



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAY 09 2013

**MEMORANDUM**

OFFICE OF  
WATER

SUBJECT: Section 319 Grants Streamlining Policy and Program Expectations for Expenditure of Funds

FROM: Denise Keehner, Director  
Office of Wetlands, Oceans and Watersheds

TO: EPA Regional Water Division Directors

EPA's Grants Policy Issuance (GPI) 12-06, "Timely Obligation, Award and Expenditure of EPA Grant Funds," effective October 1, 2012, calls for the national Clean Water Act section 319 Nonpoint Source program to issue program-specific guidance on grants streamlining by the second quarter of Federal Fiscal Year (FY) 2013. This memorandum fulfills this commitment, and additionally provides national program expectations regarding the rate of expenditure of funds by the states.

Funds appropriated by Congress should be efficiently and effectively used for their intended purpose, and should not remain unused for significant amounts of time. To ensure this goal is met, EPA regions must expedite the award of funds to the states, and the states must obligate and expend appropriated and awarded funds as rapidly as practicable consistent with the state's approved Nonpoint Source Management program. EPA regional section 319 program managers and project officers for the section 319 categorical grants and PPGs should strive to adhere to the terms of this guidance:

**EPA regions will implement applicable provisions of GPI 12-06, as required by the GPI.** OWOW was involved in the development of this policy and believes it is useful for expediting the grants award process to meet EPA's goal to obligate all grant funds as early as feasible in the first year of availability (award all grant funds to states in the FY the grant money is appropriated).

**EPA regions will ensure that no section 319 grant project period extends beyond 5 years.** Beginning October 1, 2010, GPI 11-01, "Managing Unliquidated Obligations and Ensuring Progress under EPA Assistance Agreements" requires that the total project period of new assistance agreements awarded after October 1, 2010 for continuing State and Tribal environmental programs (40 CFR Part 35 Subparts A and B), including any no-cost extensions or supplemental amendments, may not exceed 5 years. Regions should adopt practices that help ensure timely close-out, such as requiring states to close out subgrantee projects identified in state work plans prior to the end of the project period. In Region 8, for example, states are

required to end project periods for subgrantees a minimum of 180 days prior to the end of the grant project period, which helps ensure timely close out of state grants.

**EPA regions will work with states to reallocate unused project funds within state work plans.** When projects or other work plan activities are not proceeding in a timely manner, regions will work to approve work plan revisions requested by states to re-direct unused funds toward revised work plan activities that are ready to proceed.

**EPA regions may make an “interim” progress determination where necessary to expedite grant award.** Under the Clean Water Act, a satisfactory progress determination must be made prior to awarding CWA section 319 funds. The Agency has documented the elements of an annual Progress and Performance Determination (PPD) in the "Guidance and Checklist for Determining Progress of State Nonpoint Source Management Programs." Where necessary to expedite grant processing and timely obligation of funds, and where the EPA region is confident that a state's performance in the preceding FY warrants a finding of satisfactory progress, the EPA region may make an "interim" PPD based on the information that is available (e.g., prior-year grant deliverables, end-of-year meetings with the EPA regional project officer and state staff) prior to receiving all the documentation such as the section 319 annual report. When all necessary documentation becomes available, the EPA region would complete the full and final PPD as described in the PPD Guidance and Checklist. The checklist would be completed, and a complete and final PPD would be documented in the grant file.

**EPA regions will work with each state to ensure that any state annual request for proposal (RFP) processes are completed early in the FY or prior to the onset of the FY if feasible.** Some states currently solicit proposals from potential subgrantees late in the FY. To ensure timely obligation and drawdown of funds, states should move these processes as early as feasible so they are able to fund proposed projects soon after EPA awards the section 319 grant to the state. As described in EPA's *Nonpoint Source Program and Grants Guidelines for States and Territories* ([www.epa.gov/nps/319](http://www.epa.gov/nps/319)), descriptions of the projects selected for funding should be included in a state's work plan for review by EPA prior to award of the section 319 grant.

**EPA regions will negotiate with states a target outlay strategy for the timely drawdown of section 319 funds.** Regional project officers must negotiate an outlay strategy<sup>1</sup> for each grant, and this strategy should be reflected in the section 319 work plan's negotiated milestones. State outlay strategies should aim to expend funds as rapidly as possible, in the context of section 319 program needs. A state outlay strategy may consist of an estimate of drawdown rates for each year covered by the grant, or an alternate strategy negotiated with the EPA region. For section 319 watershed project work, whether conducted by the state or through subgrantees or contracts, EPA understands that some drawdowns may occur toward the end of the grant project period. This is due to the nature of watershed project work and to ensure high quality outputs are delivered before funds are disbursed. However, if appropriate and consistent with state program goals, states should be encouraged to consider funding projects with accelerated outlays. For

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<sup>1</sup> Outlay strategies are currently required under GPI 12-06. Under this policy, outlay strategy discussions may begin with the submission of the SF-424A or earlier. Regional program offices may use the outlay information contained in sections D and E of the SF-424A as a basis for the required strategy, provided they determine it will promote accelerated outlays to the maximum extent practicable.

example, it may be appropriate for states to provide some projects with advance funding, rather than provide all funds on a reimbursement basis.<sup>2</sup> States may also consider multi-year projects and workplans that can be incrementally funded over several FYs. Funding continuing projects using appropriations from several FYs may be especially desirable in watersheds the state has identified as a high priority for restoration.

EPA regions will ensure that negotiated outlay strategies anticipate the expedited expenditure of funds for ongoing state programs. As noted above, for watershed project work, in some cases it may be necessary to wait until the 4th or 5th year of a 5-year project period to draw down the remaining balance of section 319 funding. However, funding for ongoing state programs and staff (i.e., in general NPS program funds) should be identified in state workplans and spent within one year of award if feasible and within two years of award as a general rule.<sup>3</sup> If a state has a need to extend the outlay of section 319 funds for state program staff beyond two years, the region should contact the national program manager for the NPS program prior to approval of the state outlay strategy.

**EPA regions may reallocate section 319 funds.** If any funds are deobligated as a result of being unexpended at the end of a grant project period, and/or the EPA region has subtracted new FY funds from a state's allocation (e.g., funds are not being liquidated at a reasonable rate or the state did not make satisfactory progress in the previous year), the EPA region may reallocate those funds to the other regional section 319 grant recipients. Each EPA region has flexibility to reallocate these funds for high priority nonpoint source activities within the region, and may use a regional competitive process if desired. If an EPA region chooses to use a competitive process, the competition must comply with the agency's Policy for Competition of Assistance Agreements ([EPA Order 5700.5A1](#))

**States will obligate funds within one year.** This is a statutory requirement which states are required to continue to meet. As described in EPA's *Nonpoint Source Program and Grants Guidelines for States and Territories*, this requirement is intended to apply to obligations for sub-awards or contracts. EPA has interpreted § 319(h)(6) to provide that § 319 funds granted to a state shall remain available for obligation by the state for one year from the date of grant award.

Thank you for your cooperation and your ongoing efforts to effectively manage the CWA Section 319 nonpoint source program to restore and protect water quality. If you have any questions or comments, please contact me at 202-566-1566, ([keehner.denise@epa.gov](mailto:keehner.denise@epa.gov)), or have your staff contact Lynda Hall, Chief of the Nonpoint Source Control Branch, at 202-566-1210 ([hall.lynda@epa.gov](mailto:hall.lynda@epa.gov)).

cc: State Water Directors  
State NPS Coordinators

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<sup>2</sup> Under 40 CFR § 31.21, Grantees and subgrantees shall be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by the grantee or subgrantee.

<sup>3</sup> This expectation does not apply to watershed project implementation work funded under NPS program funds. (See section IX.C of EPA's *Nonpoint Source Program and Grants Guidelines for States and Territories*.) Additionally, state staff time charged to specific project work as described in section IX. B. iii of these guidelines may extend through the life of the project.

EPA Regional NPS Coordinators  
bcc: OGC, OW and OWOW grants staff