funding period will be over a quarter of the way complete before the position may be approved and filled.
[JFO received 6/14/17]

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 June 30, 2017 we will assume that you agree to consider as final the Governor's acceptance of these requests.

Department of Health
Business Office
108 Cherry Street – PO Box 70
Burlington, VT 05402-0070
HealthVermont.gov

[phone] 802-863-7736

Agency of Human Services



JFO 2883

MEMORANDUM

27 April 2017

To: Sarah Clark, Chief Financial Officer
Agency of Human Services

From: Paul Daley, Financial Director



Re: Limited Service – Grant Funded Position Request – Lead Certification Program

I'm providing here for your review a limited service position request. After you've completed your review, please forward this package to Molly Paulger, DHR Director of Classification.

The Health Department is requesting one limited service position to be funded by an existing grant previously approved by the Joint Fiscal Office.

The Health Department has operated a Lead Certification Program since 1994. The position for this program was authorized via JFO #1618. The Health Department is expanding our certification program to include the certification of federal requirements. This activity will require a Compliance and Enforcement position to provide guidance on statues and regulations.

The source of funding for the program is the Lead Certification Grant awarded by the Environmental Protection Agency. The federal funding is authorized through FFY.2018.

Attachments:

- Limited Service Position Request Form
- RFR
- Lead Certification Notice of Grant Award



MAY 8 0 2017

**STATE OF VERMONT
Joint Fiscal Committee Review
Limited Service - Grant Funded
Position Request Form**

This form is to be used by agencies and departments when additional grant funded positions are being requested. Review and approval by the Department of Human Resources must be obtained prior to review by the Department of Finance and Management. The Department of Finance will forward requests to the Joint Fiscal Office for JFC review. A Request for Classification Review Form (RFR) and an updated organizational chart showing to whom the new position(s) would report must be attached to this form. Please attach additional pages as necessary to provide enough detail.

Agency/Department: AHs/Vermont Department of Health Date: 04/27/17

Name and Phone (of the person completing this request): Paul Daley, 802-863-7284

Request is for:

- Positions funded and attached to a new grant.
 Positions funded and attached to an existing grant approved by JFO # 1618

1. Name of Granting Agency, Title of Grant, Grant Funding Detail (attach grant documents):

USEPA, Lead Cert TSCA 404g Cooperative Agreement

2. List below titles, number of positions in each title, program area, and limited service end date (information should be based on grant award and should match information provided on the RFR) position(s) will be established only after JFC final approval:

<u>Title* of Position(s) Requested</u>	<u># of Positions</u>	<u>Division/Program</u>	<u>Grant Funding Period/Anticipated End Date</u>
Compliance & Enforcement Advisor	1	Env Health	01/01/17 - 12/31/18

*Final determination of title and pay grade to be made by the Department of Human Resources Classification Division upon submission and review of Request for Classification Review.

3. Justification for this request as an essential grant program need:

Additional Staff resources are needed to provide insight into future regulatory and statutory changes in Vermont and at the Federal level.

I certify that this information is correct and that necessary funding, space and equipment for the above position(s) are available (required by 32 VSA Sec. 5(b)).

[Signature] 5/18/17 APR 27 2017
 Signature of Agency or Department Head Date

[Signature] 5/23/17
 Approved/Denied by Department of Human Resources Date

[Signature] 6/8/17
 Approved/Denied by Finance and Management Date

[Signature] 6/8/17
 Approved/Denied by Secretary of Administration Date

Comments: * no recommendation - it appears to be a short period of time for the scope of work - this will be a fairly specialized role and may not be easy to fill. Refer to Ed M on R. Direct Management analysis

MAY 30 2017
 DHR - 11/7/05

VERMONT DEPARTMENT OF PERSONNEL
Request for Classification Review
Position Description Form A

- This form is to be used by managers and supervisors to request classification of a position (filled or vacant) when the duties have changed, and by managers and supervisors to request the creation of a new job class/title (for a filled, vacant, or new position), and by employees to request classification of their position.
- This form was designed in Microsoft Word to download and complete on your computer. This is a form-protected document, so information can only be entered in the shaded areas of the form.
- If you prefer to fill out a hard copy of the form, contact your Personnel Officer.
- To move from field to field use your mouse, the arrow keys or press Tab. Each form field has a limited number of characters. Use your mouse or the spacebar to mark and unmark a checkbox.
- Where additional space is needed to respond to a question, you might need to attach a separate page, and number the responses to correspond with the numbers of the questions on the form. Please contact your Personnel Officer if you have difficulty completing the form.
- The form must be complete, including required attachments and signatures or it will be returned to the department's personnel office. All sections of this form are required to be completed unless otherwise stated.

INSTRUCTIONS: Tell us about the job. The information you provide will be used to evaluate the position. It will not be used in any way to evaluate an employee's performance or qualifications.

Answer the questions carefully. The information you give will help ensure that the position is fairly evaluated. Here are some suggestions to consider in completing this questionnaire:

- Tell the **facts** about what an employee in this position is actually expected to do.
- Give **specific examples** to make it clear.
- Write in a way so a person unfamiliar with the job will be able to understand it.
- Describe the job as **it is now**; not the way it was or will become.
- Before answering each question, read it carefully.

To Submit this Request for Classification Review: If this is a filled position, the employee must sign the original* and forward to the supervisor for the supervisor's review and signature. The Personnel Officer and the Appointing Authority must also review and sign this request before it is considered complete. The effective date of review is the beginning of the first pay period following the date the complete Request for Classification Review is date stamped by the Classification Division of the Department of Personnel.

*An employee may choose to sign the form, make a copy, submit original to supervisor as noted above, while concurrently sending the copy to the Classification Division, 144 State Street, Montpelier, with a cover note indicating that the employee has submitted the original to the supervisor and is submitting the copy as a **Concurrent** filing.

If this is a request (Initiated by employees, VSEA, or management) for review of all positions in a class/title please contact the appropriate Classification Analyst or the Classification Manager to discuss the request prior to submitting.

Request for Classification Review Position Description Form A

For Department of Personnel Use Only

Notice of Action # _____	Date Received (Stamp)
Action Taken: _____	
New Job Title _____	
Current Class Code _____ New Class Code _____	
Current Pay Grade _____ New Pay Grade _____	
Current Mgt Level ____ B/U ____ OT Cat. ____ EEO Cat. ____ FLSA ____	
New Mgt Level ____ B/U ____ OT Cat. ____ EEO Cat. ____ FLSA ____	
Classification Analyst _____ Date _____	Effective Date: _____
Comments: _____	Date Processed: _____
Willis Rating/Components: Knowledge & Skills: _____ Mental Demands: _____ Accountability: _____ Working Conditions: _____ Total: _____	

Incumbent Information:

Employee Name: Employee Number:
Position Number: Current Job/Class Title:
Agency/Department/Unit: Work Station: Zip Code:
Supervisor's Name, Title, and Phone Number:
How should the notification to the employee be sent: employee's work location or other address, please provide mailing address:

New Position/Vacant Position Information:

New Position Authorization: Request Job/Class Title:
Position Type: Permanent or Limited / Funding Source: Core, Partnership, or Sponsored
Vacant Position Number: Current Job/Class Title:
Agency/Department/Unit: Work Station: Zip Code:
Supervisor's Name, Title and Phone Number:

Type of Request:

- Management:** A management request to review the classification of an existing position, class, or create a new job class.
- Employee:** An employee's request to review the classification of his/her current position.

1. Job Duties

This is the **most critical** part of the form. Describe the activities and duties required in your job, noting changes (new duties, duties no longer required, etc.) since the last review. Place them in order of importance, beginning with the single most important activity or responsibility required in your job. The importance of the duties and expected end results should be clear, including the tolerance that may be permitted for error. Describe each job duty or activity as follows:

- **What it is:** The nature of the activity.
- **How you do it:** The steps you go through to perform the activity. Be specific so the reader can understand the steps.
- **Why it is done:** What you are attempting to accomplish and the end result of the activity.

For example a Tax Examiner might respond as follows: **(What)** Audits tax returns and/or taxpayer records. **(How)** By developing investigation strategy; reviewing materials submitted; when appropriate interviewing people, other than the taxpayer, who have information about the taxpayer's business or residency. **(Why)** To determine actual tax liabilities.

1. Develop standard operating procedures, protocols, rules and forms for environmental health related to compliance and enforcement activities. Regulatory programs in environmental health include Food and Lodging, Asbestos and Lead, the Chemical Disclosure Program and the Nuclear Regulatory Agreement Program.

- This position would work with the program managers, the EH division director, senior policy advisor and assistant attorney general to modernize all enforcement and compliance activities with insight into future regulatory and statutory changes that may need to be made. This would involve becoming informed of enforcement and compliance activities at other Vermont Agencies as well as federal and other state agencies.

- This position would serve as an advisor to program managers to provide pre-screening for enforcement actions prior to referral to the Attorney General office.

- The position may provide technical guidance on current statutes and regulations to ensure SOPs are within VDH's legal authority.

- This position would investigate and coordinate compliance actions for Environmental Health including initial letters of action seeking voluntary compliance, communicating with the non-compliant parties and fully processing all compliance and enforcement actions.

- Develops and monitors tracking system for enforcement actions, pre-hearing and hearing meetings.

2. Oversee the activities and trainings for the Town Health Officers serving as a technical advisor to the program assistant.

Serve as a technical advisor from the Department to more than 300 Town Health Officers and Deputy Town Health Officers (THOs) across the state.

Develop and coordinate trainings for THOs.

3. Develops, coordinates and advises on policy for Environmental Health. The position will also advise the Commissioner's office on proposed rules issued by other state and federal agencies related to all Environmental Health regulatory programs.

2. Key Contacts

This question deals with the personal contacts and interactions that occur in this job. Provide brief typical examples indicating your primary contacts (not an exhaustive or all-inclusive list of contacts) other than those persons to whom you report or who report to you. If you work as part of a team, or if your primary contacts are with other agencies or groups outside State government describe those interactions, and what your role is. For example: you may *collaborate, monitor, guide, or facilitate change*.

Advise program managers on compliance and enforcement actions. Work with the Assistant Attorney General on compliance and enforcement actions. Advise the Commissioner's office on proposed rules issued by other state and federal agencies related to all Environmental Health regulatory programs. Collaborate on and review work for program chiefs. Collaborate on policy initiatives with the Commissioner, Deputy Commissioners, Senior Policy & Legal Advisor, the Division Director. Work with other agency and department senior staff on joint policy issues and regulatory guidance. Work with other stakeholder groups and regulated entities through public meetings and planning sessions.

3. Are there licensing, registration, or certification requirements; or special or unusual skills necessary to perform this job?

Include any special licenses, registrations, certifications, skills; (such as counseling, engineering, computer programming, graphic design, strategic planning, keyboarding) including skills with specific equipment, tools, technology, etc. (such as mainframe computers, power tools, trucks, road equipment, specific software packages). Be specific, if you must be able to drive a commercial vehicle, or must know Visual Basic, indicate so.

A legal background is necessary for this position. A background in policy development and regulatory enforcement is preferred. Position must effectively deal with controversial issues.

4. Do you supervise?

In this question "supervise" means if you direct the work of others where you are held **directly** responsible for assigning work; performance ratings; training; reward and discipline or effectively recommend such action; and other personnel matters. List the names, titles, and position numbers of the classified employees reporting to you:

Not immediately

5. In what way does your supervisor provide you with work assignments and review your work?

This question deals with how you are supervised. Explain how you receive work assignments, how priorities are determined, and how your work is reviewed. There are a wide variety of ways a job can be supervised, so there may not be just one answer to this question. For example, some aspects of your work may be reviewed on a regular basis and in others you may operate within general guidelines with much independence in determining how you accomplish tasks.

Performance expectations and large assignments are made and prioritized in consultation with the Senior Policy Advisor to the Commissioner and the EH Division Director. This position has a significant amount of autonomy in implementing and carrying out daily assignments which are self-prioritized and initiated. Work is reviewed as needed for larger projects.

6. Mental Effort

This section addresses the mental demands associated with this job. Describe the most mentally challenging part of your job or the most difficult typical problems you are expected to solve. Be sure to give a specific response and describe the situation(s) by example.

- For example, a purchasing clerk might respond: *In pricing purchase orders, I frequently must find the cost of materials not listed in the pricing guides. This involves locating vendors or other sources of pricing information for a great variety of materials.*
- Or, a systems developer might say: *Understanding the ways in which a database or program will be used, and what the users must accomplish and then developing a system to meet their needs, often with limited time and resources.*

Determining applicability in scenarios which involve intentional (or nonintentional) disregard to Vermont laws and regulations.

Negotiating and advocating aggressively without jeopardizing working relationships.

Making and defending decisions under pressure to regulated entities or during hearings.

With regard to Town Health Officers, thinking quickly and finding resources for a wide variety of problems on a moment's notice. It also requires the ability to help guide THO through, at times, very difficult and tense situations to determine if there is a real public health hazard.

7. Accountability

This section evaluates the job's expected results. In weighing the importance of results, consideration should be given to responsibility for the safety and well-being of people, protection of confidential information and protection of resources.

What is needed here is information not already presented about the job's scope of responsibility. What is the job's most significant influence upon the organization, or in what way does the job contribute to the organization's mission?

Provide annualized dollar figures if it makes sense to do so, explaining what the amount(s) represent.

For example:

- A social worker might respond: *To promote permanence for children through coordination and delivery of services;*
- A financial officer might state: *Overseeing preparation and ongoing management of division budget: \$2M Operating/Personal Services, \$1.5M Federal Grants.*

Enforcement of environmental health laws and regulations related to food and lodging, asbestos and lead, chemical disclosure and nuclear regulatory commission agreement programs.

8. Working Conditions

The intent of this question is to describe any adverse conditions that are routine and expected in your job. It is not to identify special situations such as overcrowded conditions or understaffing.

- a) What significant mental stress are you exposed to? All jobs contain some amount of stress. If your job stands out as having a significant degree of mental or emotional pressure or tension associated with it, this should be described.

Type	How Much of the Time?
Dealing with potentially hostile regulated entities in compliance and enforcement actions in the field	10%
Dealing with hostile regulated entities in compliance and enforcement actions over the phone	60%

- b) What hazards, special conditions or discomfort are you exposed to? (Clarification of terms: **hazards** include such things as potential accidents, illness, chronic health conditions or other harm. Typical examples might involve exposure to dangerous persons, including potentially violent customers and clients, fumes, toxic waste, contaminated materials, vehicle accident, disease, cuts, falls, etc.; and **discomfort** includes exposure to such things as cold, dirt, dust, rain or snow, heat, etc.)

Type	How Much of the Time?
Lead and Asbestos exposure hazards	10%

- c) What weights do you lift; how much do they weigh and how much time per day/week do you spend lifting?

Type	How Heavy?	How Much of the Time?
office materials	up to 50 pounds	occasionally

- d) What working positions (sitting, standing, bending, reaching) or types of effort (hiking, walking, driving) are required?

Type	How Much of the Time?
Sitting/Standing	90%
Driving	10%

Additional Information:

Carefully review your job description responses so far. If there is anything that you feel is important in understanding your job that you haven't clearly described, use this space for that purpose. Perhaps your job has some unique aspects or characteristics that weren't brought out by your answers to the previous questions. In this space, add any additional comments that you feel will add to a clear understanding of the requirements of your job.

Employee's Signature (required): Uccant Date: _____

Supervisor's Section:

Carefully review this completed job description, but **do not** alter or eliminate any portion of the original response. Please answer the questions listed below.

1. What do you consider the most important duties of this job and why?

Develop standard operating procedures, protocols, rules and forms for compliance and enforcement activities for environmental Health programs.

2. What do you consider the most important knowledge, skills, and abilities of an employee in this job (not necessarily the qualifications of the present employee) and why?

Demonstrated tact and diplomacy when working on controversial issues and in confrontational circumstances.

Demonstrated excellent oral and written communication skills.

Ability to develop strong working relationships with department leadership, attorney general's office, program managers, regulated entities.

Considerable knowledge of law enforcement and investigative practices, procedures, and techniques.

Knowledge of state and federal environmental statutes, rules, regulations, policies, and procedures

Ability to develop appropriate investigative and enforcement procedures.

Ability to make and defend decisions under pressure

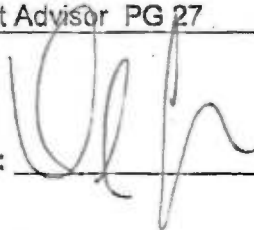
3. Comment on the accuracy and completeness of the responses by the employee. List below any missing items and/or differences where appropriate.

This would be a new position. The description was written by management.

4. Suggested Title and/or Pay Grade:

Compliance and Enforcement Advisor PG 27

Supervisor's Signature (required):



Date:

4/18/17

Personnel Administrator's Section:

Please complete any missing information on the front page of this form before submitting it for review.

Are there other changes to this position, for example: Change of supervisor, GUC, work station?

Yes No If yes, please provide detailed information.

Attachments:

- Organizational charts are required and must indicate where the position reports.
- Draft job specification is required for proposed new job classes.

Will this change affect other positions within the organization? If so, describe how, (for example, have duties been shifted within the unit requiring review of other positions; or are there other issues relevant to the classification review process).

Suggested Title and/or Pay Grade:

Personnel Administrator's Signature (required):

[Handwritten Signature]

Date:

4/16/17

Appointing Authority's Section:

Please review this completed job description but **do not alter** or eliminate any of the entries. Add any clarifying information and/or additional comments (if necessary) in the space below.

Suggested Title and/or Pay Grade:

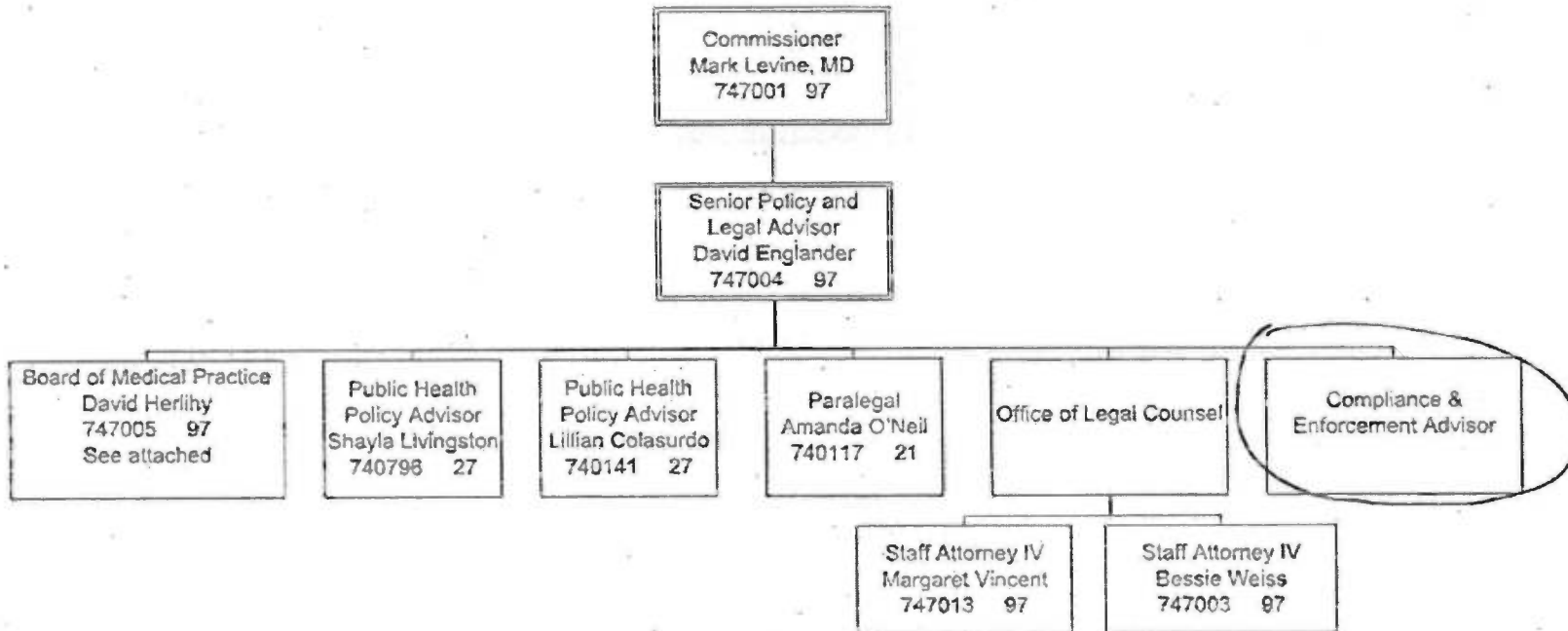
[Handwritten Signature]

Appointing Authority or Authorized Representative Signature (required)

APR 10 2017
Date



Senior Policy & Legal Advisor March 2017



	U.S. ENVIRONMENTAL PROTECTION AGENCY Grant Agreement	GRANT NUMBER (FAIN): 99156011 MODIFICATION NUMBER: 0 PROGRAM CODE: PB	DATE OF AWARD 09/12/2016
		TYPE OF ACTION New	MAILING DATE 09/19/2016
		PAYMENT METHOD: ASAP	ACH# 10137
		RECIPIENT TYPE: State	
RECIPIENT: Vermont D.O.H. 108 Cherry Street, P.O. Box 70 Burlington, VT 05402-0070 EIN: 03-6000264		PAYEE: Vermont Agency of Human Services 280 State Drive - Center Building Waterbury, VT 05671-1000	
PROJECT MANAGER Vernon Nelson 108 Cherry Street, P.O. Box 70 Burlington, VT 05402-0070 E-Mail: Vernon.Nelson@vermont.gov Phone: 802-865-7784		EPA PROJECT OFFICER Jamesm Bryson 5 Post Office Square, Suite 100, OES05-4 Boston, MA 02109-3912 E-Mail: Bryson.JamesM@epa.gov Phone: 617-918-1524	
EPA GRANT SPECIALIST Julie Ross Grants Management Office, OARM05-8 E-Mail: Ross.Julie@epa.gov Phone: 617-918-1317			
PROJECT TITLE AND DESCRIPTION Vermont Toxic Substances (Lead) Compliance Monitoring Fiscal Year 2017 & 2018 The Vermont Department of Health's Lead Program will: 1) maintain a lead accreditation certification program for individuals and contractors; 2) audit state certified lead training providers; 3) provide lead based paint education awareness to the regulated community; and 4) Apply for Renovation Repair and Painting (RRP) Authorization under 40 CFR 745. These efforts support Title IV, Section 404(g) of the Toxic Substances Control Act as well as Goal 4 of the EPA's Strategic Plan. The assigned Program Results Code is consistent with Goal 4 of the EPA's Strategic Plan.			
BUDGET PERIOD 01/02/2017 - 12/31/2018	PROJECT PERIOD 01/02/2017 - 12/31/2018	TOTAL BUDGET PERIOD COST \$671,446.00	TOTAL PROJECT PERIOD COST \$671,446.00
NOTICE OF AWARD			
Based on your Application dated 08/12/2016 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$130,000. 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 \$130,000. 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.			
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)		AWARD APPROVAL OFFICE	
ORGANIZATION / ADDRESS EPA New England 5 Post Office Square, Suite 100 Boston, MA 02109-3912		ORGANIZATION / ADDRESS U.S. EPA, Region 1 5 Post Office Square, Suite 100 Boston, MA 02109-3912	
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY			
Digital signature applied by EPA Award Official for Michael Kenyon - Director Office of Administration and Resource Management Fred Weeks - Award Official delegate			DATE 09/12/2016

EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 130,000	\$ 130,000
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	\$ 130,000	\$ 130,000

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.707 - State Lead Program Grants	Toxic Substances Control Act: Sec. 404(g)	2 CFR 200 2 CFR 1500 40 CFR 33 and 40 CFR 35 Subpart A

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
	160101G083	16	E1	01V6	401C10	4183			130,000
									130,000

Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$279,581
2. Fringe Benefits	\$111,832
3. Travel	\$22,284
4. Equipment	\$0
5. Supplies	\$0
6. Contractual	\$40,000
7. Construction	\$0
8. Other	\$50,000
9. Total Direct Charges	\$503,697
10. Indirect Costs: % Base	\$167,749
11: Total (Share: Recipient <u>0.00</u> % Federal <u>100.00</u> %.)	\$671,446
12. Total Approved Assistance Amount	\$130,000
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$130,000
15. Total EPA Amount Awarded To Date	\$130,000

Administrative Conditions

1. GENERAL ADMINISTRATIVE TERMS AND CONDITIONS

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-march-29-2016-or-later>. 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>.

2. 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

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, that exceed the threshold amount of \$150,000, including amendments and/or modifications.

Based on EPA's review of the planned budget, this award does not meet the condition above 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 \$150,000, annual reports will be required in accordance with the reporting paragraph below and you are required to notify your grant specialist 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, Cooperative Agreements and Interagency Agreements" report (EPA Form 5700-52A) on an annual basis. All procurement actions are reportable, not just that portion which exceeds \$150,000.

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 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.

MBE/WBE reports should be sent to:

**U.S. Environmental Protection Agency – Region I
5 Post Office Square – Suite 100 (OARM05-5)
Boston, MA 02109-3912
Attn: Mr. Larry Wells, Disadvantaged Business Utilization Program Manager**

The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at http://www.epa.gov/osbp/dbe_reporting.htm

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

A recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

In accordance with 40 CFR, Section 33.411 some recipients may be exempt from the fair share objectives requirements as described in 40 CFR, Part 33, Subpart D. Recipients should work with their DBE coordinator, if they think their organization may qualify for an exemption.

Accepting the Fair Share Objectives/Goals of Another Recipient

The dollar amount of this assistance agreement, or the total dollar amount of all of the recipient's financial assistance agreements in the current federal fiscal year from EPA is \$250,000, or more. The recipient accepts the applicable MBE/WBE fair share objectives/goals negotiated with EPA by Vermont Department of Environmental Conservation as follows:

Vermont	MBE	WBE
Combined Goals	1.85%	3.52%

By signing this financial assistance agreement, the recipient is accepting the fair share objectives/goals stated above and attests to the fact that it is purchasing the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market as Vermont Department of Environmental Conservation.

Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404

The recipient has the option to negotiate its own MBE/WBE fair share objectives/goals. If the recipient wishes to negotiate its own MBE/WBE fair share objectives/goals, the recipient agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The submission of proposed fair share goals with the supporting analysis or disparity study means that the recipient is **not** accepting the fair share objectives/goals of another recipient. The recipient agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA will respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair

share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

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.

3. CYBERSECURITY TERM AND 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.

Programmatic Conditions

KEY PERSONNEL

In the event of a change in key project personnel (e.g., director, project manager, project coordinator, outreach worker), the recipient agrees to inform the Project Officer in writing within 10 days. The key personnel may include any person whose absence will substantially and/or adversely impact the quality or timeliness of the work. The letter to the Project Officer should explain the reason for the change, detail the organizations plan of action for filling the vacancy and completing project deliverables, and provide the name and telephone number for the interim project contact person. The replacement person MUST have the same and current EPA training, certifications, approved safety equipment prior to being charged to the grant.

PROJECT REVIEW

In order to evaluate the adequacy of program progress, the recipient agrees to host two (2) site visits with the Project Officer upon request. The project review will include an overview of the project and project expenditures. The time frame for the project reviews will be negotiated between the recipient (project manager) and the EPA Project Officer.

The recipient is required to attend a yearly Grant Meeting at an EPA Facility (Chelmsford, MA, Narragansett, RI Laboratories or Boston, MA) as designated by the Project Officer.

SEMI-ANNUAL (180 days) REPORTS

The recipient is required to submit to their EPA Project Officer a semi-annual project progress report. The report should be in a format as provided by the Project Officer. This format for the semi-annual progress report will also be sent to the grantee, prior to the grant award. The reports are to be completed and mailed to the EPA Project Officer as well as an electronic submission.

If reports are not received, the EPA Project Officer has the option to delay approval of the next quarterly payment or grant action request, until the report is received and approved by the EPA Project Officer.

PARTIAL FUNDING

EPA is partially funding this budget period and will consider funding the balance of the budget request contingent upon the availability of funds, and EPA priorities. The scope of work may be renegotiated to reflect the amount awarded if additional funds are not available.

PROGRAM MEASURES

The recipient is required to submit to their EPA Project Officer the following every 90 days; 1) number of individuals certified by the state, by classification, who engage in lead based paint activities; 2) cumulative number of authorized state certification and training programs, by classification, for lead based paint professionals; 3) number of individuals reached through general education and outreach activities; 4) number of community outreach partnerships addressing lead based paint hazards and exposure reduction; 5) number of lead inspections, by classification, conducted by their state; and 6) number of enforcement actions by classification.

MANDATORY MEETINGS AND CONFERENCES

In order to evaluate the adequacy of program progress, the recipient agrees to host **two (2) site visits with the Project Officer** upon request. The project review will include an overview of the project and project expenditures. The time frame for the project reviews will be negotiated between the recipient (project manager) and the EPA Project Officer.

The recipient will be required to send representatives to attend the in and/or out of state Consortium of North East States and Tribes (CONEST) Meetings and New England Lead Coordination Meeting and National Lead meeting(s) as invited by the Project Officer. The dates, times and locations of these meetings will be communicated to the grantee ahead of time and representatives from the organization must attend all these events.

FINAL REPORT

The recipient agrees to submit a draft final report within 30 days after the end of the project period. Once the draft has been reviewed and approved by the Project Officer, the recipient agrees to submit two (2) copies of the Final Report within 90 days after the end of the project period to the Project Officer. Failure to submit the final report within 90 days may result in an inability of EPA's Finance Office to process the recipient's final reimbursement request.

After review of the final report, the Project Officer may request additional information from the recipient. Once an acceptable final report has been approved, the Project Officer will keep one copy in the grant file. The Project Officer may share copies of the final report with organizations or other interested parties upon request. In addition to the report, the recipient should supply two copies to EPA of all tangible final products that were created for the purposes of the funded project (i.e., videos, research findings, curriculum, presentations, etc.) If an exhibit or slide show was created or an item too large and/or expensive to duplicate, photos or transcripts of the product may be substituted.