Federal Assistance Manual

Updated July 14, 2015

Table of Contents

Part 1 – Requirements for All OSMRE Assistance Agreements

1-100 Describing the Federal Assistance Manual
1-110 OSMRE Responsibilities for the Administration of Our Assistance
1-120 Agreements Assistance Agreement Applications and Awards
1-130 Assistance Agreement Conditions and Award Documents
1-140 Assistance Agreement Numbering and Files Organization
1-150 Monitoring and Technical Assistance
1-160 Drawdown Analysis
1-170 Overdue Reports
1-180 Audit Resolution and Cost Disallowances

Part 2 – General Requirements for Federal Assistance

2-100 Using Contracts, Grants, and Cooperative Agreements
2-110 Debarment and Suspension
2-120 Drug-Free Workplace Requirements
2-130 Lobbying
2-140 Intergovernmental Review of Federal Programs
2-150 Anti-Discrimination in Federally Assisted Programs
2-200 Property
2-210 Program Income
2-220 Matching and Cost Sharing
2-230 Procurement Guidelines
2-240 Financial Management Systems
2-250 Supporting Documentation and Accounting Files
2-260 Records Retention and Access
2-270 Enforcing and Terminating Assistance Agreements

Part 3 – Allowable Costs

3-100 Cost Principles
3-110 Indirect Cost Rates
3-120 Subgrants and Transferring Work
3-130 Leased Facilities or Equipment
3-140 Purchasing, Constructing, and Renovating Buildings

Part 4 - Abandoned Mine Lands (AML) Grant Program

4-100 AML Activities for Uncertified Programs
4-110 Annual Distribution of Title IV Grant Funds
4-120 State Emergency AML Reclamation Program
4-130 Acid Mine Drainage Set-Aside Program
4-140 AML Special Future Set-Aside Program
4-150 AML Subsidence Insurance Program
4-160 Environmental Compliance
4-170 The Authorization to Proceed Process
4-200 The Application Process for an AML Grant
4-210 Application Review and Processing for an AML Grant
4-220 Amendments and Post-Award Changes for an AML Grant
4-230 Performance and Financial Reporting for an AML Grant
4-240 Closing an AML Grant
4-300 Title IV Grant Procedures for Certified Programs
4-400 Procedures for Civil Penalty Grants

Part 5 - Regulatory Grant Program

5-100 Regulatory Programs Overview
5-110 Regulatory Administration and Enforcement Grants
5-120 Funding for State Regulation on Federal Lands
5-130 Small Operator Assistance Program (SOAP) Grants
5-200 The Application Process for a Regulatory Grant

5-210 Application Review and Processing for a Regulatory Grant
5-220 Amendments and Post-Award Changes for a Regulatory Grant
5-230 Performance and Financial Reporting for a Regulatory Grant
5-240 Closing a Regulatory Grant

Part 6 - Watershed Cooperative Agreement Program

6-100 Watershed Cooperative Agreement Program
6-200 The Application Process for a Watershed Cooperative Agreement
6-210 Application Review and Processing for a Watershed Cooperative Agreement
6-220 Amendments and Post-Award Changes for a Watershed Cooperative Agreement
6-230 Performance and Financial Reporting for a Watershed Cooperative Agreement
6-240 Closing a Watershed Cooperative Agreement

Part 7 - Technical Studies Cooperative Agreement Programs

7-100 Technical Studies Program Overview
7-110 Applied Science Cooperative Agreements
7-120 Underground Mine Map Cooperative Agreements
7-210 Application Review and Processing for a Technical Studies Program Cooperative Agreement
7-220 Amendments and Post Award Changes for a Technical Studies Program Cooperative Agreement
7-230 Performance and Financial Reporting for a Technical Studies Program Cooperative Agreement
7-240 Closing a Technical Studies Program Applied Science Cooperative Agreement
7-250 Closing a Technical Studies Program Underground Mine Map Cooperative Agreement

Forms
Definitions
Acronyms

DEFINITIONS

Accounting System – Method for the separate identification of receipts, disbursements, assets and liabilities, and for the summarization of financial information in a manner which will enable the recipient to prepare the reports required by the Federal agency for an assistance agreement.

Accrual Basis – Accounting basis which recognizes transactions when they occur, regardless of the timing of related cash receipts and payments.

Acquisition Cost - The net invoice price of purchased property, including any attachments or accessories needed to make the property usable for the purpose for which it was acquired. Related charges such as taxes, freight, or installation should be included or excluded from acquisition cost in accordance with the recipient's regular accounting practices.

Administratively Complete – The determination we make that all required parts of an assistance application are present and that sufficient information is provided to determine that costs are necessary reasonable, allowable, and allocable.

Alterations and Renovations - Work required to change the physical characteristics of an existing facility or installed equipment as needed by the program to make it more useful for its current purpose or adapt it to a changed use.

Amendment – A formal written change to the amount, terms and conditions, performance period or scope of work of an assistance agreement.

Appeal Procedures – Procedures which permit an applicant or recipient to request review of a particular issue or decision at a higher level. Appeals of OSMRE decisions are submitted to the appropriate Regional Director or to the Director of OSMRE.

Applicable Credit – A negative expenditure item which offsets or reduces an expense. Examples are purchase discounts, rebates, trade-ins, and adjustments of overpayments and erroneous charges.

Approval Package – The set of documents related to an assistance agreement application which is prepared by the grants specialist to justify and support the approval recommendation made to the official authorized to approve the award.

Assistance Agreement – A grant or cooperative agreement awarded by a Federal agency to provide financial assistance to a recipient.

Audit – A formal review to verify and assess an organization's financial and programmatic operations.

Awarding Office – The OSMRE Regional, Field, or Area office or offices which award and manage a recipient's assistance agreement.

Budget – The approved financial plan for both Federal and non-Federal funds to carry out the purpose of the assistance agreement. This plan is the financial expression of the project or program as approved during the application and award process.

Budget Revision – A change to an assistance agreement budget approved by the Federal agency as needed to carry out the purposes of the project.

DEFINITIONS

Budget Underrun – The amount of Federal funds awarded exceeds the needs of the recipient by more than $10,000 or ten percent of the total agreement amount, whichever is greater. The recipient must notify the Federal agency promptly when a budget underrun is expected to occur.

Cash Basis – Accounting basis which recognizes transactions only when cash changes hands.

Catalog of Federal Domestic Assistance (CFDA) – A comprehensive listing and description of Federal programs and activities which provide financial assistance or benefits to the public.

Certified State or Tribe – A state or tribe in which the Governor or Tribal governing body has certified and the Secretary has concurred that the state (or Indian tribe) has reclaimed and achieved all of the priorities for abandoned coal mines and other affected lands that existed prior to 1977.

Closeout – Completion by the recipient and Federal agency of all appropriate final actions for an assistance agreement except audit.

Conflict of Interest – Outside activities, relationships, or financial interests of a recipient or an employee which may lead the entity to be motivated, or to give the appearance of being motivated, by a desire for private gain.

Consultant – A person engaged to give professional advice or services for a fee, but not as an employee of the paying organization.

Cooperative Agreement – An agreement between a Federal agency and a recipient to provide funds to achieve a specified public purpose of support or stimulation, authorized by Federal statute, with significant Federal involvement in performance.

Cost Analysis – The process of obtaining cost breakdowns, examining or verifying cost data, and evaluating specific elements of costs to determine that costs in an assistance agreement budget are necessary, reasonable, and appropriate.

Cost Principles – The principles published in OMB regulations which Federal agencies use to determine whether costs are allowable in Federal assistance agreements.

Cost Transfers – The reassignment of costs from one project activity to another.

Costs – The allowable direct costs of an assistance agreement activity, plus the allocable portions of the allowable indirect costs of an organization, less allocable credits.

Debarment – The exclusion of a person or entity from participating in covered Federal transactions, following proper notification, hearing and appeal procedures.

Deviation from Policy – The use of any policy, procedure, form or condition which is inconsistent with agency policy, or the failure to use a prescribed policy, procedure, form, or condition for an assistance agreement.

Direct Costs – Costs that can be identified specifically to a particular program or cost objective.

Disbursements – Payments in cash or by check or electronic funds transfer.

DEFINITIONS

Discretionary Grants – Programs that permit Federal agencies, under specific authorizing legislation, to use a competitive process to select the projects and entities to receive Federal financial assistance.

Distribution – The process the Federal agency uses to divide funding available for a mandatory grant program between the eligible program recipients.

Environmental Impact – The probable environmental consequences of any major Federal action.

Equal Employment Opportunity – Non-discrimination against any person in recruitment, examination, appointment, training, promotion, retention, and discipline because of political or religious opinions or affiliations, or because of race, national origin, or other nonmerit factors.

Equipment – Tangible personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. See Property.

Expiration Date – The ending date of the performance period of an assistance agreement.

Extension – Delay the date of an action. Change the ending date of an assistance agreement to provide additional time to complete the program activity. Change the due date to provide additional time to complete a required action such as a report.

Federal Reclamation Program Project – Emergency or high priority AML abatement or reclamation project undertaken by OSMRE on lands and waters not under an approved state or Tribal reclamation or emergency program. Reclamation may be funded through a Federal contract, a cooperative agreement with a state or tribe, or an interagency agreement with another Federal agency.

Federal Share – The percentage of the total net cost of an activity paid with Federal assistance funds. The Federal cost share percentage can also be applied to property or income to determine the Federal share of assets.

Federally-Recognized Indian Tribal Government – The governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community certified by the Secretary of the Interior as eligible for the special programs and services provided through the Bureau of Indian Affairs.

Forms Clearance – Process for a Federal agency to obtain prior clearance from OMB in order to require multiple non-Federal entities to complete a form or respond to an information request.

Freedom of Information Act (FOIA) – Law governing the release of certain requested information to any member of the public.

Grant – An award of financial assistance from a Federal agency to a recipient to achieve a specified public purpose of support or stimulation, authorized by Federal statute, where agency involvement in the project is expected to be minimal.

Grantee – Organization or entity receiving a grant. See Recipient.

DEFINITIONS

Indirect Costs – Costs incurred by an organization for a common or joint purpose benefiting more than one cost objective or program and not readily assignable to the cost objective specifically benefited.

In-Kind – Contributions other than cash, such as goods and services or the use of real or personal property, made by the recipient or by third parties directly benefiting and specifically identifiable to the assistance program activity.

Lobbying – Any activity designed to influence a member of Congress to favor or oppose any legislation, including appropriation, whether before or after the introduction of any bill or resolution proposing such legislation.

Mandatory Grants – Grants that a Federal agency must award to all entities which meet the eligibility and compliance requirements of the authorizing law and regulations.

Match – Level of non-Federal support, cash or in-kind, a recipient is required by law or regulations to provide to be eligible for an assistance agreement under a specific program.

Obligations – Legal commitment by an organization which binds funds for payment, such as the award of an assistance agreement or a contract.

Office of Management and Budget (OMB) – The principal staff office in the Office of the President for administrative and financial matters.

Outlays – Costs charged to the assistance agreement.

Payment – Federal funds transferred to recipients by electronic fund transfer. Payments may be in advance of cash outlays by the recipient or reimbursements of previous outlays from the recipient's own cash.

Performance Period – The period of time when the recipient is authorized under an assistance agreement to perform the supported program and charge its costs to the agreement.

Pre-award Costs – Expenses incurred by an applicant prior to the award of the assistance agreement.

Privacy Act of 1974 – Law mandating that personal information about individuals collected by Federal agencies be limited to that which is legally authorized and necessary. Personal information must be maintained, used and disseminated so as to prevent unwarranted intrusions upon individual privacy.

Prior Approval – Written agreement by an authorized Federal official to a recipient's request to change the project or assistance agreement. The recipient must receive the approval before they take the action.

Program Income – Gross earnings directly generated from activities supported by an assistance agreement.

Project – An AML project is an area containing one or more abandoned mine land problems. A project may be a group of related reclamation activities with a common objective within a political

subdivision of a state or within a logical geographic area such as a watershed, conservation district or county planning area.

Property

a. Real property – land, land improvements, buildings, facilities and related minor property and gear, excluding movable machinery and equipment.

b. Personal property – property of any kind except real property.

c. Tangible personal property – personal property having physical existence.

d. Intangible personal property – personal property without physical existence, such as patents, inventions, and copyrights.

e. Expendable personal property - personal property other than equipment.

f. Nonexpendable personal property - tangible personal property with a useful life of more than one year.

NOTE: A recipient may use its own definition of property provided that its definition would at least include all property as defined above.

Recipient – The organization or individual entity that receives an assistance agreement and assumes legal and financial responsibility and accountability both for the awarded funds and for the performance of the supported activity.

Regulations – Governmental orders having the force of law. Regulations are published in the Federal Register and the Code of Federal Regulations (CFR) as the official notification to the public of the implementation of a program or the establishment of rules or procedures.

Scope Change – A programmatic change in the work to be performed under an assistance agreement that is outside the range of work contemplated at the time of award.

Site Visit – Meeting or review by Federal program, grants or management staff or consultants at a recipient's office or at the site of any activity supported by the assistance agreement.

State – Any of the states of the United States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any instrumentality of a state, including state institutions of higher education and hospitals, but not including the governments of the political subdivisions of the state.

State Plan – Proposal to establish a regulatory or reclamation program under the Surface Mining Control and Reclamation Act (SMCRA) submitted by an eligible state or tribe and approved by the Secretary of the Interior.

Subgrant – An award by a recipient to an eligible third party of financial assistance in money or property from an assistance agreement. The term does not include procurement purchases or contracts made by a recipient.

Supplies – Expendable personal property.

DEFINITIONS

Suspension – A Federal action which temporarily halts operations under an assistance agreement because of a problem. Suspension allows time for corrective action by the recipient or the Federal agency's decision to terminate the agreement.

Technical Assistance – Advice or training provided by the Federal agency or staff to increase the effectiveness of the recipient's program and/or administrative staff.

Termination – Cancellation, in whole or in part, of Federal support under an assistance agreement prior to completion or the approved expiration date of the agreement.

Uncertified State or Tribe – A state or tribe that has not yet reclaimed all lands and water that were either mined for coal or affected by coal mining and abandoned or left in an inadequate reclamation status prior to 1977.

Unobligated Balance – The portion of the total authorized funding which remains available to incur additional costs for the program.

Unpaid Obligations – Transactions for goods or services the recipient has committed to pay for but has not yet paid, whether or not the goods or a bill have been received.

ACRONYMS, ABBREVIATIONS AND INITIALISMS USED IN THE FEDERAL ASSISTANCE MANUAL

A&E	Administration and Enforcement
ACH	Automated Clearinghouse
AD-F&A	Assistant Director, Finance and Administration
AD-PS	Assistant Director, Program Support
AMD	Acid Mine Drainage
AML	Abandoned Mine Land
AR	Appalachian Regional Office
ASAP	Automated Standard Application for Payments
ATP	Authorization to Proceed
AVS	Applicant Violator System
CE	Categorical Exclusion
CFR	Code of Federal Regulations
CSP	Clean Streams Program
DD	Deputy Director
DFM	Division of Financial Management
DOI	Department of the Interior
DRS	Division of Reclamation Support
e-AMLIS	Abandoned Mine Land Inventory System
EIS	Environmental Impact Statement
EFT	Electronic Funds Transfer
EPA	Environmental Protection Agency
EPLS	Excluded Parties List System
FAADS	Federal Assistance Award Data System
FAM	Federal Assistance Manual
FBMS	Financial and Business Management System
FE	Account code for Federal Expense Funds and Minimum Program Make Up Funds
FMFIA	Federal Managers' Financial Integrity Act
FO	Field Office
FOD	Field Office Director
FONSI	Finding of No Significant Impacts
GMT	Grants Management
HC	Account code for Historic Coal Funds
HU	Account code for Prior Balance Replacement Funds
IMCC	Interstate Mining Compact Commission
MCR	Mid-Continent Region
MSHA	Mine Safety and Health Administration, Department of Labor
NEPA	National Environmental Policy Act of 1969
NHPA	National Historic Preservation Act
NIDS	News Item Data Sheet
OC	OSM Office of Communications
OIG	Office of Inspector General
OMB	Office of Management and Budget
OPAB	OSM Office of Planning, Analysis and Budget
OSMRE	Office of Surface Mining Reclamation and Enforcement
PA	Problem Area
P.L.	Public Law
RA	Regulatory Authority (state or tribal)
RD	Regional Director

RO	Regional Office
SAM	System for Award Managment
SHPO	State Historic Preservation Officer
SOAP	Small Operator Assistance Program
SPOC	Single Point of Contact
SMCRA	Surface Mining Control and Reclamation Act
SS	Account code for State Share/Tribal Share
UGMMI	Underground Mine Mapping Initiative
USC	United States Code
WCAP	Watershed Cooperative Agreement Program
WEIB	Western Interstate Energy Board
WR	Western Region

CHAPTER 1-100
DESCRIBING THE FEDERAL ASSISTANCE MANUAL

- **1-100-00 What is FAM?**
- **1-100-10 What does this chapter do?**
- **1-100-20 How is FAM organized?**
- **1-100-30 What information can be found in each of the parts of FAM?**
- **1-100-40 How can we revise FAM?**
- **1-100-50 How do we approve an exception to a FAM requirement?**

1-100-00 What is FAM?

The Federal Assistance Manual (FAM) provides policies and procedures to manage grants and cooperative agreements awarded to you by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE). FAM is an official OSMRE directive, identified as number GMT-10 in our directive system.

1-100-10 What does this chapter do?

This chapter describes the organization of FAM. It identifies the OSMRE office that is responsible for this manual. It explains how we go about changing or updating this manual, and how you can give us your comments and suggestions for FAM. This chapter also sets a process for us to use if we determine that we should not follow a policy in FAM.

1-100-20 How is FAM organized?

A. We divided the complete FAM into seven broad parts by grouping together topics or chapters on related financial assistance policies or programs. A chapter is the standard unit in FAM, generally addressing one financial assistance topic or process. Within chapters, information is broken out into sections, paragraphs, and subparagraphs as needed.

B. The numbering system of the FAM reflects this structure.

Part.....1
Chapter.....1-100
Section.....1-100-20
Paragraph.....1-100-20A
Subparagraph.....1-100-20A.1

1-100-30 What information can be found in each of the parts of FAM?

FAM chapters are broadly grouped into seven parts.

- Part 1- Requirements for All OSM Assistance Agreements This includes general policies and procedures for any OSMRE grant or cooperative agreement. These chapters describe the rules, and processes we use to award and manage assistance agreements.

- Part 2 General Requirements for Federal Assistance This includes policies for the assistance awarded by all federal agencies. These policies come from Federal laws, executive orders, and regulations, particularly Office of Management and Budget (OMB) circulars.

- Part 3- Allowable Costs This explains which costs may be charged to OSMRE assistance agreements and how to handle different types of costs.

- Part 4- Abandoned Mine Lands (AML) Grant Program This includes specific program, financial, and grant processing requirements for the AML program.

- Part 5- Regulatory Grant Program This includes specific requirements for the Title V regulatory program.

- Part 6- Watershed Cooperative Agreement Program This includes specific requirements for watershed cooperative agreements.

- Part 7- Technical Studies Cooperative Agreement Programs This includes specific requirements for applied science, and underground mine map agreements.

1-100-40 How do we revise FAM?

A. The Division of Reclamation Support, in the Program Support Directorate in OSMRE headquarters, is responsible to manage FAM.

B. We will revise FAM when necessary to reflect changes in OSMRE financial assistance programs, the policies and procedures governing assistance, or the processes we use to award and manage assistance agreements.

C. We encourage all FAM users to suggest improvements or revisions to this manual. Please send suggestions or comments to the Assistant Director, Program Support (AD-PS), or contact us through this website.

D. We will make proposed revisions to FAM available for review. We will address the comments we receive as required by OSMRE policy on directives.

E. We may issue temporary FAM directives to reflect short-term changes. We may also use temporary FAM directives to implement new or revised policies or procedures quickly. We may allow a temporary directive to lapse when the information is no longer needed, or we may incorporate the change permanently into FAM in the next major revision.

1-100-50 How do we approve an exception to a FAM requirement?

A. If Federal statute requires us not to follow FAM, the OSMRE awarding office must act as the law requires. The OSMRE office must notify the AD-PS of the conflict between the statute and FAM.

B. We want to implement FAM as consistently as possible. Therefore, we must keep deviations from the FAM to a minimum. We will use the following procedures to request and approve FAM exceptions which are not required by Federal law.

1. The OSMRE office authorized to approve an award (our awarding office) may send requests to deviate from FAM through the Regional Director to the AD-PS. The request must identify the programs affected and the FAM provision for which the exception is requested. The request must clearly explain and justify the requested exception.

2. The AD-PS may approve deviation requests which only affect one assistance agreement. The official file for that agreement must document the FAM rule involved, the reason for deviating from it, and the name and title of the authorizing official.

3. The Director or Deputy Director must approve deviations affecting more than one assistance agreement.

CHAPTER 1-110
OSMRE RESPONSIBILITIES FOR THE ADMINISTRATION OF OUR ASSISTANCE AGREEMENTS

- 1-110-00 What does this chapter do?
- 1-110-10 Who approves OSMRE assistance agreements?
- 1-110-20 Who is responsible to manage our assistance agreements?
- 1-110-30 Who is responsible for our policy on financial assistance?
- 1-110-40 Who is responsible for financial management of our assistance programs?
- 1-110-50 How will our offices communicate with each other when they carry out financial assistance responsibilities?

1-110-00 What does this chapter do?

This chapter explains how we, OSMRE, assign the responsibilities for managing our financial assistance programs to our offices. This information applies to all OSMRE assistance programs.

1-110-10 Who approves OSMRE assistance agreements?

A. The Director of OSMRE is authorized to approve each assistance award. The Director delegates this authority to the Regional Directors, who may delegate it further.

B. By approving the assistance award, the authorized official certifies that, in his or her opinion, the agreement is in accordance with all applicable laws and regulations, Departmental, and OSMRE assistance and program policies.

C. No authorized official can be required to approve an assistance agreement unless the official is fully satisfied with the award.

1-110-20 Who is responsible to manage our assistance agreements?

The Regional Directors manage our regional offices and the field and area offices within each region. They are responsible for award and management of OSMRE assistance agreements. They may delegate these functions to any of the offices or staff they manage. The office which awards a particular assistance agreement will also manage it after award. The awarding offices are responsible for the following activities:

A. Receive and review assistance applications. Work with recipients to resolve all issues. Approve and process grant and cooperative agreement awards.

B. Determine availability of funds for award. Approve obligations and deobligations of assistance funds.

C. Coordinate with the Office of Communications to announce awards.

D. Coordinate with the Division of Financial Management on assistance funding and financial management issues.

E. Administer the awarded assistance agreements. Process and approve necessary amendments and budget revisions.

F. Receive, review, and take any necessary action on performance and financial reports by assistance agreement recipients.

G. Conduct oversight of program and project operations supported by assistance funds. Conduct reviews of recipient financial and operational systems. Resolve issues with recipients.

H. Work with recipients to resolve audit findings and recommendations.

I. Work with recipients to get assistance budget estimates. Provide analysis and recommendations on recipients' budget estimates.

J. Maintain the official assistance agreement files.

1-110-30 Who is responsible for our policy on financial assistance?

The Assistant Director, Program Support (AD-PS), in OSMRE headquarters, is responsible for the programmatic and administrative policy on financial assistance. Under the AD-PS, the Division of Reclamation Support has the following responsibilities related to assistance policy and management:

A. Develop, maintain, and coordinate national policy and uniform procedures for assistance administration. Develop agency-wide guidance on assistance programs.

B. Provide procedures and direction for reviews or special studies of financial assistance programs to assess compliance with applicable laws, regulations, policies, and procedures.

C. Advise OSMRE management on financial assistance issues.

D. Maintain liaison with the Department of the Interior, the Office of Management and Budget, and other Federal agencies on assistance policy issues and procedures.

E. Initiate, conduct or assist in assistance training sessions for recipients and OSMRE staff.

F. Develop procedures for the distribution of assistance program funds. Coordinate with the Regional Directors and Division of Financial Management to prepare the annual regulatory and AML grant distributions.

OSMRE RESPONSIBILITIES FOR THE ADMINISTRATION OF OUR ASSISTANCE AGREEMENTS

1-110-40 Who is responsible for financial management of our assistance programs?

The Assistant Director, Finance and Administration (AD-F&A), in OSMRE Headquarters, is responsible for providing financial management support to the agency. Under the AD-F&A, the Division of Financial Management (DFM), located in Denver, Colorado, has the following responsibilities to support OSMRE assistance programs:

A. Maintain the official accounting records for assistance transactions.

B. Coordinate with Treasury to manage the system to transfer assistance funds to recipients.

C. Monitor and report information on financial assistance operations.

D. Calculate the annual AML fund distributions in coordination with the AD-PS.

1-110-50 How will our offices communicate with each other when they carry out financial assistance responsibilities?

A. With multiple offices involved in financial assistance, it is particularly important that all these offices establish and maintain open, clear, and effective channels of communication with each other. Offices must share information regarding their decisions and actions, especially on matters with wide applicability to other assistance operations, in order to ensure consistency in financial assistance operations throughout OSMRE.

B. OSMRE established its National Grants Team to promote coordination and consistency between offices involved in financial assistance operations. The Team includes all OSMRE staff whose primary responsibility is financial assistance. The Team communicates and meets regularly to identify assistance issues, develop resolutions, and share ideas and methods.

CHAPTER 1-120
ASSISTANCE AGREEMENT APPLICATIONS AND AWARDS

- 1-120-00 What does this chapter do?
- 1-120-10 How can you send us your application?
- 1-120-20 When should you apply?
- 1-120-30 What should you include in your application?
- 1-120-40 How will we review your application and decide whether to approve it?
- 1-120-50 How will we award your grant or cooperative agreement?
- 1-120-60 What information will we keep in our official assistance agreement file?

1-120-00 What does this chapter do?

A. This chapter explains how you, an applicant can apply for a grant or cooperative agreement funding awarded by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE). It also explains how we review your application, and the process we use to award an agreement if we approve your application.

B. This chapter does not apply to the assistance programs specifically described in other chapters of this manual: the Coal Regulatory program, Abandoned Mine Land (AML) program, Watershed Cooperative Agreement Program, and Technical Studies Program. This chapter applies to all other OSMRE financial assistance agreements, such as new, experimental, or one-time grants, or cooperative agreements.

1-120-10 How can you send us your application?

You may send us your application by any of the following methods.

A. E-mail your application to us. You must show the name and title of the authorized official who signed the original forms and the date signed in the signature section of the application. You must maintain the original signed documents in your files;

B. Mail us your signed original paper application.

C. Enter your application in an approved electronic portal such as Grants.gov.

1-120-20 When should you apply?

You should send us a complete application at least 60 days before you intend to start the project.

1-120-30 What should you include in your application?

A complete application must provide all the information we need to decide whether to approve your application and also to process your assistance agreement. Include the following items in your application:

ASSISTANCE AGREEMENT APPLICATIONS AND AWARDS

A. Signed or approved Application for Federal Assistance, SF-424.

B. The Program Narrative must explain the proposed project. You may use your own electronic medium to develop this narrative. You must provide the following information:

1. Objectives and Need for Assistance. Explain the need for the assistance. State the principal and subordinate objectives of the proposed assistance agreement. Include relevant data, and identify the sources of the data.

2. Results and Benefits Expected. Identify results and benefits that the proposed program will produce. For example, describe how this assistance agreement will help improve the environment and protect the health, safety, and welfare of the public.

3. Approach. Outline a plan of action for the assistance agreement. Describe how the proposed work will be accomplished. Cite factors which might help or hinder the work. Explain your reasons for taking this approach as opposed to others. Describe any unusual features of this assistance agreement. Identify the kinds of data to be collected and maintained. Discuss the criteria and methodology to be used to evaluate the results, and success of the proposed program.

C. The itemized budget must list the project costs. It must break out the total costs by line item, such as personnel and supplies. If your project will include more than one activity, the budget must break out the total costs by activity. If your project will include funds from other sources, the budget must break out total costs by the source of the funds. You may use the optional OSM 47 form or any format.

D. Your budget justification narrative must explain each cost included in your itemized budget list. Describe how you calculated the cost and why the item is needed. You must provide enough information for us to determine whether the line items included under each activity are reasonable, necessary, and allowable.

E. Describe your organization briefly.

F. Describe any partners, other funding, and other support for the project.

G. Provide an appropriate Assurances form signed and dated by your organization's authorized official. Use either the Assurances for Non-Construction Programs, form SF 424B; or the Assurances for Construction Programs, form SF 424D.

1-120-40 How will we review your application and decide whether to approve it?

We will normally review and process your application within 60 days of receiving it. Our awarding office must take the following actions to review your application:

A. If we receive your application by email or regular mail, we must confirm our receipt of the application within three working days.

B. Determine that the application is administratively complete and that there are no obvious mathematical errors.

C. Confirm that funds are available for the award.

D. Check that your organization is eligible for Federal assistance funds. Check the System for Award Management (SAM) to determine whether a participant or principal is debarred, suspended, or otherwise ineligible. Confirm that your organization is in compliance with the single audit requirements if applicable.

E. Review the application. The programmatic review will assess the need for the program, its likelihood of success, and its appropriateness for OSMRE. The financial review will address whether the proposed costs are reasonable and necessary, the program will be efficient and effective, and your organization is able to manage Federal funds.

F. We will determine whether to approve the application based on our reviews. If we disapprove the application, we will notify you in writing of our decision. If we approve the application, we will award your grant or cooperative agreement.

1-120-50 How will we award your grant or cooperative agreement?

After we decide to award your agreement, our awarding office will take the following actions to process the award:

A. Before the award, we will provide information about the planned award to our Office of Communications for Congressional and public news release.

B. We must process the award through our electronic grant system. Our accounting system will post the award to Treasury's grant payment system, where it will be available for you to request funds.

C. We will send you a written agreement award document. We will also send you information about programmatic and financial reporting requirements, how to manage the agreement, and how to contact us.

1-120-60 What Information will we keep in our official assistance agreement file?

The following is considered the minimum level of documentation that we will maintain in the official assistance agreement file. We will include additional supporting information and reports as appropriate for the particular application, the recipient, and the awarding office:

A. Your application as originally received, all subsequent additions or revisions, and any other information we received from you.

B. Records of all meetings or telephone conversations which provided information in support of the application.

C. All correspondence between you and us about the application or the award decision.

D. All our internal reviews of the application or parts of the application.

E. All explanations or resolutions of questions raised during the review process.

F. All records or explanations of the timing of the award process, especially any time period when the awarding office could not process the award because it was waiting for actions outside its control, such as your responses to questions or availability of funds.

CHAPTER 1-130
ASSISTANCE AGREEMENT CONDITIONS AND AWARD DOCUMENTS

- 1-130-00 What does this chapter do?
- 1-130-10 What does our assistance agreement award document do?
- 1-130-20 What Information must we include in the award document?
- 1-130-30 What conditions apply to our assistance agreements?
- 1-130-40 May we add additional specific conditions to your assistance agreement?
- 1-130-50 What information will we provide to you with the award agreement?

1-130-00 What does this chapter do?

This chapter lists the conditions which apply to every grant and cooperative agreement awarded by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE). It also lists the additional conditions which only apply to assistance agreements for specific programs, including regulatory and Abandoned Mine Land (AML) grants. This chapter also explains to you, the recipient, our minimum requirements for an assistance agreement document.

1-130-10 What does our assistance agreement award document do?

The assistance agreement award document is the official instrument we use for the following purposes:

A. Establish a legally binding arrangement between you and us.

B. List, or include by reference, the terms and conditions of the agreement.

C. Serve as the source document for the obligation of Federal funds in our accounting system.

1-130-20 What Information must we include in the award document?

We must process an award document for an assistance agreement through our electronic grant system. The award document must include the following information:

A. The legal name of the recipient.

B. Agreement Identification, including the grant or cooperative agreement number, the amendment number, and the award date.

C. The amount awarded. For awards with multiple subaccounts or funding sources, the award document or an attachment will display the source of funds, subaccount number, accounting data and approved amount for each source or use of funds.

D. The dates of the performance period for the assistance agreement.

E. The purpose of the assistance agreement.

F. The award must incorporate the following conditions by reference:

1. The Surface Mining Control and Reclamation Act of 1977 (SMCRA), as amended, P.L. 95-87, and any other authorizing legislation;

2. Your complete application for this assistance agreement, including amendments to the application;

3. The approved state or tribal regulatory or reclamation plan for this program, if applicable;

4. Any OSMRE policy directives which apply to this agreement, including this *Federal Assistance Manual;* and

5. All terms, conditions, or agreement clauses that are required by the Department of the Interior, OSMRE, or program policies.

1-130-30 What conditions apply to our assistance agreements?

A. The following conditions are incorporated into every OSMRE assistance agreement by reference:

1. Assistance funds must only be used to cover allowable costs, which are incurred during the agreement's performance period. Valid obligations incurred before the end of the performance period for cost items specifically identified in the approved application will be considered allowable costs for the performance period to the extent of actual subsequent expenditures. If obligations are included in the claimed costs, adequate records must be maintained to disclose fully the date, and amount of the obligation incurred and the date and amount of subsequent payment. Obligations claimed in one performance period must be excluded from expenditures claimed in prior or subsequent periods.

2. Program income earned under all OSMRE assistance agreements other than Regulatory Administration and Enforcement (A&E) grants must be used to reduce the total cost of the agreement (deductive option). Program income earned under a Regulatory A&E grant must be used to meet the cost sharing/matching requirement of the grant (cost sharing option). Program income earned under a Regulatory A&E grant in excess of the cost sharing requirement may either be added to the funds committed to the grant agreement (addition option), or used for the deductive option.

3. You must obtain prior OSMRE approval to transfer funds to agencies other than those identified in the approved application.

4. You must submit financial reports, performance reports, and other reports according to the timing, content, and format as required by OSM. You must report program outlays and program income on a cash basis.

5. For non-construction agreements, transfers of funds between total direct cost categories require our prior approval when such transfers exceed 10 percent of the total budget. For agreements that fund both construction, and non-construction activities, budget transfers between nonconstruction and construction subaccounts require our prior approval.

6. You must transfer to us the appropriate share, based on the Federal support percentage, of any refund, rebate, credit, or other amounts arising from the performance of this agreement, along with accrued interest, if any. You must take necessary action to collect promptly all monies due, and to cooperate with us in any claim or suit in connection with amounts due.

7. You must comply with the requirements, as applicable, of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR Part 200, regarding administrative procedures; the Cash Management Improvement Act and 31 CFR Part 205 on financial procedures.

8. No employee of the state, Indian tribal government or Federal government performing any function or duty under the regulatory or reclamation program plan may have a direct or indirect financial interest in any coal mining operation. You must comply with all requirements and regulations established by OSMRE to carry out this requirement, including 30 CFR Part 705, and those requirements that it has adopted in its regulatory program or reclamation plan.

9. Prior to the start of any construction activity, you must ensure that all applicable Federal, state and local permits, and clearances are obtained.

10. You must not use any part of the appropriated funds for any activity or the publication or distribution of literature that in any way tends to promote public support, or opposition to any legislative proposal on which Congressional action is not complete.

11. You must comply with the Federal procurement requirements in 2 CFR Part 200, and requirements of the Buy American Act at 41 U.S.C. §§ 8301.

12. You are free to copyright any original work developed in the course of, or under the agreement. OSMRE reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for government purposes. Any publication resulting from work performed under the agreement must include an acknowledgment of OSMRE financial support, and a statement that the publication does not necessarily reflect our views.

13. No subsequent assistance agreements or amendments will be approved unless all overdue financial or performance reports have been submitted to the appropriate

OSMRE office. Only the Regional Director or his designate can approve exceptions to this policy.

14. We reserve the right to transfer equipment acquired with assistance agreements to the Federal government or a third party. [Note: In order to invoke this provision, we also must notify the recipient in writing of the specific item of equipment to be transferred. Equipment must meet the definition in 2 CFR Part 200.]

15. The agreement takes effect at the time of approval by the Director of OSMRE or his authorized delegate. You accept the agreement including the terms, and conditions by starting work or making its first request for Federal funds approved under the agreement.

B. The following condition applies to all Regulatory Administration and Enforcement grant agreements:

This grant is for the administration and enforcement of an approved program for the regulation, and control of surface coal mining, and reclamation operations in accordance with 30 CFR 735. Grant funds must not be used for other purposes. As a condition of the grant, you must implement the regulatory program as approved by the Secretary of the Interior, including all findings, and conditions set forth in the Secretary's approval decision, or as may be modified by the Secretary. Grant funds must not be used for implementation of any changes to the regulatory program, which have not been approved by the Secretary of the Interior.

C. Conditions for AML agreements depend on which AML functions are included in the specific assistance agreement.

1. The following conditions apply to all AML assistance agreements:

a. This agreement is for the administration of the recipient's approved reclamation plan, and for carrying out activities in accordance with the plan and Title IV of SMCRA. Funds from this agreement must not be used for any other purposes.

b. The funding for this agreement comes from one or more types of Title IV funds. Each type of funds may only be used as provided in SMCRA.

2. The following condition applies to AML agreements that include funding for an acid mine drainage set-aside fund:

You must establish an acid mine drainage abatement, and treatment fund. Amounts deposited into the fund, together with all interest earned, must be used by the recipient for the comprehensive abatement of the causes, and treatment of the effects of acid mine drainage, within qualified hydrologic units affected by coal mining practices.

D. The following condition applies to all Small Operator Assistance Program (SOAP) operational grant agreements:

This grant is for costs incurred by qualified laboratories for performance of technical work as provided in 30 CFR 795.9(b), and for costs incurred by qualified laboratories or state regulatory authorities for performance of planning activities, and training/outreach provided in section 507(c) of SMCRA. Planning activities must be directly related to individual assistance sites. Indirect costs are allowable only to the extent they relate to planning activities, training/outreach, or other authorized services provided directly by the regulatory authority. Grant funds must not be used for any other purpose, including expenses incurred by the regulatory authority to administer the SOAP.

1-130-40 May we add additional specific conditions to your assistance agreement?

We may add specific conditions to your assistance agreement to address a problem or a specific situation that needs special attention. However, imposing specific conditions is not our preferred method for addressing problems. Action plans developed jointly by you and OSMRE are more likely to succeed than unilaterally imposed specific conditions, that may disrupt your processes and plans. Therefore, we reserve the right for the use of specific award conditions for serious and unusual situations. A specific assistance agreement condition must be tailored to the situation, and must identify exactly what and how you will perform. We will monitor specific conditions very closely to ensure strict adherence.

1-130-50 What Information will we provide to you with the award agreement?

When we transmit an award to you, our awarding office will include additional information. We will inform you of all reports due to us under this agreement, with reporting periods and due dates, and state the consequences if you do not meet the reporting requirements. We will list contacts for your program, financial and payment questions. We will also provide any other information, which may assist you in managing the agreement.

CHAPTER 1-140
ASSISTANCE AGREEMENT NUMBERING AND FILES ORGANIZATION

- 1-140-00 What does this chapter do?
- 1-140-10 How is your assistance agreement number assigned?
- 1-140-20 Who maintains our official assistance agreement files?
- 1-140-30 Will we keep our official files on paper or in electronic form?
- 1-140-40 What must we include in our official assistance agreement files?
- 1-140-50 How should we organize our official assistance agreement files?

1-140-00 What does this chapter do?

This chapter explains how we assign identifying numbers to assistance agreements awarded by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE). It also explains our requirements for our official assistance agreement files. It outlines how we organize our official agreement file. These rules apply to all OSMRE assistance programs. This chapter also lists all the standard Abandoned Mine Land (AML) grant subaccount numbers and funding type codes.

1-140-10 How is your assistance agreement number assigned?

A. All assistance agreement numbers are automatically assigned by our electronic grant system.

B. The system uses the following numbering structure.

1. The first digit is the letter “S”, which is the Department’s code for OSM.

2. The next two numbers show the Federal fiscal year when we originally awarded the agreement.

3. The next two letters show the type of agreement. The first letter is “A” for financial assistance. OSMRE grants normally are “AF” for a formula grant (AML) or “AP” for a project grant (Regulatory). “AC” is normally used for cooperative agreements (Watershed, Applied Science).

4. The final five numbers are automatically assigned by the system in sequential order.

1-140-20 Who maintains our official assistance agreement files?

A. The office that awarded the agreement is responsible for our official assistance agreement files.

B. The official file for each grant or cooperative agreement will be established and maintained by the appropriate grants specialist in our awarding office.

1-140-30 Will we keep our official files on paper or in electronic form?

Departmental policy requires us to keep the complete official assistance agreement file on paper. Some information in the hard copy files will be duplicated in the electronic grant system or in additional electronic files. All records in the electronic grant system must be printed, and filed in the official assistance agreement file.

1-140-40 What must we include in our official assistance agreement files?

Each official assistance agreement file must contain at least the following items.

A. All items received from the recipient.

B. Complete award documents for the original agreement and all amendments.

C. Information sent to the recipient with the award.

D. Findings and recommendations from application reviews and all other documentation from reviewing the application or processing the award.

E. Recipient performance, financial and other reports.

F. Monitoring statements or other documentation of our review of recipient performance or reports.

G. All correspondence from or to the recipient or any other party related to the agreement.

1-140-50 How should we organize our official assistance agreement files?

Our awarding office must keep the official files for its assistance agreements in a consistent format. The standard format is in a six segment file folder, with the most recent information, or activities on top, organized as follows:

A. Segment 1 is the Approved Application, amendments, letter revision requests, and final closeout submissions. This segment contains the complete application as we approved it in our original award, amendment applications, and letter requests.

1. Recipients transmittal letter or email.

2. Our notification to the recipient confirming receipt of application.

3. SF 424 (Application for Federal Assistance).

4. Recipient submitted documents related to intergovernmental coordination (E.O. 12372).

5. Budget request with all required backup information.

6. Program narrative.

7. Any assurances, certifications or disclosure reports required for this application.

8. Indirect Cost Rate agreement approved by the cognizant Federal agency.

9. Any supporting information included with the assistance application.

10. Letter revisions to the application.

We will group these materials by application version (i.e., initial application, amendment request, or letter revision request). All material should be dated. .

B. Segment 2, Award Document packages, which includes the following documents.

1. Approved Award Document from our electronic grant system, including approved amendments.

2. Grants Monitoring Checklists.

3. Letters of Approval.

4. Our notifications to recipients of approved applications, amendments, and all closeout documentation (i.e. final financial and programmatic reports and reviews and associated checklists).

5. Our internal review and approval documents, including Findings and Recommendation memos, Financial and Program review documentation, congressional notifications, and funds availability confirmations.

Do not include letters from the recipient in this segment. They belong either in segment 1 (if the correspondence is part of the application or a letter revision request) or in segment 6 with Miscellaneous Correspondence.

C. Segment 3, Support and Review Documentation, which includes the following documents.

1. Documentation of eligibility for Federal Financial Assistance, including Excluded Parties, single audit requirements, our intergovernmental coordination (E.O. 12372) efforts, and the FA Risk Assessment Checklist.

D. Segment 4, Documentations of trip reports, drawdown analyses, or other visits to the recipient.

E. Segment 5, Non-closeout Financial and Performance Reporting Documents, contains the following documents. This segment will not be used as the basis for financial auditing; therefore, duplicates of all detailed financial documents, and records contained in the recipient's files are not needed.

1. Financial Report.

2. Narrative performance report.

3. Monitoring statements documenting OSM reviews.

4. Documentation of any report extensions requested and granted

5. Copy of current milestone plan.

F. Segment 6, Miscellaneous Correspondence and Reports, includes the following documents.

1. General correspondence and correspondence providing general guidance concerning the grant.

2. News releases, news clippings, recipient newsletters.

3. Letters from members of Congress, the public, and OSMRE responses.

,

CHAPTER 1-150
MONITORING AND TECHNICAL ASSISTANCE

- **1-150-00 What does this chapter do?**
- **1-150-10 What are your responsibilities for monitoring program performance?**
- **1-150-20 What are our responsibilities for monitoring program performance?**
- **1-150-30 What will we do to monitor program performance?**
- **1-150-40 What will we do if an applicant is "high risk"?**
- **1-150-50 What kind of technical assistance might we provide to you?**

1-150-00 What does this chapter do?

This chapter outlines our policies and procedures for monitoring all assistance agreements awarded by the Office of Surface Mining Reclamation and Enforcement (OSMRE). Monitoring is the financial and programmatic review and oversight we perform to ensure that our programs are efficient and effective. This chapter also explains our technical assistance, which is the information, guidance and training we provide to you, the recipient, to help increase your knowledge or skills.

1-150-10 What are your responsibilities for monitoring program performance?

You have primary responsibility for performance under the assistance agreement you received from OSMRE. You must monitor all activities, including your subgrants or other agreements. You are responsible to assure that all work conducted under the agreement is performed in keeping with the terms, conditions and scope of the approved agreement. You must monitor each program, function or activity as set forth in your approved application or program plan. You must continually review the performance of all assistance activities to assure that adequate and timely progress is being made toward achieving the goals and objectives of the agreement.

1-150-20 What are our responsibilities for monitoring program performance?

A. We must monitor all active assistance agreements to ensure that operations comply with Federal laws and regulations, and are efficient and effective.

1. Programmatic and financial oversight is an important part of our program management. Our REG-8 and AML-22 oversight directives establish a joint oversight process. We work with you to develop and carry out a specific oversight program reviewing on-the-ground results for each assistance agreement.

2. Our monitoring includes tracking your required reports, reviewing them, and resolving all issues. Monitoring also includes reviews of particular issues considered appropriate for your specific circumstances.

3. Financial monitoring also includes drawdown analysis and our review of cash management. See Chapter 1-160 for more information.

B. Our monitoring responsibilities begin when we receive a financial assistance application. When we review your application, we must determine if you can accomplish the proposed goals in the manner and time frame proposed, and if you can manage the project in compliance with Federal laws and regulations. We must also assess a level of risk in making this award and develop an appropriate monitoring plan. Once we approve the assistance agreement, we must compare your actual accomplishments to the approved goals and manner of performance.

1-150-30 What will we do to monitor program performance?

A. We will perform the following required actions:

1. Review and approve your financial and performance reports.

2. Evaluate your timely submission of required reports. We will review tracking information provided by the financial system, maintain any additional tracking which may be necessary, and take appropriate action to resolve concerns.

3. Review and document other information on assistance agreement performance. Information may come from site visits, correspondence, e-mails, and telephone conversations with you or other parties.

4. Document the results of all assistance agreement monitoring actions on our monitoring statement form or in any appropriate format.

5. Keep all monitoring documents in our official agreement file. We will also distribute monitoring documents between OSMRE personnel, and offices as appropriate.

B. We will select additional monitoring topics as appropriate. Events or circumstances such as the following may suggest topics we would review to analyze your performance.

1. Statements in your application regarding requirements, activities, and program objectives.

2. Previous experience with you in this program, other OSMRE programs, or other Federal programs.

3. Audit reports, including your single audits as required by 2 CFR Part 200, or audits by the Government Accountability Office, or the Department of the Interior, Office of Inspector General.

4. Your implementation of the approved indirect cost rate agreement.

5. Your implementation of appropriate systems and internal controls for functions such as procurement, property, or cost distribution.

1-150-40 What do we do if an applicant is "high risk"?

A. We may conclude that an applicant is "high risk" if we determine that you meet any of the following criteria.

1. You have a history of unsatisfactory performance.

2. You are not financially stable.

3. You have a management system which does not meet the financial management standards set forth in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR Part 200 Subpart D.

4. You have not met the terms and conditions of previous awards

5. You are otherwise not responsible.

B. We have several options to minimize the risk to Federal funds if we determine that an applicant is "high risk":

1. Do not award a grant or cooperative agreement. We should not award an assistance agreement if the nature and extent of the risk are so serious that inadequate or improper performance is probable.

2. Convert a grant to a cooperative agreement with additional Federal involvement in program performance.

3. Include special conditions or restrictions in the award. We may take the following actions.

a. Pay you on a reimbursement basis rather than advance funds. We may also require that we approve each payment request before it is paid.

b. Withhold authority for you to proceed to the next phase within an agreement until we receive evidence of acceptable performance.

c. Require our prior approval for more of your operations and activities.

d. Require additional and/or more detailed financial reports.

e. Require you to obtain technical or management assistance.

f. Do additional project monitoring.

4. If we decide to impose special conditions, our awarding office will notify you in writing as early as possible. We will provide the following information:

a. The nature of the special conditions.

b. The reasons for imposing them.

c. The corrective actions which you must take before we will remove the special conditions.

d. The time allowed for you to complete the corrective actions.

e. How you may request reconsideration of the special conditions we plan to impose.

1-150-50 What kinds of technical assistance might we provide to you?

The purpose of technical assistance is to provide you or your staff with additional information, or raise your level of competence. In deciding what type of technical assistance is appropriate, we may consider the following range of services.

A. Require you to correct the problem we identify, and get technical assistance if necessary.

B. Provide technical assistance by our staff directly to you at your site.

C. Identify appropriate training opportunities and resources.

D. Ask other available organizations to supply appropriate technical assistance.

CHAPTER 1-160
DRAWDOWN ANALYSIS

- **1-160-00 What does this chapter do?**
- **1-160-10 What is a drawdown and why do we analyze it?**
- **1-160-20 What are the requirements for managing Federal cash and where do they come from?**
- **1-160-30 What must you do when you manage Federal cash?**
- **1-150-40 What must we do to monitor your use of Federal cash?**
- **1-160-50 What types of drawdown reviews will we conduct?**
- **1-160-60 What will we do in a Level 1 drawdown review?**
- **1-160-70 What will we do in a Level 2 drawdown review?**
- **1-160-80 How will we resolve problems identified in drawdown reviews?**

1-160-00 What does this chapter do?

This chapter explains our policies and procedures for reviewing how you use Federal cash received from an assistance agreement awarded by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE). This information applies to all OSMRE assistance agreements.

1-160-10 What is a drawdown and why do we analyze it?

A drawdown is your request for a cash payment from your assistance agreement. We analyze your drawdowns to ensure that you are managing Federal cash in accordance with Federal requirements.

1-160-20 What are the requirements for managing Federal cash and where do they come from?

A. The Federal government requires that you minimize the time you hold Federal cash in order to minimize the interest costs to the U.S. Treasury.

B. The Department of the Interior requires that methods and procedures for payment must minimize the time that elapses between when you receive the funds and when you or your subrecipient pay them out. This requirement comes from the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* at 2 CFR Part 200, Subpart D.

C. The Cash Management Improvement Act (CMIA) of 1990 (P.L. 101-453), as amended by the Cash Management Improvement Act of 1992 (P.L. 102-589), provides the general rules and procedures for the efficient transfer of Federal financial assistance between the U.S. Treasury and states. All Federal funds transfers to states are covered. However, only major assistance programs (the highest-dollar programs) are included in written Treasury-State Agreements. These agreements specify how transfers of Federal funds to states will take place. They assess interest liability for not performing the terms of the agreement.

D. U.S. Treasury *Rules Applicable to Federal Assistance Programs not Included in a Treasury-State Agreement*, at 31 CFR 205, require you to minimize the time between when you drawdown

Federal funds and pay them out for your assistance program. The payments must be limited to the minimum amounts you need. The payment must be timed in accord with your actual, immediate cash requirements to carry out your program. The timing and amount of payments must be as close as is administratively feasible to your actual cash outlay for direct program costs and the appropriate share of any allowable indirect costs. You must exercise sound cash management in paying funds to any subrecipients.

1-160-30 What must you do when you manage Federal cash?

A. You must limit advances of Federal funds to the minimum amount you need to meet your actual and immediate cash payments.

B. You must pay out Federal funds as soon as is administratively feasible under your financial management systems.

C. If you have a CMIA Treasury-State Agreement, you must comply with it.

1-160-40 What must we do to monitor your use of Federal cash?

A. We must monitor your compliance with Federal requirements. We will review your use of funds paid by Treasury to ensure that you do not request excessive amounts of advance funds and that you do not keep cash in excess of the immediate need.

B. We will determine the appropriate timing, magnitude and complexity for our review.

C. If we find indications during a drawdown review that Federal funds may not be properly accounted for, we will review the issue sufficiently to determine whether further action is needed.

1-160-50 What types of drawdown reviews will we conduct?

A. We will perform a Level I drawdown review the first time we review your systems, after significant changes to your systems, or when the reviewer determines it is appropriate. A Level I review has the following objectives.

1. To understand your systems for requesting and making payments.

2. To determine in calendar days the minimum administratively-feasible time for you to make payments.

3. To identify major problems or changes in your systems.

B. We will periodically perform a Level II review to monitor continuing performance of a system we have previously reviewed. The objective of the review is to determine whether your systems for requesting and paying Federal funds continue to comply with Federal requirements.

1-160-60 What will we do in a Level 1 drawdown review?

A. We will review your procedures to the extent needed to draw and support conclusions about your systems.

1. The reviewer will collect information about your systems. This phase may include the following steps:

   a. Review your laws, regulations, policies, procedures and financial management systems. This will include reviewing your processes for requesting, and paying out Federal funds.

   b. Flowchart or outline the processing steps according to your written policies, and/or the actual procedures being followed.

   c. Test the procedures used to request Federal funds. If you have multiple OSM assistance programs, we will review transactions adequate to test each program.

   d. Test the procedures for paying out Federal funds.

   e. Develop an expenditure rate. Compare the amount of Federal funds requested to your expenditure rate.

   f. Determine the frequency rate for cash draws.

   g. Track the amount of the cash balance on hand, and the Federal funds requested for each drawdown request.

2. Evaluate the data to make the following determinations:

   a. What is the actual and optimum number of days required to pay funds under your systems?

   b. Do significant trends exist or are they developing?

   c. Are there any procedures under your control which should be corrected or streamlined?

   d. Are there any procedures not under your control which can be streamlined?

B. The awarding office will report the review findings.

1. We will write a report explaining and justifying the office's findings and recommendations determinations about your systems and file the report with adequate supporting documentation in the official assistance agreement file.

2. We will present the results of the review to you. If necessary, the awarding office will work with you to resolve any issues or recommendations.

1-160-70 What will we do in a Level 2 drawdown review?

A. Our awarding office will review the minimum number of cash requests and payments required to determine whether there have been any changes in the payment practices or timeframes established in the level I review.

B. We will determine whether you are requesting cash payments on an advance or reimbursement basis. If we find that you continue to operate on a reimbursement basis, the review is complete.

C. If you are requesting cash advances, we will determine whether your system continues to meet the timeliness standard for paying out Federal funds. If we find that you continue to pay out Federal funds timely, the review is complete.

D. If there have been significant changes in your systems, we will conduct a level 1 review or other review steps as necessary to determine that the systems are in compliance.

E. We will complete and document the review.

1. If the review raised any issues or concerns, our awarding office will work with you to resolve the findings.

2. Our awarding office will file the review and any supporting documentation in its official assistance agreement file.

1-160-80 How will we resolve problems identified in drawdown reviews?

A. The awarding office will address and resolve any issues discovered in drawdown reviews. We may use the following approach for resolving problems:

1. Collect all necessary information. Document the critical time path and identify the most problematic points in the process. Determine the scope and extent of the problem. Identify any changes in the grantee's systems, procedures or internal controls, or in key

personnel which may have contributed to the problem. If additional information is needed, perform further review procedures.

2. Develop suggestions for resolution of issues.

3. Present our suggestions to you. We will work with you to consider mechanisms or improvements within your systems to address the issues.

4. Develop an agreement between you and us with actions, and a schedule for resolving the issues.

B. The awarding office must document any resolution agreement: We will conduct follow-up reviews as necessary to ensure that changes and improvements are being made, and that the problem has been resolved.

CHAPTER 1-170
OVERDUE REPORTS

- 1-170-00 What does this chapter do?
- 1-170-10 What is our policy on reporting requirements?
- 1-170-20 What must you do to request an extension or waiver of a report?
- 1-170-30 What will we do when a report is overdue?
- 1-170-40 What further actions can we take if we still do not receive the required report?
- 1-170-50 Do we have any alternatives to suspension or termination actions?
- Exhibit 1 Sample Confirmation of Extended Report Due Date
- Exhibit 2 Sample Warning Notice to Recipient

1-170-00 What does this chapter do?

This chapter explains what we will do if we do not receive the required reports for an assistance agreement we award to you.

1-170-10 What is our policy on reporting requirements?

A. The reporting requirement is a key condition of your grant or cooperative agreement.

1. We sent you a list of the reports and due dates required under your agreement when we sent you the written award document for your assistance agreement.

2. To see further information regarding report requirements for specific programs, please see chapter 4-230 for AML agreements; 5-230 for Regulatory program agreements, 6-230 for Watershed cooperative agreements, and 7-230 for Technical Studies agreements.

B. We must take vigorous and effective action to obtain overdue reports.

C. As a condition of all our assistance agreements, we will not approve any subsequent assistance awards or amendments to you unless we have received all overdue financial or performance reports. Only our Regional Director (RD) can approve exceptions to this policy.

1-170-20 What must you do to request an extension or waiver of a report?

A. We may extend a report deadline only if you send us a written request with adequate justification before the scheduled due date. Your request must explain why you need the extension, and propose a new due date for the report. We will enter the revised due date into our grant tracking system. We will file your request and our response in our official assistance agreement file.

B. We may waive a required report only if you send us a written request with adequate justification before the scheduled due date. To waive a required report, we must be able to determine that we can accomplish the purposes for the report information in some other way. If we waive a reporting requirement, we will notify you in writing, and update our grant tracking system.

OVERDUE REPORTS

1-170-30 What will we do when a report is overdue?

A. If we do not receive a report by the due date, we will contact you.

1. We will notify you that the due date has passed and we have not received the required report.

2. We will remind you that failure to submit reports on time makes you noncompliant with the terms of the assistance agreement. Noncompliance may result in sanctions including withholding cash payments, disallowing current expenditures, suspending or terminating part or the entire current award, not awarding further grants for the program, or other legal remedies.

3. We will ask you to send us the report immediately. We will negotiate with you a proposed extension of the due date not to exceed 30 calendar days.

B. We must confirm all agreements about overdue reports in writing. Our confirmation will state the approved extended due date for the report. It will also remind you of the sanctions, which we may impose for noncompliance if we do not receive either the report or an acceptable explanation by the new due date. We will then enter the revised due date in our grant tracking system. Exhibit 1 of this chapter is a sample confirmation document.

1-170-40 What further actions can we take if we still do not receive the required report?

A. If we do not receive either the report or an acceptable explanation by the agreed-upon extended due date, we will issue a written warning to you stating that you are noncompliant with the reporting requirements of the assistance agreement. The notice will state that unless the required reports are received within the next 10 calendar days, we will make no further payments and the grant award will be suspended until all required reports are received, and that the suspension may be converted to a termination 30 days later. Our notice will also state that we will make no further grant awards until we receive all overdue reports. Exhibit 2 of this chapter is a sample warning notice.

B. If the report or an acceptable explanation is not received by the end of the 10 calendar day period cited in our notice, we will coordinate with our Assistant Directors for Finance and Administration (AD-F&A) and for Program Support (AD-PS) to suspend the grant award and payments. We will withhold further grant awards until all delinquent reports have been received. Our Division of Financial Management (DFM) will ensure that no payments are made, and that the awarding office and AD-PS are informed of actions taken.

C. If the report or an acceptable explanation is not received by the end of 30 calendar days after the suspension, we will convert the suspension to a termination. See Chapter 2-270 for more information on enforcement and termination actions.

OVERDUE REPORTS

1-170-50 Do we have any alternatives to suspension or termination actions?

A. Our RD may waive suspension or termination of a grant agreement for noncompliance with reporting requirements with a written determination that it is in the best interests of OSMRE to continue the program.

B. We strongly encourage you to work with your awarding office before the end of the report extension period to ensure that the report is submitted, or an appropriate explanation is provided, and accepted, in order to avoid the suspension and termination provisions.

EXHIBIT 1

Sample Confirmation of Extended Report Due Date

Dear_____:

This is to confirm our telephone conversation of _____. It outlines the agreement we reached for the submission of the following delinquent report(s):

Grant No.:

Report Description: [*Financial Report and/or Performance Report*]

Report Due for Period:

As you are aware, these reports were due to OSMRE on _____.

Acceptance of a grant or cooperative agreement award carries with it the obligation for proper and timely accountability, both programmatic and fiscal. Please be aware that failure to submit required reports in a timely manner makes your organization noncompliant. This may result in the imposition of sanctions including (a) withholding cash payments pending receipt of the required reports; (b) denying authority to commit Federal or matching funds for this program; (c) suspension or termination of part or all of this grant award; (d) withholding further awards for this program until the required reports are received; or other legal remedies.

In keeping with the understanding reached in our telephone conversation, we will expect to receive the overdue report(s) by _____.

If you are unable to meet the agreed deadline, it is imperative that you inform us as soon as possible of the reasons why you are unable to meet the deadline and when you will submit the report.

If you have any questions regarding this matter, or if I can be of assistance in expediting the submission of the report, please do not hesitate to contact me at ( )_____.

Sincerely,

Awarding Office Official

EXHIBIT 2

Sample Warning Notice to Recipient

Dear_____:

The following grant reports are seriously overdue:

Grant No:

Report Description: [*Financial Report and/or Performance Report*]

Report Period:

This letter is to warn you that your organization is noncompliant with the reporting requirements of the assistance agreement. The reports were originally due on _____. My previous letter dated _____ confirmed our agreement by telephone to extend the due date to _____. The reports have not been received in this office.

Unless the reports listed above are received by _____ *[within the next 10 calendar days],* OSM will make no further payments and the grant award will be suspended until all required reports are received. The grant suspension may be converted to a termination on _____ *[30 days after the suspension].* No further grant awards will be made by OSMRE until all overdue reports have been received.

Should you or your staff have any questions regarding this matter, or if we can be of assistance in expediting receipt of the reports, please do not hesitate to contact me. If a site visit by me or my staff would be helpful, we would be pleased to come.

Sincerely,

Awarding Office Official

cc: DFM

CHAPTER 1-180
AUDIT RESOLUTION AND COST DISALLOWANCES

- **1-180-00 What does this chapter do?**
- **1-180-10 What audits and reviews are covered by this chapter?**
- **1-180-20 What is our primary emphasis in resolving an audit?**
- **1-180-30 What process do we use to develop an audit resolution?**
- **1-180-40 How do we process our audit decision?**
- **1-180-50 How can you appeal our audit decision?**
- **Exhibit 1 Audit Decision Form**
- **Exhibit 2 Sample Decision Transmittal to Recipient**

1-180-00 What does this chapter do?

This chapter provides an overview of our policies and procedures for resolving audit findings related to assistance agreements awarded by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE). It also describes how we may evaluate audit cost disallowances based on projecting audit findings to time periods not specifically examined by the auditors.

1-180-10 What audits and reviews are covered by this chapter?

A. The Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, at 2 CFR Part 200, Subpart F, requires recipients that expend $750,000 or more in a year in Federal awards to conduct a single audit of the organization's financial statements and Federal awards. Audit issues for our assistance agreements normally come from the single audit process through the cognizant Federal agency, the lead Federal agency working with your organization. We will use the procedures in this chapter to resolve single audit issues.

B. These procedures also apply to issues raised by other audits, such as the Government Accountability Office or the Department of the Interior Inspector General's Office. They also apply to other financial or management reviews of the assistance agreements with findings or recommendations that we must resolve.

1-180-20 What is our primary emphasis in resolving an audit?

A. When auditors report deficiencies in an organization with which we have a continuing relationship, our primary emphasis is to ensure that the deficiencies are adequately corrected. We must ensure that the deficiencies will not occur again under this agreement or any future assistance agreements.

B. If we disallow costs, we will limit the disallowance to costs incurred during (a) the organization's three fiscal years immediately preceding the starting date of the audit, and (b) subsequent periods up to the date the deficiencies are corrected.

For example, if an audit of a grant for the period July 1, 2009, through June, 30, 2010, found deficiencies in a recipient's management system and questioned cost amounts based on extending the findings to earlier or later grants, we would limit the disallowed costs as follows.

Date audit started:	December 12, 2010
Organization's three previous fiscal years:	July 1, 2007, through June 30, 2010
Date deficiencies corrected:	July 1, 2011
Limitation on cost disallowances:	July 1, 2007, through June 30, 2011

1-180-30 What process do we use to develop an audit resolution?

A. We must resolve all audits in a timely and proper manner. Our awarding office will resolve audits within 60 calendar days of our receipt. The 60-day period allows 30 days for you, the recipient, to respond to the audit findings. In the remaining 30 days, we will review your response, develop an appropriate resolution of the issue, approve the resolution, and inform you and our agency officials.

B. We receive the audit report and distribute it to the awarding office for review and resolution.

1. Normally, the Department of the Interior Office of Inspector General (DOI-OIG) receives an audit report from your cognizant Federal agency or from the auditors. DOI forwards the audit to OSM's Office of Planning, Analysis and Budget (OPAB).

2. OPAB reviews the report and forwards it to the appropriate Regional Director (RD) for review. If we have any issues to resolve, OPAB enters the report into OSM's audit tracking system.

3. The RD forwards the audit report to the grants specialist who works with that recipient. The grants specialist must review the report. If we have no issues to resolve, the awarding office need not take any further action on the audit.

C. We request your response to the audit findings.

1. Our grant specialist will prepare a written request to you asking you to respond to the audit findings. The request must include a summary of the findings to be resolved, and a copy of the relevant portion of the audit report. We will inform you that your response is due back to us 30 days after you receive the request. Our request should be signed or approved by the official authorized to approve your assistance award. Our grant specialist must confirm the date you receive the letter through the use of certified mail, a documented telephone conversation, or other means. Our grant specialist will keep in contact with you throughout the 30-day response period and provide technical assistance as needed.

2. You may request an extension to the 30-day response deadline. Your request must be fully justified, with an explanation of the unusual circumstances which prevent your timely response. Your request must also include a schedule for the final response.

3. Our awarding office may choose to approve or disapprove your request. If our approval will delay resolution of the audit beyond the 60-day period, our grant specialist must notify OPAB of the reason for the extension and the new audit resolution due date.

D. You respond to the audit findings in writing.

1. Your audit response must state whether you concur or disagree with each finding or recommendation. If you concur, you should specify how and when you will implement corrections and system changes. If you concur that questioned costs should be disallowed, you must specify when you will pay back the funds for the disallowed costs.

2. If you disagree with a finding or recommendation or questioned cost, you should justify your position and offer any alternative information or supporting documentation. You should send the response to our grants specialist.

E. If you do not respond within the 30-day deadline, our grants specialist may proceed on the basis of the available information to recommend resolution actions and prepare the decision letter to be signed by our authorized official.

F. We review your response.

1. In evaluating your response, the standard we apply is whether the costs are allowable, documented, reasonable, and justified. Factors such as the good faith of the organization, successful accomplishment of program objectives, or your ignorance of requirements should not be used as a basis for allowing costs which are unallowable. Our awarding office is not authorized to waive collection of unallowable costs.

2. The auditor's findings may have been based on estimates or statistical sampling of a few documents, with the findings projected to the total population. If you present an alternative sampling methodology or analysis, we may choose to accept it.

3. If the auditor questioned costs because you failed to request advance agency approval, but we would have approved the action if you had requested it, the official who would have approved the request may allow the questioned costs.

4. If the information you submit is inadequate or inconclusive, our grant specialist may recommend disallowance of the entire questioned amount. Alternatively, our grant specialist may work with you to obtain more information.

G. We may have meetings and discussions with you before we make audit decisions.

1. If your response is inadequate, our grant specialist may contact you and request additional information or a revised response. Alternatively, the grant specialist or other staff may perform an on-site review of your records to acquire the needed information. However, the requirement for timely resolution of audits still applies. If these actions will result in a delay of audit resolution beyond the 60-day period, our grant specialist must notify OPAB of the reason for the delay and the new audit resolution due date.

2. Our officials may need to meet with your officials to develop acceptable actions and schedules to resolve audit concerns or to design changes needed in procedures and systems. Written meeting notes must be kept. The decision letter resolving the audit must include agreements developed in these meetings.

3. We have found that it is best to get your concurrence with all aspects of a proposed resolution before we make our decision. When possible, we will discuss any plan to require changes in your processes, or systems with you before we include it in our audit decision.

4. If we decide to disallow costs, our awarding office will discuss with you how you will pay them. If appropriate, we will meet with you either before or after issuance of the decision letter to negotiate an extended payment plan for disallowed costs.

1-180-40 How do we process our audit decision?

A. After full consideration of your responses and other pertinent information obtained, our grant specialist will recommend whether or not to allow any questioned costs, and what corrective actions we will require to resolve administrative findings. The official authorized to approve your assistance agreements must approve the resolution.

B. We will document our audit decision and prepare a transmittal to send it to you.

1. Our awarding office will use the Audit Decision Form (Exhibit 1) to document all decisions made to resolve the audit. Both our grant specialist and the official authorized to approve our assistance awards must approve the form. For each finding, the form will accomplish the following:

   a. Summarize the initial audit report finding.
   b. Summarize your response.
   c. Summarize any discussion or any other pertinent factors.
   d. State the final decision.
   e. Identify any corrective actions to be taken by you and include the schedule to implement them.
   f. Identify any follow-up reviews or actions we will be doing.

g. Identify total disallowed costs and include a plan for collecting them.

2. We will use a transmittal document to send the Audit Decision Form to you. (Exhibit 2) is an outline of a sample letter. The transmittal is prepared by our grant specialist and approved by the official authorized to approve your assistance awards. Our transmittal will accomplish the following:

a. Identify the audit number.
b. Refer to the attached Audit Decision Form.
c. Specify payment procedure, address, and due date for any amounts owed. The due date should be 30 days after your receipt of the decision.
d. Identify any revised cost reports you must submit.
e. Summarize the appeal procedures you may use.
f. State that the resolution is final unless questioned by DOI OIG.
g. Identify an OSMRE contact for further assistance.

C. We will distribute the Audit Decision Form and approved cover letter as follows.

1. Send the approved Audit Decision Form and transmittal to you. Our grant specialist will confirm the date you receive them.

2. Send the Audit Decision Form and transmittal to OPAB. They will send it to DOI-OIG for final approval of the resolution.

3. If we must collect any disallowed costs, we will send the transmittal to our Division of Financial Management (DFM) for further action

4. File the approved Audit Decision Form and transmittal in our awarding office. It should be filed in the audit resolution file as well as in the official file for each assistance agreement affected.

D If we disallow any costs, we will develop a written agreement with you confirming the payment plan that is included with the Audit Decision Form. Authorized officials of your organization and our awarding office must sign or approve the payment agreement. We must send a copy of the approved payment plan to DFM for collection. DFM will initiate collection proceedings according to the payment plan.

E. If the audit decision calls for a follow-up review to confirm that corrective actions have been implemented, our grant specialist should schedule and perform the review as soon as feasible for the review topic. The grant specialist must notify the official authorized to sign our assistance awards and OPAB of the results of the follow-up review.

F. Upon repayment of all identified disallowed costs and implementation of all required corrective actions, our awarding office must notify you and OPAB that the audit resolution is complete. OPAB must close out the audit in our audit tracking system.

1-180-50 How can you appeal our audit decision?

A. If you do not concur with the awarding office's decision on an audit finding, whether fiscal, or administrative, you may appeal the decision to the RD of the appropriate region.

1. You must send a formal appeal letter within 30 days after you receive the awarding office decision. Your appeal must include the reasons for contesting the audit decision and all information necessary for review of the appeal.

2. Our RD should assign a coordinator for the audit appeal process. The coordinator should not have been involved in the initial decisions being appealed.

3. The coordinator must provide you with written confirmation that we have received your appeal letter within three days of receipt.

4. If you are appealing disallowed costs, the coordinator must notify DFM that you have filed an appeal. DFM will suspend collection procedures during the appeal, but late charges will continue to accrue.

5. The coordinator should obtain comments on the appeal from our grant specialist, our authorized official who signed the initial audit decision, and from all other interested parties. The coordinator will provide to the RD all information needed to decide the appeal.

6. The RD will make an initial decision on the appeal within 30 days of receiving your appeal. We will not send this initial decision to you. OPAB must concur with the decision before it becomes final. We should complete this coordination and review process within 30 days. Our final decision is due to you within 60 days of receiving your appeal.

7. If we cannot issue the final decision within 60 days of receiving your appeal, the appeal coordinator will notify you and OPAB of the reason for the delay, and the revised decision date.

B. If you do not agree with the appeal decision, you may appeal the decision to the Director of OSMRE for final resolution.

Exhibit 1

Audit Decision Form

1. Audit Control Number:

2. Recipient:

3. Audit findings resolved: *(For each audit finding resolved, show the finding number, the agreement number(s), the original finding, the amount of costs questioned, the recipient's response, the resolution decision, and the amount of costs disallowed. Use space "A" below for the first finding resolved, and add another letter for each additional finding. Expand this section or use additional pages as needed.)*

   A.

4. Total amount of costs disallowed: $

   Collection plan: *(Fully describe all elements of plan, including schedule for payment(s).)*

5. Approvals

   Grants Specialist:

   _____
   Signature Date

   Authorized Approving Official:

   _____
   Signature Date

Exhibit 2

Sample Decision Transmittal to Recipient

Dear:

The purpose of this letter is to inform you of our resolution of the Single Audit of the State of _____, for the period ending _____, dated _____.

Enclosed is the Audit Decision Form detailing the resolution of each audit finding relating to the OSM assistance agreements.

The disallowed costs resulting from this audit total $_____. Please send a check in this amount payable to the Office of Surface Mining Reclamation and Enforcement to the following address by no later than [date]___. If payment is not received by OSMRE prior to this date, interest charges will begin.

[grants specialist or payment address]

Please prepare revised [final] cost reports for agreements ____[numbers]___, and send them to the following address by no later than ____[date]___.

[report address]

If you wish to appeal any of these decisions, an appeal letter must be sent to the following address by [due date]___.

Director, Regional Office
[address]

You may consider this resolution to be final unless notified otherwise by this office. If the Department of the Interior, Office of Inspector General questions any of these decisions, we may reopen the audit resolution

If you have any questions or we may be of any assistance, contact ___[grant specialist]__ at _____.

Thank you for your assistance with this audit resolution.

Sincerely,

[Official authorized to approve agreements]

CHAPTER 2-100
USING CONTRACTS, GRANTS AND COOPERATIVE AGREEMENTS

- **2-100-00 What does this chapter do?**
- **2-100-10 Where do these requirements come from?**
- **2-100-20 Why does it matter whether we use a contract, grant or cooperative agreement?**
- **2-100-30 What is the difference between procurement and assistance?**
- **2-100-40 What transactions should be contracts?**
- **2-100-50 What transactions should be grants or cooperative agreements?**
- **2-100-60 What is substantial OSMRE involvement during program performance?**
- **2-100-70 What procedures will we follow when we determine whether to use a contract, grant or cooperative agreement?**
- **2-100-80 Can a single assistance agreement include both grant and cooperative agreement components?**
- **2-100-90 Can we get an exception to this policy?**
- **2-100-100 Can we award an assistance agreement to a single source without competition?**

2-100-00 What does this chapter do?

A. This chapter explains how we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), determine whether we should use a contract, a grant, or a cooperative agreement to award Federal funds.

B. This chapter also defines procurement and assistance, and explains the differences between them.

C. This chapter does not cover intra-agency or interagency agreements or memoranda of understanding. It also does not apply to licenses, sale documents, leases and special use permits unless they are for purposes of public support or stimulation.

2-100-10 Where do these requirements come from?

The Federal Grant and Cooperative Agreement Act of 1977, as amended (31 USC 6303) establishes the distinctions between Federal assistance relationships, and Federal procurement relationships.

2-100-20 Why does it matter whether we use a contract, grant or cooperative agreement?

Federal law establishes different legal requirements for procurement and assistance relationships. If we select the wrong instrument, we will be in violation of the law. Department of Interior Inspector General audits have repeatedly found serious problems with misuse of contracts, grants and cooperative agreements. OSMRE offices must treat the selection of the appropriate type of agreement with care.

2-100-30 What is the difference between procurement and assistance?

USING CONTRACTS, GRANTS AND COOPERATIVE AGREEMENTS

A. The main purpose of a procurement action is to acquire property or services by purchase, lease, or barter for the use or direct benefit of the Federal government. We use a contract as the legal instrument to award a procurement action.

B. The main purpose of an assistance action is to transfer money, property, services, or anything of value to the recipient in order to accomplish a public purpose of support or stimulation. The agency must have legal authority to award assistance agreements for this purpose. We use either grants or cooperative agreements to award assistance funds.

2-100-40 What transactions should be contracts?

A. We must use a procurement contract when our main purpose is to get services or property by purchase, lease, or barter, for our use or direct benefit.

B. We may also use a contract in a specific instance if we determine that an emergency project contract is appropriate. This allows us to determine when we can satisfy specific public needs best by using the procurement process. However, we cannot use this provision to circumvent the legal requirements for use of procurement or assistance instruments. This authority must be used only in extraordinary circumstances with the approval of the Assistant Director, Program Support (AD-PS) in coordination with the Assistant Director, Finance and Administration (AD-F&A).

C. We would normally use contracts for the following purposes.

1. To assess the performance of Federal programs or projects or recipient activity. This does not include research of an evaluative character unless we initiate the request for its performance.

2. To provide professional or technical support services for us or any third party. This does not include services rendered by a state or local government, Indian tribe, or professional group to its own constituency or members.

3. To conduct surveys, studies, and research to provide specific information for our use or for public release.

4. To conduct training where we select the individuals or groups to be trained or specify the content of the curriculum (not applicable to fellowship awards).

5. To publish or produce materials in any media, except for the results of research projects, or the proceedings of scientific conferences, which are not for our use.

6. To design or produce items for our use, or subject to our specifications.

7. To conduct conferences on our behalf.

8. To develop plans, management information, or other data for OSMRE use.

2-100-50 What transactions should be grants or cooperative agreements?

A. We will normally use grants or cooperative agreements for the following purposes:

1. General financial assistance to eligible recipients for a public purpose of support or stimulation under specific authorizing legislation.

2. Financial assistance for a public purpose to a specific program activity eligible for such assistance under specific authorizing legislation.

B. We use a grant when no substantial involvement is anticipated between us and the recipient during the performance of the proposed assistance activities.

C. We use a cooperative agreement when substantial involvement is anticipated between us and the recipient during program performance.

D. We will decide whether to use a cooperative agreement or a grant for a specific award based on the need for us to have substantial programmatic involvement in the activity.

E. Some programs require the use of cooperative agreements exclusively, such as the Watershed Cooperative Agreement Program. We make this determination for the entire program based on statutory requirements or policy level determinations that program performance will require substantial Federal programmatic involvement. Other programs may use a mix of grants and cooperative agreements, depending on the nature of the project or the abilities of the recipient. For example, we may start out a project with a cooperative agreement, but use grants in later years if the project no longer needs our substantial involvement.

2-100-60 What is substantial OSMRE involvement during program performance?

A. We may consider the following activities as substantial involvement in program performance, depending on the specific circumstances.

1. We have an option to halt an activity immediately (for example, if construction specifications are not met).

2. Requiring you to get our approval of one stage of program activity before you can begin

work on a subsequent stage within the performance period of the assistance agreement. However, this example does not suggest the use of cooperative agreement when we

reserve the right to approve or disapprove a subsequent grant, provided each grant is a separate instrument.

3. Approving, or helping you select, recipients of contracts or subgrants you award under the assistance instrument, if this level of involvement is required by law or authorized by waiver.

4. Helping you select your key personnel. However, a research project which provides in the award for the participation of a named principal investigator would not by itself justify use of a cooperative agreement.

5. Collaborating or participating jointly with you to perform the program activities.

6. Monitoring performance to provide specific direction or redirection of the work.

7. Setting requirements before the award limiting your discretion over the scope of services offered, organizational structure, staffing, mode of operation, and other management processes. Closely monitoring or working with you to ensure compliance with these requirements beyond the exercise of normal Federal stewardship.

B. We do not consider the following activities to be substantial involvement in program performance.

1. Approving your plans before we award the agreement.

2. Performing normal Federal stewardship responsibilities during performance to ensure that the objectives, terms and conditions of the award are accomplished. This could include site visits, and reviewing and responding to your program, financial, and audit reports.

3. Reviewing your performance after the project is completed.

4. Enforcing legal requirements such as civil rights, environmental protection, and provisions for the disabled.

5. Enforcing general fiscal and administrative requirements such as those included in OMB regulations.

6. Becoming more involved than we expected because of problems in your program or financial performance.

C. We do not consider providing technical assistance, advice, or guidance to you as substantial involvement during performance, if any of the following conditions are met.

1. We provide the assistance at your request.

2. We do not require you to follow the advice.

3. We do require you to follow our guidance, but we provide it before the project starts and we informed you of this requirement before we awarded the agreement.

2-100-70 What procedures will we follow when we determine whether to use a contract, grant or cooperative agreement?

A. Any program announcement, public notice, solicitation, or request for applications or proposals must show whether the relationship will be procurement or assistance and whether the agreement will be a contract, grant or cooperative agreement. For cooperative agreements, the announcement must include an explicit statement of the anticipated Federal programmatic involvement.

B. Decisions on whether to use a contract, grant or cooperative agreement must be justified and documented in the official file. Our written determinations must contain complete information on the nature of the relationship between us and the recipient to justify the selection of the award instrument.

C. If major individual transactions or programs contain elements of both procurement and assistance in such a way that they cannot be characterized as having a principal purpose of one or the other, the awarding office should seek initial guidance from the AD-PS.

D. We will request guidance from the Office of the Solicitor as needed. Upon request, the Solicitor may review new programs or policies, or a proposed cooperative agreement or grant which is of such complexity or novelty that it raises issues justifying legal review. Cooperative agreements and grant awards issued under well-established programs should not require Solicitor review.

2-100-80 Can a single assistance agreement include both grant and cooperative agreement components?

Yes, it is acceptable for an agreement to include more than one type of assistance relationship, so that some components are funded by grants and others by cooperative agreements. For example, a Regulatory Administration & Enforcement grant includes funding for a state's regulatory program and also its Federal lands cooperative agreement. Joint funding agreements are appropriate to simplify application and award requirements or efficient administration of the project, or to serve the best interests of the programs. The Joint Funding Simplification Act, P.L. 97-258 provides the opportunity and authority to participate in jointly funded projects in any number of funding relationships.

2-100-90 Can we get an exception to this policy?

A. Yes, we may request an exception from OMB in very rare instances. The Federal Grant and Cooperative Agreement Act allows the Director of OMB to exempt individual transactions or programs from the Act. OMB grants exceptions only on the basis of agency requests that include strong justification based on severe disruption to a program or serious consequences to a recipient.

B. A request for an exception should be sent from the Regional Director (RD) to the AD-PS and then to the Director of OSMRE. The request must answer the following questions.

1. Is the exception requested for a whole program, a group of awards, or for an individual award?

2. Why are we requesting an exception?

3. What will we do if an exception is not granted, and how will this harm the program or recipients?

4. What are the legal or program policy implications of the request?

5. What will we do if the exception expires before there are any changes to the law?

C. OSMRE must send the exception request through the Department of the Interior. The Director, in coordination with the Office of the Solicitor, must submit requests through the Assistant Secretary, Land and Minerals Management, and the Director, Office of Acquisition and Property Management, to the Assistant Secretary, Policy, Management and Budget.

2-100-100 Can we award an assistance agreement to a single source without competition?

A. Yes, a funding opportunity may be specifically directed to a single known recipient. This single source recipient may either be named in legislation, or determined by OSMRE based on demonstrable criteria such as unique expertise or capacity.

B. We rarely award Federal funds in a single source assistance agreement with no competition. If we decide to make a single source award, the decision must be able to withstand scrutiny. We must demonstrate in the award file that the award protects the public interest, and is in accordance with legal requirements and OSMRE priorities and objectives.

C. An award without competition must fit one or more of the following standards.

1. An unsolicited proposal, representing a unique or innovative idea, method or approach, not the subject of a current or planned assistance award, which will benefit program objectives.

2. A continuation or completion of an activity presently being funded, if competition would significantly harm the activity.

3. Legislative intent, demonstrated in law or legislative history, clearly indicating Congress' intent to restrict award to a particular recipient or purpose.

4. A uniquely qualified applicant for the activity to be performed based upon demonstrable factors such as technical expertise, location, voluntary support capacity, cost-sharing ability, or other unique qualifications.

5. An emergency situation with insufficient time available for competitive procedures, due to a substantial danger to health or safety or a compelling and unusual urgency

D. We must complete the following actions before awarding a single source award for $25,000 or more.

1. Announce a notice of intent to make the award. The announcement may be published on Grants.gov, the *Federal Register,* or any medium which will provide transparency.

2. Put a written justification in the award file explaining why competition is not practicable, including a statement of which of the above criteria apply and why.

CHAPTER 2-110
DEBARMENT AND SUSPENSION

- 2-110-00 What is debarment and suspension?
- 2-110-10 Why are people or entities debarred or suspended?
- 2-110-20 What is the System for Award Management (SAM)?
- 2-110-30 What will we do to ensure that applicants are eligible?
- 2-110-40 What is your responsibility as a recipient?
- 2-110-50 How will we process debarments and suspensions?

2-110-00 What is debarment and suspension?

A. Debarment is an action taken by a Federal agency to exclude a person from participating in Federal procurement or non-procurement transactions.

1. A Federal grant or cooperative agreement is considered a non-procurement transaction.

2. A primary transaction is between us, the Office of Surface Mining Reclamation and Enforcement (OSMRE), and you, the recipient of our assistance agreement. Lower tier transactions are between you and any other entity, including all your contracts and subgrants. A person who is debarred cannot participate in either primary or lower tier transactions.

B. Suspension is an action taken by an agency to immediately prohibit a person from participating in covered transactions for a temporary period while we complete an investigation and any legal or administrative actions.

2-110-10 Why are people or entities debarred?

A Federal agency may debar a person or entity for any of the following reasons.

A. A conviction or civil judgment for fraud, criminal offenses, violation of antitrust statutes, embezzlement, theft, forgery, bribery, falsification of records, false claims, obstruction of justice or other offenses that indicate a lack of business integrity or honesty.

B. A serious violation of a public agreement that affects the integrity of an agency program, such as a willful failure to perform, history of substantial non-compliance, or willful violation of statutory or regulatory provisions.

C. Any other cause of so serious or compelling a nature that it affects the participant's present responsibility, including knowingly doing business with an excluded person, or failure to pay a substantial debt owed to a Federal agency, or violation of the Drug-Free Workplace Act.

DEBARMENT AND SUSPENSION

2-110-20 What is the System for Award Management (SAM) ?

The System for Award Management (SAM) is the Official U.S Government system that consolidated several independent systems that are used in procurement and financial assistance for evaluating the financial worthiness of a contractor or recipient. SAM is a widely available source of the most current information about persons who are excluded or disqualified from transactions with the Federal government. Federal agencies and recipients may use the SAM. The General Services Administration (GSA) maintains the system. You may access the SAM at www.sam.gov on its website.

2-110-30 What will we do to ensure that applicants are eligible?

A. OSMRE will not award financial assistance to applicants that are debarred or suspended or otherwise excluded from or ineligible for Federal financial assistance.

B. Our awarding office must check SAM to determine whether a participant or principal is excluded before the authorized official approves any grant or cooperative agreement.

2-110-40 What is your responsibility as a recipient?

A. As a recipient, you must determine whether any of your own principals are excluded or disqualified. You must also determine if another person or persons at the next lower tier with whom you intend to do business is excluded or disqualified. You can make this determination in the following ways:

1. Check SAM.

2. Add a clause or condition to the transaction agreement with that person.

B. You must inform the authorized official at our awarding office if at any time you learn that any certifications you may have included in your original application package were incorrect when submitted or have since become incorrect.

2-110-50 How will we process debarments and suspensions?

A. We will initiate action when we have adequate evidence to suspect that one of the causes for debarment or suspension has occurred. For example, an indictment is sufficient grounds for initiating a suspension.

B. We will use the following process to initiate debarment or suspension actions.

1. The awarding office must investigate and document information concerning the existence of a cause for debarment. The awarding office must forward its findings and recommendations to the AD-PS.

2. The AD-PS will review the information and determine if the recommended action is appropriate. The AD-PS will forward the information to the Interior Department Office of Acquisition and Property Management for action.

3. The DOI Debarring/Suspending Official will process the debarment action as appropriate. See 2 CFR 180 for more information.

CHAPTER 2-120
DRUG-FREE WORKPLACE REQUIREMENTS

- 2-120-00 What is the purpose of this chapter?
- 2-120-10 What transactions do these policies apply to?
- 2-120-20 What must you do to comply with the drug-free workplace requirements?
- 2-120-30 How will we determine if you are in violation of the drug-free workplace requirements?
- 2-120-40 What will we do if we determine that you are in violation?

2-120-00 What is the purpose of this chapter?

This chapter explains government-wide, Department of the Interior, and Office of Surface Mining Reclamation and Enforcement (OSMRE) policies and procedures for compliance with the Drug-Free Workplace Act of 1988.

2-120-10 What transactions do these policies apply to?

These requirements apply to all the financial assistance agreements awarded by us, OSMRE. These requirements do not apply to contracts and subgrants awarded by you, the recipient of our grant, or cooperative agreement.

2-120-20 What must you do to comply with the drug-free workplace requirements?

A. You must make a good faith effort on a continuing basis to maintain a drug-free workplace. You must agree to do so as a condition for receiving financial assistance. Below are three general requirements that should be part of this effort:

1. You must publish a drug-free workplace statement that tells employees that unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace. The statement must specify the actions you will take against employees for violating that prohibition. The statement must also inform employees that, as a condition of employment under any award, they must abide by the terms of the drug-free statement and must notify you in writing if ever convicted for a violation of a criminal drug statute occurring in the workplace. You must give a copy of this statement to all employees working under an assistance agreement.

2. You must establish a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace, your policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs, and the penalties for drug abuse violations occurring in the workplace. You are not required to provide or pay for drug rehabilitation programs.

3. You must identify all known workplaces under your Federal awards.

B. You must include in your drug-free workplace policy a requirement that employees notify you of any criminal drug statute conviction for a violation occurring in the workplace within five calendar days. You must notify OSMRE in writing within ten days after receiving notice of such a conviction. Within 30 days of notice of an employee's conviction for a drug violation in the workplace, you must take one of the following actions:

1. Take appropriate personnel action against the employee, up to and including termination.

2. Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program that is approved by a Federal, state or local health, law enforcement or other appropriate agency.

2-120-30 How will we determine if you are in violation of the drug-free workplace requirements?

You will be in violation of the drug-free workplace requirements if we find that any of the following circumstances have occurred:

A. You violated these requirements.

B. The number of convictions of your employees for violating criminal drug statutes in the workplace is large enough to indicate that you failed to make a good faith effort to provide a drug-free workplace.

2-120-40 What will we do if we determine that you are in violation?

If our awarding office determines that you are in violation of the drug-free workplace requirements, we may take one or more of the following actions.

A. Suspend payments under the award.

B. Suspend or terminate the award.

C. Suspend or debar you from all Federal transactions for a period not to exceed five years. See Chapter 2-110 for more information on debarment and suspension actions.

CHAPTER 2-130
LOBBYING

- 2-130-00 What is lobbying?
- 2-130-10 What does this chapter do?
- 2-130-20 Where do these rules come from?
- 2-120-30 Are there any exceptions to these rules?
- 2-130-40 Can you lobby with Federal funds?
- 2-130-50 What certifications and disclosures must you give us about lobbying?
- 2-130-60 Are there any penalties for violations of these rules?
- 2-130-70 What will we do with your certifications?

2-130-00 What is lobbying?

Lobbying is the practice of attempting to influence decisions made by the government.

2-130-10 What does this chapter do?

This chapter outlines government-wide, Department of the Interior, and Office of Surface Mining Reclamation and Enforcement (OSMRE) policies to restrict lobbying.

2-130-20 Where do these rules come from?

The anti-lobbying restrictions were established by the 1990 Department of the Interior and Related Agencies Appropriations Act, and subsequently amended by the Lobbying Disclosure Act of 1995. The Department of the Interior's regulations at 43 CFR Part 18 provides a detailed description of these requirements.

2-130-30 Are there any exceptions to these rules?

A. These rules do not apply to grants or cooperative agreements with less than $100,000 in Federal funds.

B. These rules do not apply to Indian tribes for expenditures specifically permitted by other Federal law.

2-130-40 Can you lobby with Federal funds?

You or your subrecipients must not use Federal funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the award or amendment of any Federal contract, grant, loan or cooperative agreement.

2-130-50 What certifications and disclosures must you give us about lobbying?

LOBBYING

A. If you have made or agreed to make any payment for lobbying efforts using other funds which would be prohibited if paid with Federal funds, you must include form SF-LLL, Disclosure of Lobbying Activities, with your application.

B. You must also submit an SF-LLL disclosure form at the end of each calendar quarter in which actual payments occur, or when there are changes that materially affect the accuracy of the information in your previous disclosure form.

C. If you make any subgrants over $100,000, your subrecipients must submit a certification to you. In addition, those subrecipients must submit to you the SF-LLL disclosure form for any payment for lobbying using other funds before you make the subawards or whenever actual payments or changes occur.

2-130-60 Are there any penalties for violations of these rules?

A. Yes. Any person who makes a prohibited expenditure will be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure.

B. Any person who fails to file or amend the required disclosure form will be subject to a civil penalty of not less than $10,000, and not more than $100,000 for each such failure.

2-130-70 What will we do with your certifications?

A. Our awarding office must collect all lobbying certifications we receive and keep them in the official grant or cooperative agreement file.

B. If our awarding office receives any SF-LLL disclosure forms, they must forward them immediately to the Assistant Director of Program Support to be included in the OSMRE report to the Department.

CHAPTER 2-140
INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS

- **2-140-00 What is the purpose of this chapter?**
- **2-140-10 What is the purpose of Executive Order 12372?**
- **2-140-20 Who must follow intergovernmental review requirements?**
- **2-140-30 What is the process for submitting applications to a state intergovernmental review process?**
- **2-140-40 What must you and we do if a state review process makes a recommendation on your application?**
- **2-140-50 What if your state does not have a review process or has not selected our program for review?**

2-140-00 What is the purpose of this chapter?

This chapter describes our procedures to ensure that states and other governmental entities have the opportunity to review and comment on proposed financial assistance agreements before we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), decide whether to approve them.

2-140-10 What is the purpose of Executive Order 12372?

A. Executive Order (E.O.) 12372, *Intergovernmental Review of Federal Programs*, requires Federal agencies to provide state officials the opportunity to review and comment on proposed Federal financial assistance activities. Federal agencies must consider state comments before making a final decision.

B. E.O. 12372 allows a state to establish an intergovernmental review system. The state must establish it in an official act of the state. The Office of Management and Budget (OMB) must certify that the state's system is in accordance with OMB directives. A state system may select any Federal program or activity for review.

C. The Department of the Interior's rule implementing E.O. 12372 is published in 43 CFR Part 9, *Intergovernmental Review of Department of the Interior Programs and Activities*. This rule is also incorporated in the Departmental Manual, Part 511, *Coordination with State and Local Governments*. These procedures apply to all of our financial assistance agreements.

2-140-20 Who must follow intergovernmental review requirements?

A. Indian tribes are not required to submit applications to state intergovernmental review clearinghouses for review.

B. All other applicants for financial assistance must ensure that their applications meet their state's intergovernmental review requirements. If your state has an intergovernmental review process, and if they have chosen to review the OSMRE program you are applying for, you must submit your application for their review.

C. Applications subject to intergovernmental review include new assistance agreements, and also amendments to increase funding for current assistance agreements.

2-140-30 What is the process for submitting applications to a state intergovernmental review system?

A. You must submit your application for a new assistance agreement to the state Single Point of Contact (SPOC) at least 60 days before the planned award date. You must submit a continuation assistance application to the SPOC at least 30 days before the planned award date.

1. For the purposes of intergovernmental review, OSMRE considers regulatory and Abandoned Mine Land (AML) grant applications to be continuation grants. AML grant applications are not considered new grants because they do not normally include information on specific proposed reclamation projects.

2. To assure proper timing of reviews by the state system, you should indicate in your application (on the SF 424 form, item 8, Type of Application) whether the application is for a continuation grant, or a new assistance agreement.

B. You must provide evidence to us in your application that you provided the state system opportunity to comment on your proposal. You can show this on the SF 424 in Item 16, “Is Application Subject to Review by State E.O. 12372 Process?" and also in Item 3, “Date Received by State” and “State Application Identifier.”

2-140-40 What must you and we do if a state review process makes a recommendation on your application?

A. The state SPOC may send state process recommendations to us or to you. If you receive any recommendations or comments about your application from your state SPOC, either before or after we have awarded your agreement, you must send them immediately to the OSMRE office that received your application.

B. We must make efforts to accommodate intergovernmental concerns by one of the following actions.

1. Accept the recommendation.

2. Reach a mutually agreeable solution with the state process.

3. Provide the state SPOC with a written explanation of our decision before we take any other action on the proposal.

2-140-50 What if your state does not have a review process or has not selected our program for review?

A. In the absence of E.O. 12372 requirements, the consultation provisions of the Intergovernmental Cooperation Act of 1968 apply to your application. The Act requires us to notify affected state, area-wide and regional agencies, and local governments directly of our proposed actions. Our awarding office must send notices of intent, which include a description of the proposed financial assistance, a due date for responses, which allows at least 60 days for a new award or 30 days for a continuation, and how to contact us.

B. Under this Act, we are only required to consider the recommendations of intergovernmental agencies and officials. We are not required to accommodate their concerns, explain our decision, or provide prior notifications of other actions. However, we will try to work with all interested parties to respond to their concerns.

CHAPTER 2-150
ANTI-DISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

- 2-150-00 What is the purpose of this chapter?
- 2-150-10 Where do these requirements come from?
- 2-150-20 What does our Public Civil Rights Program do?
- 2-150-30 What must you do?
- 2-150-40 What happens if we discover discrimination in your program?

2-150-00 What is the purpose of this chapter?

This chapter describes our procedures to ensure compliance with Title VI of the Civil Rights Act of 1964 and other anti-discrimination laws. The requirements in this chapter apply to all applications and awards for OSMRE grants and cooperative agreements.

2-150-10 Where do these requirements come from?

Our civil rights program is authorized by the following laws, regulations, and executive orders.

A. Civil Rights Act of 1964, Title VI (P.L. 88-352; 42 U.S.C. 2000d 2000d-4).

B. Rehabilitation Act of 1973 (P.L. 93-112; 29 U.S.C. 794) as amended.

C. Education Amendments of 1972, Title IX (P.L. 92-318; 86 Stat. 235; 373) as amended.

D. Age Discrimination Act of 1975, as amended, (P.L. 94-135, Title III; 42 U.S.C. 6101 *et seq*.).

E. Americans with Disabilities Act of 1990 (P.L. 101-336) with the Department of Justice (DOJ) regulations at 28 CFR 35, including the Americans with Disabilities Act, Title II.

F. Executive Order (E.O.) 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*.

G. E.O. 13166, *Improving Access to Services for Persons with Limited English Proficiency (LEP)*.

2-150-20 What does our Public Civil Rights Program do?

A. Our Public Civil Rights program ensures that we comply with Title VI of the Civil Rights Act. Title VI prohibits discrimination in Federally funded programs based on race, color, or national origin. Title VI protects against a broad range of discrimination, including denial of services; differences in the quality, quantity, or manner of services; different standards for participation; and discrimination in an activity conducted in a facility built with Federal funds.

B. Congress authorized Federal agencies to enforce Title VI to prevent recipients from using Federal funds to support discrimination. Our Public Civil rights program works with states and educational institutions which receive OSMRE financial assistance.

C. The Public Civil Rights program ensures that following objectives are met.

1. Members of the public who participate in programs and activities that we fund have equal access to those programs and activities, and the facilities where the programs take place.

2. Recipients of Federal financial assistance, particularly states, do not exclude people from any program, activity or facility, or deny them benefits, or otherwise discriminate against them on the grounds of race, color, national origin, age, disability, or sex.

2-150-30 What must you do?

A. You must comply with all Federal statutes and requirements relating to nondiscrimination.

B. Your application for financial assistance must include assurances that you will comply with all nondiscrimination requirements. You must complete either the Assurances for Non-Construction Programs, Standard Form (SF) 424B, or the Assurances for Construction Programs, SF 424D.

2-150-40 What happens if we discover discrimination in your Federally assisted program?

A. If OSMRE discovers discrimination, we will work with you to ensure that discriminatory policies or practices are changed in a timely manner.

B. If you do not work voluntarily to eliminate the discrimination, we may refer the matter to the Departmental Office of Civil Rights for enforcement actions which may include the following sanctions.

1. Termination of your financial assistance agreements.

2. Referral to the Department of Justice for civil enforcement through Federal courts.

CHAPTER 2-200
PROPERTY

- 2-200-00 What does this chapter do?
- 2-200-10 Where do these policies come from?
- 2-200-20 What is property?
- 2-200-30 What is equipment?
- 2-200-40 Who holds title to equipment acquired under an assistance agreement?
- 2-200-50 How must states manage equipment?
- 2-200-60 How must recipients other than states manage equipment?
- 2-200-70 How must you manage any Federally-owned equipment we provide to you?
- 2-200-80 When does OSMRE have the right to transfer title to equipment?
- 2-200-90 How must you manage supplies?
- 2-200-100 Can you acquire land with OSMRE funds?
- 2-200-110 What specific rules apply to real property acquired with AML grant funds?
- 2-200-120 What specific rules apply to real property acquired with watershed cooperative agreement funds?
- 2-200-130 How must you manage real property?

2-200-00 What does this chapter do?

This chapter explains the policy and procedures for the use, management, and disposition of real property, equipment and supplies purchased by you, the recipient, under an assistance agreement from us, the Office of Surface Mining Reclamation and Enforcement (OSMRE).

2-200-10 Where do these policies come from?

Requirements for the use, management, and disposal of real property, supplies, and equipment acquired under your assistance agreement are established in the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at* 2 CFR Part 200, Subpart D.

2-200-20 What is property?

Property is any tangible item which is acquired or held through an assistance agreement. Real property is land, including buildings, and improvements fixed on the land. Personal property is all other property except real property.

2-200-30 What is equipment?

We define equipment as nonexpendable personal property with a useful life of more than one year and an acquisition cost of $5,000 or more per unit. Alternatively, you may use your own definition of equipment as long as your definition includes all property, which would be considered equipment under our definition.

PROPERTY

2-200-40 Who holds title to equipment acquired under an assistance agreement?

Title to equipment you acquire under an assistance agreement will vest in the non-federal entity upon acquisition, subject to the obligations and conditions in this chapter.

2-200-50 How must states manage equipment?

States will use, manage, and dispose of equipment acquired under an assistance agreement in accordance with state laws and procedures.

2-200-60 How must recipients other than states manage equipment?

A. If you are not a state government, you must follow these requirements regarding the use of equipment:

1. You must use equipment in the program or project for which you acquired it, as long as it is needed. This applies to whether or not the program continues to be supported by Federal funds. When you no longer need the equipment for the original program, you may use the equipment for other activities currently or previously supported by a Federal agency.

2. You may also make equipment available for use on other programs or projects currently or previously supported by the Federal government. That use must not interfere with the work on the program for which the equipment was acquired. You must give other programs or projects supported by OSMRE first preference for other use. You should consider charging user fees if appropriate.

3. You must not use equipment acquired with assistance funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically authorized by Federal statute.

B. Your procedures for managing equipment must meet the following minimum requirements:

1. You must maintain property records that include:

   a. A description of the property
   b. A serial number or other identification number
   c. The source of the property
   d. Who holds title?
   e. The acquisition date
   f. Cost of the property
   g. Percentage of Federal participation in the cost of the property
   h. The location, use and condition of the property
   i. Disposition data including the date of disposal and the sale price of the property.

2. You must take a physical inventory of property and reconcile the results with your property records at least once every two years. You must provide us a copy of the results of your physical inventory and reconciliation.

3. You must develop a control system to ensure adequate safeguards to prevent loss, damage or theft of the property. You must investigate any loss, damage, or theft which occurs, and provide the results of your investigation to us.

4. You must develop adequate maintenance procedures to keep the property in good condition.

C. You must dispose of original or replacement equipment when you no longer need it for the original program or for other activities currently or previously supported by a Federal agency. You must dispose of the equipment according to the following rules. You must inform us of the disposition action you will take.

1. You may keep, sell, or otherwise dispose of Items of equipment with a current per unit fair market value of less than $5,000 with no further obligation to us.

2. You may keep or sell items of equipment with a current per unit fair market value of $5,000 or more after compensating us. To calculate the amount to pay us, apply our percent share of the original cost to the current fair market value of the equipment.

3. If you sell equipment, you must establish proper sales procedures to ensure the highest possible return.

4. If you fail to take appropriate or timely disposition actions, we may direct you to take the appropriate actions.

D. When you replace equipment, which is no longer serviceable or efficient, you may use the old equipment as a trade-in, or sell it and use the proceeds to purchase replacement equipment. You must meet the following requirements:

1. The replacement equipment must serve the same function as the original equipment; however, the equipment does not necessarily have to be of the same type, grade or quality.

2. If you trade in or sell the equipment, the value credited for it must be comparable to its fair market value.

3. The sale of the equipment and purchase of its replacement must occur close enough in time to show that the two events are related; however, you may purchase the replacement equipment before you sell the original equipment.

4. Replacing equipment in this way is not a disposition of the equipment. You are not required to compensate OSMRE for the Federal share of the equipment at the time of replacement. Instead, the Federal share of the original equipment will be transferred to the replacement equipment with an appropriate adjustment as follows.

   a. Apply the percentage of Federal share in the cost of the old equipment to the proceeds from its sale or the amount credited for trade-in to set a dollar amount for Federal share of the proceeds.

   b. Use the dollar amount of the Federal share of the proceeds to reduce the Federal share of the cost of the replacement.

   c. If the Federal share of the proceeds is greater than the Federal share of the cost of the replacement, you may use the excess funds to reduce the Federal share of the grant. Otherwise you must return the excess funds to OSMRE.

2-200-70 How must you manage any Federally-owned equipment we provide to you?

If we provide any Federally-owned equipment to you, the following rules apply.

A. Title to the equipment will remain vested in the Federal government.

B. You must manage the equipment under the same requirements as equipment you acquired through the assistance agreement.

C. You must complete an inventory list annually and send it to the awarding OSMRE office. To report, use the Tangible Personal Property Report (SF-428). This report allows for you to provide an inventory list the inventory in any format which gives us enough information to determine the status of the equipment.

D. When your project no longer needs the equipment, you must request disposition instructions from OSMRE.

2-200-80 When does OSMRE have the right to transfer title to equipment?

OSMRE reserves the right to transfer title of any equipment acquired through an OSMRE assistance agreement to the Federal government or to a third party named by OSMRE. Such transfers will be subject to the following requirements.

A. We must identify the specific piece of property to you in writing. We will give you this notice in the award document or as soon as possible after we approve the equipment purchase so that you can note this restriction in your property management system.

B. We will issue disposition instructions within 120 calendar days of the end of the assistance agreement in which you acquired the equipment. If we fail to issue disposition instructions in this period, you may follow normal equipment disposition procedures.

C. When we transfer title to the equipment, we will pay you an amount calculated by applying the percentage of your participation in the purchase to the current fair market value of the property.

2-200-90 How must you manage supplies?

Supplies are items of personal property which do not meet the criteria for equipment. Items which have a useful life of less than one year or cost less than $5,000 per unit are supplies. You must meet the following requirements when managing supplies.

A. Title to supplies acquired under an assistance agreement will vest in you upon acquisition.

B. You must purchase supplies only in amounts you reasonably expect to be needed for the period of the OSMRE-funded assistance agreement.

C. Although you do not have to account for supplies as you do for equipment, you must maintain adequate records to document the purchase, receipt, cost, and use of supplies in accordance with good management practices.

D. You may have unused supplies left at the end of the award. If their total fair market value is over $5,000 and you do not need the supplies for other Federally-sponsored programs or projects, you must compensate us for the Federal share. To calculate the amount to pay OSMRE, apply our percentage share in the original cost to the fair market value of the supplies.

2-200-100 Can you acquire land with OSMRE funds?

Yes, you may use OSMRE assistance funds to acquire land or other real property. You must meet the following requirements.

A. You must have our specific approval before you spend any funds to acquire real property. Our approval decision will be made by the OSMRE official who is authorized to award your assistance agreement.

B. You will hold title to all real property. Title vests in your organization upon acquisition. You must not encumber your title or interests in real property.

C. If you are acquiring real property for use by your program, see.2 CFR Part 200.

D. If you are acquiring land for reclamation using AML or Watershed Cooperative Agreement funds, you must follow the program-specific rules below.

PROPERTY

2-200-110 What specific rules apply to real property acquired land with AML grant funds?

In most cases, you do not need to acquire land in order to reclaim it. We do not encourage the purchase of sites with coal or coal refuse because that may result in your having to provide for long-term water treatment. However, on rare occasions you may find it necessary to acquire land in order to reclaim it. You must meet the following requirements to acquire land.

A. The land to be acquired must be adversely affected by past coal mining practices and acquisition must be necessary for successful reclamation. The land must also serve recreation, historic, or conservation purposes after reclamation. It must also have permanent facilities for reclamation of mining impacts or preventing future damage to the land, such as a relocated stream channel, or diversion ditch. You may acquire coal refuse disposal sites, including the coal refuse.

B. We must agree that the land acquisition is necessary for reclamation, and specifically approve the purchase in advance.

C. You must use funds from sources other than AML grants to pay at least 10% of the acquisition cost of the land.

D. You must follow the provisions in sections 407 and 409 of SMCRA, OSMRE regulations at 30 CFR Part 879, and the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 (P.L. 91-646) for the acquisition, use and disposition of the land.

2-200-120 What specific rules apply to real property acquired with Watershed Cooperative Agreement funds?

Sites for the construction of AMD treatment facilities are usually on private lands. In most cases, you can get the landowner's permission to use the property for AMD treatment. Often, you may get an easement from the landowner for perpetual use of the property for the treatment facility. However, on rare occasions the landowner will not agree to install the treatment facility, and you may have to acquire the land in order to do your project. The owner may want to transfer ownership of the project site to you at fair market value or some lower price.

A. You must demonstrate to us that acquisition of the property is necessary to achieve the goals of your project, and that other options such as easements or a different location are not viable.

B. You may use up to 50% of the amount of our watershed cooperative agreement funding for the purchase of the land, and related expenses.

C. You must pay at least 10% of the cost of the property with funds from sources other than the AML Fund.

D. You must follow the provisions of Section 407 of SMCRA and 30 CFR Part 879.

E. The future property owner must be your organization, another approved 501(c)(3) non-profit group, or the state.

F. OSMRE's contribution to the purchase price of the property must not exceed the appraised fair market value.

G. The property appraisal should be prepared by a state-certified real estate appraiser. The appraiser should be certified for general property appraisals, not just for residential properties.

H. You must send the appraisal through our Clean Streams Coordinator to the regional office appraiser for review. The regional appraiser must accept the appraisal before you spend watershed cooperative agreement funds to purchase the property.

I. The deed of transfer must specify that the property will be used for the purposes of the project and/or recreation, conservation, or environmental education purposes in perpetuity. If the original owner organization dissolves or is unable to continue managing the property as intended, the property must be transferred to another non-profit organization with similar goals. The new owner organization must continue to operate, and maintain the property as appropriate.

J. The deed of transfer must specify that if the owner determines the property is no longer needed for the purposes stated in the deed, the owner will notify and consult with OSMRE for appropriate disposition instructions.

2-200-130 How must you manage real property?

A. You can manage real property acquired in whole or in part with OSMRE funds for the originally authorized purposes as long as it is needed for those purposes. This rule applies even if the program or project is no longer supported by Federal funds.

B. When you no longer need the real property for the original purpose, you must request disposition instructions from us. We will give you disposition instructions using one of the following options.

1. You may keep title to the property after compensating us. To calculate the amount to pay us, apply the OSMRE percentage share in the original cost to the current fair market value of the property.

2. You may sell the property and compensate us. To calculate the amount to pay us, deduct your actual and reasonable selling and fix-up expenses from the proceeds of the sale of the property. Apply the OSMRE percentage share in the original cost to the net proceeds. You must use sales procedures that provide for as much competition as practicable, and result in the highest possible return.

PROPERTY

3. You may transfer title to us or to a third party we name or approve. We will pay you compensation calculated by applying your percent share in the original cost to the current fair market value of the property.

CHAPTER 2-210
PROGRAM INCOME

- **2-210-00 What does this chapter do?**
- **2-210-10 Where do these policies come from?**
- **2-210-20 What is program income?**
- **2-210-30 Should you try to earn program income?**
- **2-210-40 What methods do Federal regulations provide for using program income?**
- **2-210-50 How must you account for program income?**
- **2-210-60 What specific rules apply to program income earned from a regulatory grant?**
- **2-210-70 What specific rules apply to program income earned from an AML grant?**
- **2-210-80 How must you use program income from all other OSMRE assistance agreements?**

2-210-00 What does this chapter do?

This chapter explains our policies on program income generated by any grant or cooperative agreement we award. This chapter defines program income, and describes how you, the recipient, must manage and use it.

2-210-10 Where do these policies come from?

Our policies about earning, reporting, and using program income come from *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,* at 2 CFR Part 200, Subpart D.

2-210-20 What is program income?

A. Program income is the gross income earned by you that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance.

B. The following types of income are examples of program income. Note that this is not a complete list. Other items not included here may also be program income:

1. Fees you receive for services you perform.

2. Revenue from sale of products made under an assistance agreement, such as publications.

3. Fees to rent or use equipment or real property you acquired with assistance funds.

4. Income from permit fees.

5. Insurance premiums received under the Subsidence Insurance program.

C. We do not consider the following types of income to be program income:

1. Proceeds from the sale of real and personal property, either purchased through an assistance agreement or provided by us, are not program income. See Chapter 2-200 for property disposition rules.

2. Credits applied against expenditures, such as a rebate on an equipment purchase, are reductions of costs rather than program income. These credits must be applied to the related cost to reduce the expense charged to the assistance agreement.

3. Income from fines, penalties and forfeitures collected by a state or tribal coal regulatory authority are not program income. You should use these funds to improve quality of life and the environment in the state or on tribal lands.

4. Tax revenues dedicated to the purposes of your program are not program income.

5 Tuition and related fees received by an institution of higher education for a regularly offered course taught by an employee paid under an assistance agreement are not program income.

2-210-30 Should you try to earn program income?

Yes. We encourage you to earn program income in order to reduce program costs.

2-210-40 What methods do Federal regulations provide for using program income?

A. The Code of Federal Regulations at 2 CFR Part 200, Subpart D, provides three methods for treating program income from Federal assistance agreements:

1. The Deduction method uses program income to reduce program costs. Program income must be deducted from total allowable costs to determine net allowable costs. The net allowable costs are then divided into Federal and non-Federal shares according to the percentages in the award. Under this method, program income reduces your and our costs for the program. The total program budget does not increase.

2. The Addition method adds program income to the Federal and non-Federal funds already awarded to increase the total program budget.

3. The Cost sharing or matching method allows you to use all program income to meet your cost sharing or matching requirements under the assistance award. This method reduces your costs for the program. The Federal cost and the total program budget do not change.

B. Your grant or cooperative agreement award, and our rules for the program under which we

awarded it, will specify which of these three methods you must use.

2-210-50 How must you account for program income?

A. You are accountable for the program income you receive.

B. You must use program income funds according to your assistance agreement and the treatment method authorized for your program.

C. You must report program income from all sources on your interim and final financial reports.

D. You must keep records of program income in the same manner as required for funds provided by the assistance agreement. You must maintain financial records of program income receipt, and disposition adequate to track and audit such income.

2-210-60 What specific rules apply to program income earned from a regulatory grant?

A. You must use program income from regulatory program grants to meet your required match, under the Cost-sharing or matching method.

B. If you earn more program income than the required match, or if your regulatory grant does not require match, you may choose either of the following options.

1. You may use the Addition method, adding the excess program income to the Federal and non-Federal funds already committed to the regulatory program in the grant agreement to increase the total program budget. You must use the additional funds for the purposes and under the conditions of the regulatory grant agreement.

2. You may use the Deduction method, using the excess program income to reduce the Federal share of regulatory program costs.

C. You must report all program income earned and expended, and the method used, in your final financial report.

D. For income from permit fees paid to the state or tribe by coal mine operators, you may choose either to report all of the fees you received in the current grant, or to distribute the fee income equally to the regulatory grants in effect during the duration of the approved permit.

E. Considering all sources of funds you receive as a result of a regulatory grant (Federal grant funds, permit fees, etc.), you must not realize a "profit" by receiving more income under a grant than you spent on the regulatory program.

PROGRAM INCOME

2-210-70 What specific rules apply to program income earned from an AML grant?

A. Program income includes fees from any user charge related to land reclaimed under Title IV of SMCRA, after expenditures for maintenance have been deducted.

B. Program income includes donations by persons, corporations, associations and foundations for the purpose of Title IV. You must account for donations properly.

C. You must use program income from an AML grant by the Deduction method except for the specific types of income listed below. Under the Deduction method, you apply the program income to AML expenditures to reduce the Federal cost.

1. You must use Subsidence Insurance premiums under the Addition method to increase the funding of the Subsidence Insurance Program. You should consider the insurance premiums to be paid out when you determine how to use the funds to further the objectives of the Subsidence Insurance Program.

2. Interest earned from AML set-aside trust funds is not considered to be program income. Set-aside funds and interest are considered to be state or tribal funds. You may keep them and spend them to achieve the goals of the Set-Aside Program.

2-210-80 How must you use program income from all other OSMRE assistance agreements?

You should use the Deduction method for program income from any OSMRE assistance agreement except regulatory and AML grants. Apply the income to total expenditures, reducing the final cost of the program.

CHAPTER 2-220
MATCHING AND COST SHARING

- 2-220-00 What does this chapter do?
- 2-220-10 Where do these policies come from?
- 2-220-20 What is match?
- 2-220-30 What costs may you use to meet match requirements?
- 2-220-40 May you use OSMRE funds as match for other Federal assistance agreements?
- 2-220-50 May you use costs paid from program income to meet match requirements?
- 2-220-60 What in-kind contributions may be used as match?
- 2-220-70 How should you value contributions of volunteer or staff services, supplies, and loaned or donated land, buildings and equipment to meet match requirements?
- 2-220-80 Can you claim a contribution as a direct cost if you charge similar costs to indirect costs?
- 2-220-90 What policies apply to indirect costs used as match?

2-220-00 What does this chapter do?

This chapter explains match requirements in assistance agreements awarded by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE), and how you, the recipient, can meet them.

2-220-10 Where do these policies come from?

A. Policy Federal share and recipient share costs are found in from the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, at 2 CFR 200, Subpart D.

B. The level of match required for a specific assistance program is set by legislation or agency regulations or directives. For example, the Surface Mining Control and Reclamation Act (SMCRA) require states to provide 50% match for regulatory program administration and enforcement (A&E) grants for work on non-Federal lands.

2-220-20 What is match?

Some assistance programs require costs to be shared between Federal funds and non-Federal funds. Match is the level of non-Federal support which is required for your program or in your assistance agreement.

2-220-30 What costs may you use to meet match requirements?

A. You may satisfy matching and cost sharing requirements by either or both of the following:

1. Pay for allowable costs of your program with funds from your organization, non-Federal grants, or other cash donations.

2. Use in-kind contributions from third parties for your program.

B. You may not meet a match requirement with costs paid by another Federal assistance agreement unless using those particular funds as match is specifically authorized by law.

C. You may not consider a cost or contribution as match for your OSMRE agreement if it has been used to match another Federal assistance agreement or any other award of Federal funds. You may prorate a cost or contribution between two or more Federal agreements as long as no costs are claimed more than once.

D. Your records must document the costs and contributions you report as match. The records must show how you calculated the value placed on in-kind contributions.

2-220-40 May you use OSMRE funds as match for other Federal assistance agreements?

A. You cannot use costs paid by OSMRE under any assistance agreement or contract to meet match requirements of other Federal agreements unless that use is specifically authorized by law.

B. Appropriations laws for some fiscal years allow you to use Abandoned Mine Land (AML) program funds as non-Federal match for projects funded by other Federal agencies for environmental restoration related to treatment or abatement of acid mine drainage from abandoned mines. The projects must be consistent with the purposes and priorities of SMCRA. For guidance on the status of specific AML funds you wish to use as match for other Federal assistance, contact the OSMRE office which awarded your grant.

C. You may use AML set-aside funds and interest earned on those funds as match for other Federal assistance programs. The purposes of the other program must be consistent with the purpose of the set-aside account.

2-220-50 May you use costs paid from program income to meet match requirements?

A. You may not use costs paid with program income as match unless we have approved that use for the program income you earn.

B. You may use costs paid with program income generated from a regulatory A&E grant to meet the match requirement of the grant.

2-220-60 What in-kind contributions may be used as match?

A. You may use goods and services donated to your program to meet match requirements only if the contribution is necessary for your program activities and the cost would be allowable if you paid it in cash.

B. You may use a third party in-kind contribution to a fixed-price contract as match only if it results in

a cost savings for you, or an increase in the services or property provided under the contract at no additional cost to you.

2-220-70 How should you value contributions of volunteer or staff services, supplies, and loaned or donated land, buildings and equipment to meet match requirements?

A. *Volunteer services*. You should value services provided to your program by volunteers at rates consistent with what you pay employees doing similar work. If you do not have employees doing similar work, use what other employers in your area pay for similar work. You may include a reasonable amount of fringe benefits. Your records must support and document volunteer services, to the extent feasible, by the same methods that you use for employees performing similar work.

B. *Employees of other organizations*. When another organization contributes the services of an employee to do their normal type of work at no cost, you should value these services at the employee's regular rate of pay (excluding the employer's fringe benefits and overhead costs). If the employee is not doing their normal work, you should value their services under the volunteer services rule above.

C. *Donated supplies*. Value donated supplies at the fair market value of the supplies at the time you receive them.

D. *Loaned equipment or space*. If a third party donates the use of equipment or building space they own, you should value the contribution at the fair market rental value of the equipment or space.

E. *Donated equipment, buildings and land*. If a third party donates equipment, building or land, and gives you title to the property, the amount you can claim as match depends on whether the grant is for capital or operating expenditures.

1. If the purpose of the grant is to acquire equipment, buildings or land, you may claim the total market value of the property at the time of donation. However, if any part of the donated property was acquired with Federal funds, you may use only the non-Federal share of the property as match.

2. If the purpose of the grant is to support activities that require the use of equipment, buildings or land, one of the following rules apply:

   a. You may claim depreciation or a use allowance based on the fair market value of the donated property. You must determine and allocate the depreciation or use allowance following OMB cost principles as if you had purchased the property at the fair market value.

   b. You may request our approval to claim the fair rental rate of the donated land or the full market value of the equipment or buildings at the time it is donated as

match. We will approve your request only if we would have approved your purchase of the equipment or building or actual rental of the land as an allowable direct cost. If any part of the donated property was acquired with Federal funds, you may use only the non-Federal share of the property as match.

3. In some cases you must determine the fair market value of land or a building, or the fair rental rate of land or space in a building. We may require you to have the market value or rate set by an independent appraiser and to have an authorized official of your organization certify the value or rate before we accept these costs as match.

2-220-80 Can you claim a contribution as a direct cost if you charge similar costs to indirect costs?

You must classify a contribution as a direct or indirect cost in the same way you classify similar costs which you charge to Federal funds. So if you treat items such as rent, utilities and accounting as indirect costs when you develop your indirect cost rate, then you may not claim contributions in these categories as direct costs. Similarly, if you already own facilities and equipment, you may not count their use as a direct cost contribution to the program if depreciation or use charges for the property are included in the indirect cost rate.

2-220-90 What policies apply to indirect costs used as match?

A. You may accept in-kind contributions of goods and services that would have been indirect costs if you had to pay for them. You may use indirect cost contributions as match only if your approved indirect cost rate includes the value of the contributions.

B. If you have multiple indirect cost rates, the requirement for consistent classification of costs applies separately to the activities covered by each rate. For example, if you have approved rates for "onsite" and "offsite" activities, you may charge the costs of renting offsite facilities to offsite activities as a direct cost even if you treat facility costs as indirect costs for onsite activities.

C. If we negotiate your indirect cost rate, we will only negotiate "offsite" or other special indirect cost rates if they are justified under the applicable cost principles. We will not establish special indirect cost rates just for cost sharing or matching arrangements.

CHAPTER 2-230
PROCUREMENT GUIDELINES

- **2-230-00 What does this chapter do?**
- **2-230-10 Where do these policies come from?**
- **2-230-20 What is procurement?**
- **2-230-30 What procurement rules must states follow?**
- **2-230-40 What procurement rules must recipients other than states follow?**
- **2-230-50 What provisions must you include in contracts?**
- **2-230-60 Do the Davis-Bacon Act and Contract Work Hours and Safety Standards Act apply to contracts supported by OSMRE funds?**

2-230-00 What does this chapter do?

This chapter provides guidelines for procurement with funds from assistance agreements awarded by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE) to you, the recipient. The purpose of this guidance is to ensure that you get the materials and services your project needs efficiently and appropriately.

2-230-10 Where do these policies come from?

Requirements for procurements with Federal funds are found in Federal laws and the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,* at 2 CFR Part 200, Appendix II.

2-230-20 What is procurement?

Procurement is the act or process of purchasing the services and goods your program needs.

2-230-30 What procurement rules must states follow?

You must use the same policies and procedures you use for procurements with state funds. You must ensure that every purchase order or contract includes any clauses required by Federal statutes, executive orders and regulations.

2-230-40 What procurement rules must recipients other than states follow?

You, a recipient other than a state, will use your own procurement procedures based on state and local laws and regulations. However, the procurements must follow applicable Federal law and the standards in 2 CFR Part 200 Subpart D. These standards include the following requirements.

A. Your system must ensure that procurements are effective, efficient and economical. Plan and carry out procurement transactions so as to provide full and open competition. Analyze proposed procurements to ensure that they are necessary and the cost is reasonable. Consider alternative sources and methods to reduce costs. Make awards only to responsible contractors with the

ability to perform successfully. Maintain a contract management system which ensures that contractors perform in accordance with the terms of the contract.

B. You must ensure that no employee, officer or agent of your organization with a conflict of interest, real or apparent, will participate in the selection, award, or administration of a contract.

C. You must settle all contractual issues in accordance with good administrative practice and sound business judgment. We will not step in and substitute our judgment for yours unless the matter is primarily a Federal concern. You must refer violations of law to the local, state, or Federal authority with jurisdiction.

D. You must have a protest procedure to resolve procurement disputes. You must inform us of protests. A protestor must exhaust all of your administrative remedies before pursuing a protest with us. We will review protests of your contracts only if there is a violation of Federal law or regulations, or a violation of your protest procedures.

E. You must maintain records detailing the significant history of each procurement action. These records must include, but are not limited to, the reason for selecting the method of procurement and the type of contract, contractor selection or rejection, and the basis for the price.

2-230-50 What provisions must you include in contracts?

A. Both your contracts and the contracts of your sub-recipients must include the following provisions:

1. All contracts must include notice of OSMRE requirements and regulations about:
   a. Reporting.
   b. Copyrights and rights in data.
   c. Patent rights for any discovery or invention which arises or is developed under the contract.

2. All contracts must require contractors to keep all records, paper or electronic, which are pertinent to the contract. Contractors must retain all required records for three years after you make final payments and close all pending matters. Contractors must allow you, us, the Department of the Interior, the Comptroller General of the United States, or any authorized representatives, access to all records for the purpose of making audit, examination, excerpts, and transcriptions.

3. All contracts must recognize mandatory standards and policies relating to energy efficiency contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163, 89 Stat.871).

4. All contracts over the small purchase threshold must include administrative, contractual, or legal remedies for contractors who violate contract terms, and provide appropriate sanctions and penalties.

5. All contracts over $10,000 must include provisions that allow you to terminate the contract for cause or for convenience. They must include notice of your termination procedures.

6. All construction contracts and subcontracts over $10,000 must require compliance with Executive Order (E.O.)11246, *Equal Employment Opportunity*, E.O. 11375, and related Department of Labor regulations (41 CFR Part 60).

7. All contracts for construction or repair must require compliance with the Copeland "Anti-Kickback" Act (18 USC 874) and related Department of Labor regulations (29 CFR Part 3).

8. All contracts for supplies or construction materials must require compliance with the Buy American Act (41 USC Chapter 83).

8. All contracts, subcontracts, and subgrants over $100,000 must require compliance with all applicable standards and requirements issued under section 306 of the Clean Air Act (42 USC 1857(h)), section 508 of the Clean Water Act (33 USC 1368), E.O. 11738, and Environmental Protection Agency regulations (40 CFR Part 15).

B. We may also require provisions on changes, remedies, changed conditions, record retention and access, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

2-230-60 Do the Davis-Bacon Act and Contract Work Hours and Safety Standards Act apply to contracts supported with OSMRE funds?

A. While SMCRA does not include a prevailing wage provision or require that you to comply with the Davis-Bacon Act (40 USC 3141-3148), all contracts made by you under a Federal award in excess of $2,000 must include a provision for compliance with the Davis-Bacon Act in your contracts.

B. The Davis-Bacon Act applies when OSMRE deals directly with a private contractor. We will include Davis-Bacon provisions when we award contracts directly for Federal regulatory or reclamation programs.

C. While SMCRA does not require you to comply with the Contract Work Hours and Safety Standards Act (40 USC 327-330), all contracts you award in excess of $100,000 that involve the employment of mechanics or laborers must include provision for compliance with 40 USC 3702

and 3704.

CHAPTER 2-240
FINANCIAL MANAGEMENT SYSTEMS

- **2-240-00 What does this chapter do?**
- **2-240-10 Where do these policies come from?**
- **2-240-20 How must states account for funds?**
- **2-240-30 What financial management standards apply to recipients other than states?**
- **2-240-40 Can we review your financial system?**
- **2-240-50 What is internal control?**

2-240-00 What does this chapter do?

This chapter establishes standards for the systems you, the recipient, use to manage and account for funds from an assistance agreement awarded by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE).

2-240-10 Where do these policies come from?

Requirements for financial management systems for Federal assistance agreements come from the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, at 2 CFR 200 Subpart D.

2-240-20 How must states account for funds?

A. You, a state must expend and account for assistance funds according to the state laws, and procedures you use to expend and account for your own funds.

B. Your accounting and fiscal control procedures must meet the following standards:

1. They must permit you to prepare the reports required by the assistance agreement.

2. They must permit you to trace funds to a level of expenditures adequate to establish that the funds were used in compliance with the assistance agreement and the Surface Mining Control and Reclamation Act (SMCRA).

C. You must ensure that your sub grantees and cost-type contractors meet these financial management standards.

2-240-30 What financial management standards apply to recipients other than states?

You, a recipient other than a state, must meet the following standards. You must also ensure that your subrecipients meet these standards:

A. You must make accurate, current, and complete disclosure of the financial results of program activities in the financial reports required by the assistance agreement.

B. You must maintain records which adequately identify the source, and use of funds for the activities supported by assistance funds. These records must contain information about awards, authorizations, obligations, unobligated balances, assets, liabilities, outlays, or expenditures, income, and subgrants.

C. You must maintain an effective system of controls and accountability for all cash, real and personal property, and other assets. You must adequately safeguard all assets and property. You must ensure that assets and property are only used for authorized purposes.

D. You must compare actual expenditures with budgeted amounts. You must relate financial information to performance or productivity data. You should develop unit cost data as appropriate; however, we do not normally require unit cost data in your reports.

E. You must follow the applicable Office of Management and Budget (OMB) cost principles, our program regulations, and the terms of the assistance agreement when you determine whether costs are reasonable, allowable and allocable.

F. You must support accounting records with source documentation such as paid checks, bank statements, invoices, payrolls, time and attendance records, contract and subgrant award documents, etc.

G. If you receive advance payments, you must follow procedures to minimize the time between when you receive funds from the U.S. Treasury and when you pay them out.

H. You must have written procedures for your accounting system and operations.

2-240-40 Can we review your financial management system?

Yes, we may review the adequacy of your financial management system as part of a pre-award review or at any time after the award.

2-240-50 What is internal control?

A. Internal control is an integral component of an organization's management. It provides reasonable assurance that the following objectives are being achieved:

1. Operations are effective and efficient. Programs meet their missions, goals and objectives.

2. Financial reporting is reliable.

3. The organization is in compliance with applicable laws and regulations.

B. The Government Accountability Office (GAO) has established the following standards for internal control (GAO/AIMD-00-21.3.1 11/99). Although these standards were developed for the Federal

government, they may also be helpful for your organization.

1. Management and employees should establish and maintain an environment throughout the organization that sets a positive and supportive attitude toward internal control and conscientious management.

2. Internal control should provide for an assessment of the risks the organization faces from both external and internal sources.

3. Internal control activities help ensure that management's directives are carried out. The control activities should be effective and efficient in accomplishing the agency's control objectives. Common internal control activities include the following:

    a. Top level reviews of actual performance.
    b. Reviews by management at the functional or activity level.
    c. Management of human capital.
    d. Controls over information processing.
    e. Physical control over vulnerable assets.
    f. Establishment and review of performance measures and indicators.
    g. Segregation of duties.
    h. Proper execution of transactions and events.
    i. Accurate and timely recording of transactions and events.
    j. Access restrictions to and accountability for resources and records.
    k. Appropriate documentation of transactions and internal control.

4. Information should be recorded and communicated to management and others within the organization that needs it. It should be in a form, and within a time frame that enables people to carry out their internal control, and other responsibilities.

5. Internal control monitoring should assess the quality of performance over time. It should also ensure that the findings of audits and other reviews are promptly resolved.

CHAPTER 2-250
SUPPORTING DOCUMENTATION AND ACCOUNTING FILES

- 2-250-00 What is the purpose of this chapter?
- 2-250-10 What supporting documentation is appropriate for personnel costs and consultant services?
- 2-250-20 What supporting documentation is appropriate for construction costs?
- 2-250-30 What supporting documentation is appropriate for property costs?
- 2-250-40 What supporting documentation is appropriate for travel, space, and other direct costs?
- 2-250-50 What supporting documentation is appropriate for indirect costs?
- 2-250-60 What supporting documentation is appropriate for program income?
- 2-250-70 What supporting documentation is appropriate for costs transferred from one funding source to another?

2-250-00 What is the purpose of this chapter?

This chapter provides guidance on the kinds of documents you should keep in your accounting files to support costs charged to an assistance agreement you received from us, the Office of Surface Mining Reclamation and Enforcement (OSMRE).

2-250-10 What supporting documentation is appropriate for personnel costs and consultant services?

A. Personnel compensation includes all salaries, wages and other payments for services. They may be paid currently or accrued. The services must be necessary for the program and allocable to this assistance agreement. The cost must be reasonable for the services provided. Your personnel compensation policies for costs paid with Federal funds must be consistent with those for activities paid with other funds.

You should document amounts charged for personnel with payrolls that have been recorded and approved in accordance with generally accepted accounting practices. Payrolls should be supported by time and attendance records of employees. If employees worked on more than one program or project, the personnel costs charged to the assistance agreement should be supported by records showing how their time was distributed between projects.

B. Fringe benefits are compensation other than salaries and wages. They may be paid currently or accrued. They include costs such as payroll taxes, leave, health benefits, and retirement. Fringe benefits are allowable to the extent that they are reasonable, and are required by law, contract, or policy. If employees work on more than one program or project, charge fringe benefit costs to the agreement in the same percentage as the salary charged to the agreement. You should document fringe benefits with your established personnel compensation policy, and show that you apply it consistently.

C. Consultant services pay qualified or expert individuals or organizations to provide professional and technical services. You should support consultant costs with proposals from more than one

reputable consultant whenever feasible. Bills for consultant fees should provide a clear statement of the services performed and, as appropriate, the time worked or the quantity of services provided. You should file a copy of any reports produced by consultants.

2-250-20 What supporting documentation is appropriate for construction costs?

A. Construction costs in OSMRE assistance agreements normally relate to projects to reclaim abandoned mine sites, or to restore water or other resources damaged by past mining. We must approve projects before you begin actual construction, by approving your application or by issuing an Authorization to Proceed. In addition to actual construction costs, project costs may include other costs allocable to a specific reclamation project, such as planning and design, construction monitoring and inspection, and administration.

B. For construction and other contracts, you should document your contracting process. Your files should include invitations for bids, bids, contracts, construction monitoring reports, contractor's invoices, and any other documents needed to trace the history of the contract.

C. You should document your compliance with requirements from the Surface Mining Control and Reclamation Act (SMCRA) and OSMRE regulations. For example, you should document your determination that a site was eligible for funding under Title IV of SMCRA, your check of contractors in the Applicant Violator System (AVS), and your entry of sites, and accomplishments in the Abandoned Mine Land Inventory System (e-AMLIS).

D. For Abandoned Mine Land (AML) program grants, you should keep documentation adequate to justify the totals you report for AML project costs, and to trace project costs to individual reclamation projects or sites.

2-250-30 What supporting documentation is appropriate for property costs?

A. Equipment is nonexpendable, tangible personal property having a useful life of more than one year and costing $5,000 or more per unit. See Chapter 2-200 for more information on equipment, supplies, and other property. You should document equipment costs with approval documents, price quotations, purchase orders, requisitions or contracts, receiving reports, and vendor invoices.

B. Supplies include consumable items such as paper and postage, and also items of property which don’t meet the criteria for equipment. You should support supplies costs with purchase orders, requisitions, receipts, vendor invoices, or other evidence that the supplies were paid by, and used for the assistance program.

SUPPORTING DOCUMENTATION AND ACCOUNTING FILES

2-250-40 What supporting documentation is appropriate for travel costs, space costs, and other direct costs?

A. Travel costs are expenses of employees traveling on official business, such as transportation, lodging, and subsistence. You may charge these costs on an actual cost basis, on a per diem or mileage allowance basis, or on a combination of the two, according to the travel policies of your organization. Your travel policies should apply consistently to activities supported by Federal, and non-Federal funds. You should support travel costs with a report by the traveler of expenses incurred and the purpose of the travel, and with evidence the costs were properly authorized and approved.

B. Space costs are the costs of acquiring or renting space to use for the assisted project. See Chapter 3-140 for more information on leasing, purchasing or constructing space. Space costs also include normal maintenance and operation costs required to make space usable for program purposes. You should support space rental costs with a signed lease agreement showing all the terms of the rental. You should support space use or depreciation charges by showing how the charge was calculated, and applied to your program.

C. Other direct costs include such items as repairs, utilities, telephones, internet access, publications and printing, subscriptions, and other miscellaneous expenses related to the assistance agreement. You should support charges for other direct costs with vendor's invoices, receipts, or other evidence that you received, and used the service for the purposes of the assisted program.

2-250-50 What supporting documentation is appropriate for indirect costs?

A. Indirect costs are incurred for a common purpose, benefit more than one program, and cannot readily be assigned to one program without more work than it is worth. You must ensure that you do not charge items as direct costs which are already included in the indirect cost pool.

B. You should keep a copy of your cost allocation plan to show the cost elements in the indirect pools and explain the direct cost base, and the cost allocation rationale.

C. You should keep a copy of the approved indirect cost agreement in your assistance agreement file. If you have charged costs to an OSMRE assistance agreement based on more than one approved indirect cost agreement, you should keep all applicable agreements.

2-250-60 What supporting documentation is appropriate for program income?

Program income is all funds you receive directly generated by an assistance-supported activity, or earned as a result of the assistance agreement during the performance period. See Chapter 2-210 for more information about program income. You should support program income with documents showing all funds you receive, the sources of all program income, and how all program income was used.

SUPPORTING DOCUMENTATION AND ACCOUNTING FILES

2-250-70 What supporting documentation is appropriate for costs transferred from one funding source to another?

A. Audit reports have cited instances where costs were transferred from other projects, or programs to OSMRE assistance agreements many months after the costs were originally recorded. In some cases, the documentation did not adequately explain why the transfers were made. We recognize that cost transfers may be appropriate when you support closely related work from more than one funding source, or when you need to correct bookkeeping or clerical errors in the original charges. However, transfers that are frequent, late, or not adequately explained particularly if the projects have significant cost overruns, or unexpended fund balances, raise serious concerns. They may lead us to question the propriety of the transfers, and the overall reliability of your accounting system, and internal controls.

B. When closely related work is paid from more than one funding source, you may transfer costs from the original funding source to OSMRE funds if the transfer meets all of the following conditions.

1. The cost is a proper and allowable charge to the OSMRE agreement.

2. You document the transfer with a full explanation and justification.

3. A responsible program official and a financial or administrative official certify that the transfer is appropriate.

4. To the maximum extent possible, you should transfer costs within 120 days of the original charge. Transfers made long after the original charge raise serious questions concerning the propriety of the transfer. If you transfer costs more than 120 days after the original charge, your supporting documentation should also explain why the transfer was late.

C. When you transfer costs to OSMRE assistance agreements to correct accounting errors, you must make the transfer promptly after you discover the error. You should make every effort to correct errors before you submit a financial report to OSMRE. You should support the correcting transfer with a full explanation of how the error occurred, and why the new charge is correct. An explanation which merely states that the transfer was made "to correct error" or "to transfer to correct project" is not sufficient.

D. Frequent errors or changes in recording costs may indicate the need for improvements in your accounting system and/or internal controls. You should evaluate the need for improvements in these areas and make them. We may require you to make improvements if we determine that they are necessary to reduce errors or improve management of Federal funds.

CHAPTER 2-260
RECORDS RETENTION AND ACCESS

- **2-260-00 What does this chapter do?**
- **2-260-05 Where do these requirements come from?**
- **2-260-10 What records are subject to these requirements?**
- **2-260-20 How long must you keep these records?**
- **2-260-30 Can the Federal government access your records?**
- **2-260-40 Does the Freedom of Information Act apply to your records?**

2-260-00 What does this chapter do?

This chapter requires you, the recipient of any assistance agreement from the Office of Surface Mining Reclamation and Enforcement (OSMRE), to retain records related to the assistance agreement. It also requires you to allow us to access your records.

2-260-05 Where do these requirements come from?

These requirements are established by the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,* at 2 CFR 200, Subpart D.

2-260-10 What records are subject to these requirements?

A. These requirements apply to all financial and programmatic records, supporting documents, statistical records and other records, in hard copy or electronic formats, pertaining to your assistance agreement.

B. You may substitute electronic, microfilmed, photocopied, scanned or other copied records for the original records.

2-260-20 How long must you keep these records?

A. You must keep these records for three years starting on the day you send us your final expenditure report to close the assistance agreement, except as noted below.

B. If any litigation, claim, negotiation, audit or other action involving the records is started before the end of the three-year period, you must retain the records until this action is completed and all issues arising from it are resolved, or until the end of the regular three-year period, whichever is later.

C. The three-year retention period for records relating to real property and equipment acquired through an assistance agreement starts from the date of the disposition, replacement or transfer of the property.

D. You must require contractors, subcontractors, and subrecipients to retain pertinent records for three years after you make your final payment to them, and all other pending matters are closed.

E. For an Abandoned Mine Land (AML) grant, the three year retention period starts on the date of the final expenditure report for the whole grant regardless of the closeout date for individual subaccounts. Normally, we close a one-year subaccount such as administrative costs after the first year of the three-year grant. However, you cannot dispose of the records of such subaccounts earlier than the rest of the records for that grant. You must keep records of all of the subaccounts in your grant for the full three year record retention period of the grant.

2-260-30 Can the Federal government access your records?

Yes. OSMRE and the Comptroller General of the United States, or any of its authorized representatives, have the right to access any books, documents, papers or other records kept by you and your subrecipients which are pertinent to our assistance agreement. We may audit or examine records, or make excerpts or transcripts. Our right of access is not limited to the three-year retention period, but will last as long as you keep the records.

2-260-40 Does the Freedom of Information Act apply to your records?

The Freedom of Information Act (5 U.S.C. 552) does not apply to your assistance agreement records. It also does not apply to records maintained by your subrecipients. You are not required to permit public access to your records by the Freedom of Information Act. However, other Federal, state or local laws may require you to provide some type of public access to your records.

CHAPTER 2-270
ENFORCING AND TERMINATING ASSISTANCE AGREEMENTS

- **2-270-00 What does this chapter do?**
- **2-270-10 Where do these policies come from?**
- **2-270-20 What enforcement actions may we take if you do not meet the requirements of the assistance agreement?**
- **2-270-30 What process must we follow before we take any enforcement actions to reduce, suspend or terminate an assistance agreement?**
- **2-270-40 What specific steps must we take to stop payments?**
- **2-270-50 What specific steps must we take to suspend an assistance agreement?**
- **2-270-60 What specific steps must we take to terminate an assistance agreement for cause?**
- **2-270-70 How can you or we terminate an assistance agreement for convenience?**

2-270-00 What does this chapter do?

This chapter explains the policies and procedures we may take if you materially fail to comply with any condition of an assistance award you received from us, the Office of Surface Mining Reclamation and Enforcement (OSMRE). It also explains how we may agree to terminate an agreement for our mutual convenience.

2-270-10 Where do these policies come from?

These policies are found in the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, at 2 CFR 200 Subpart D.

2-270-20 What enforcement actions may we take if you do not meet the requirements of the assistance agreement?

A. We may determine that you are in noncompliance if you or your sub recipient materially fails to comply with any terms of assistance agreement. This may be because of a Federal law or regulation, a commitment or assurance in your application or approved plan, a condition in the award, or any other requirement.

B. If you are in noncompliance, and do not appear to be taking steps to resolve the problem, we may take one or more of the following actions as we consider appropriate:

1. Temporarily stop cash payments until you correct the problem or take more severe enforcement action. Alternatively, we may review each drawdown request you make and decide whether to approve it for payment.

2. Disallow both the Federal and non-Federal expenditures for all or part of the cost of the activity that is not in compliance. When we disallow a cost, you cannot spend Federal funds for that cost, and if you spend non-Federal funds for it you cannot claim them as

match.

3. Wholly or partly suspend the current award. Suspension means that we temporarily stop your authority to obligate additional OSMRE funds under this assistance agreement. We will suspend the assistance agreement until you correct the deficiency or we decide to terminate the agreement.

4. Wholly or partly terminate the current award. Termination means that this assistance agreement ends immediately.

5. Do not approve any future assistance awards for the program.

6. Take other remedies that may be legally available.

C. In addition to these remedies, we may also consider debarment, which prohibits an entity or a person from receiving any Federal financial assistance. See Chapter 2-110 for more information on debarment and suspension.

2-270-30 What process must we follow before we take any enforcement actions to reduce, suspend or terminate an assistance agreement?

A. When we identify deficiencies, we must work with you to resolve the issue. If we cannot resolve the deficiency, our office which awarded the assistance agreement must propose an enforcement action to the appropriate Regional Director (RD) and obtain his concurrence. The region must also coordinate proposed enforcement actions with our Assistant Director, Program Support (AD-PS) and Division of Financial Management (DFM).

B. The awarding office must send you written notice of the proposed action by certified mail. The notice must inform you that reduction, suspension or termination of the grant agreement will begin no earlier than 30 days after the date of the notice if you do not take remedial action within that period.

C. The awarding office must give you opportunity to consult with OSMRE during the 30-day notice period.

D. If you do not take any remedial action, or appeal the decision, within the 30-day notice period, the awarding office will take action to reduce, suspend or terminate the assistance agreement.

E. You may appeal the decision of the RD to the Director of OSMRE in writing. You must explain the reasons why you are requesting review. We must receive your appeal within 30 days of the written notice.

F. You may appeal the Director's decision to the Department of the Interior's Office of Hearings and Appeals in writing, outlining the reasons for requesting review. You must file this appeal within 30

days of the Director's decision.

2-270-40 What specific steps must we take to stop payments?

A. The awarding office must coordinate with DFM when it first considers stopping payments on an assistance agreement, and throughout the process of deciding, and carrying out the suspension.

B. The awarding office must inform you that we have decided to withhold payments on your assistance agreement. We must tell you the date when we plan to stop payments.

C. DFM will work with Treasury to stop payments.

D. When the issue has been resolved or the deficiency corrected, we will pay out all funds that we withheld during the period of the suspension.

2-270-50 What specific steps must we take to suspend an assistance agreement?

A. We will suspend any pending actions as of the effective date of the suspension. We will disallow any costs obligated or incurred.

B. We will allow those costs which you properly incurred before the effective date of the suspension. They must have been necessary for the immediate needs of the program. They cannot have been incurred in anticipation of the suspension.

C. We will require that you refund any unobligated Federal assistance funds you may have on hand.

D. The suspension will remain in effect until you correct the deficiency, or we take further enforcement action.

2-270-60 What specific steps must we take to terminate an assistance agreement for cause?

A. We may terminate an assistance agreement for cause in any of the following circumstances. We may terminate the whole agreement in its entirety or in part:

1. We may terminate an agreement if you have materially failed to comply with the terms and conditions of the agreement and resolution does not seem probable.

2. We may terminate all or part of your regulatory grant if approval of all or part of your regulatory program is withdrawn, or if we take over all or part of your regulatory program.

3. We may terminate your Abandoned Mine Land (AML) grant if approval of your reclamation or regulatory program is withdrawn.

B. Costs incurred after termination of an award are not allowable except as follows:

1. Costs which we specifically authorize are allowable.

2. Other costs after termination are allowable if they result from obligations which you properly incurred before the effective date of the termination, and were not able to cancel. The obligations cannot have been in anticipation of the termination.

C. You must return any unobligated funds to us.

2-270-70 How can you or we agree to terminate an assistance agreement for convenience?

A. You may terminate an assistance agreement for convenience by sending a written notice to OSMRE. Your notice must state the effective date and explain the reasons for the termination. If you are only terminating part of the agreement, you must identify the part to be terminated. If you propose a partial termination, and we determine that the remaining part of the award will not accomplish its purpose, we may terminate the entire award.

B. We may terminate an assistance agreement with your consent if we agree that continuing the project or program would not produce benefits worth the additional costs. We may terminate the entire agreement or a part of it. We must agree upon the termination conditions, including the effective date. For a partial termination, we must also agree on the part of the agreement to be terminated.

C. We will process a termination for convenience as an amendment to the assistance agreement. The amendment must be approved by the authorized official in our awarding office.

D. You must not incur costs after termination of an assistance agreement. Such costs are not allowable unless we approve them, or you properly incur the obligation before the termination date.

E. After termination, we must pay you for the Federal share of valid obligations. You must return any unobligated funds to us.

CHAPTER 3-100
COST PRINCIPLES

- **3-100-00 What does this chapter do?**
- **3-100-10 Where do these principles come from?**
- **3-100-20 What costs are allowable?**
- **3-100-30 What costs require OSMRE approval?**
- **3-100-40 What costs are unallowable?**

3-100-00 What does this chapter do?

This chapter explains the basic principles of allowable cost for all assistance agreements awarded by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE).

3-100-10 Where do these principles come from?

A. The Office of Management and Budget (OMB) has established principles for determining allowable costs for Federal assistance agreements. They publish the cost principles in three circulars according to the type of recipient organization. You can find more information about allowable costs in the Code of Federal Regulations (CFR) entitled *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* at 2 CFR Part 200.

B. We include the appropriate cost principles by reference in each assistance agreement that we award. These cost principles apply to your activities as a recipient, and to any subrecipients or cost-type contractors who receive funds under your assistance agreement. You must cite the appropriate principles in the subgrant or contract award.

3-100-20 What costs are allowable?

A. You must follow the applicable OMB circular listed above.

B. Costs we approve in your assistance agreement are allowable.

C. Generally, costs are allowable if they meet all of the following standards.

1. The costs must be necessary and reasonable for the proper and efficient execution of the project.

2. The costs must be in accordance with the assistance agreement and the most recent approved project budget.

3. The costs must not be prohibited by Federal, state, or local statutes or regulations.

4. The costs must be applied consistently with your accounting procedures.

5. The costs must not be included as part of any other Federally financed program.

6. The costs must be net costs after deducting all applicable credits.

7. The costs must comply with any budgetary or other types of restrictions on expenses we have established.

8. The costs must be incurred and the work performed within the dates of the performance period. Pre-agreement or proposal costs may be allowable, but only if the assistance agreement specifically provides for them.

9. The costs must be fully documented.

3-100-30 What costs require OSMRE approval?

A. The OMB cost circulars show that some costs, including equipment, are only allowable with our prior approval. If you included these costs in your application budget, our approval of your assistance agreement or amendment constitutes our approval of the costs. If these costs are not in your approved budget, you must request our approval before you incur the costs.

B. When you treat these costs as indirect costs (or, in the case of a state government, include them in a statewide cost allocation plan), we will consider that approval of your indirect cost rate or cost allocation plan by the cognizant Federal agency constitutes our approval of the costs. You do not have to request our specific approval.

3-100-40 What costs are unallowable?

A. You must apply the standards of the applicable OMB cost principles to determine whether a cost is unallowable. However, you must consider the specific circumstances in each case when you apply the cost principles.

B. The following list provides some examples of unallowable costs.

1. Costs related to losses from uncollectible accounts, other claims, or any related costs.

2. Costs related to payments to a contingency reserve or any similar provision for unforeseen events.

3. Costs related to contributions and donations.

4. Costs of amusements, social activities, and related incidental costs.

5. Costs resulting from violation of, or failure to comply with, Federal, state and local laws and regulations, including fines, penalties, damages, attorney fees and litigation costs, and other settlements. These costs are also unallowable if they result from failure to

comply with the terms of your assistance agreement or approved program.

6. Cost of general state or local government, including the following costs.

   a. Salaries and expenses of the office of the governor of a state or the chief executive of a political subdivision.

   b. Salaries and other expenses of the state legislature or similar local governmental bodies such as county supervisors, city councils, or school boards, whether incurred for purposes of legislation or executive direction

7. Costs related to interest on borrowed capital (however represented), bond discounts, cost of financing and refinancing operations, and related legal and professional fees, unless Federal legislation authorizes them.

8. Costs of certain influencing activities associated with obtaining a grant.

9. Costs of one assistance agreement that exceeded the total Federal funding available under that agreement cannot be charged to other assistance agreements.

10. Costs for individual memberships, such as bar association and professional engineering society dues and license fees are unallowable. However, costs for agency membership in civic, business, technical and professional organizations may be allowable if they are necessary for the assisted activity.

CHAPTER 3-110
INDIRECT COST RATES

- 3-110-00 What does this chapter do?
- 3-110-10 Where do these principles come from?
- 3-110-20 What are indirect costs?
- 3-110-30 How do you establish an indirect cost rate?
- 3-110-40 How will we document your approved indirect cost rate?

3-110-00 What does this chapter do?

This chapter explains the basic principles of indirect costs for all assistance agreements awarded by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE). These principles also apply to subgrants and cost-type contracts that you award under OSMRE assistance agreements.

3-110-10 Where do these principles come from?

The Office of Management and Budget (OMB) has established principles for determining allowable costs for all OSMRE assistance agreements. These principles cover indirect as well as direct costs. You can find this in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards 2 CFR Part 200.

3-110-20 What are indirect costs?

A. Indirect costs are common or joint-purpose costs that benefit more than one office, agency, or program. Rather than incur excessive costs to trace these expenses to the specific program they benefit, you will normally charge indirect costs to Federal assistance agreements by prorating them based on an indirect cost rate. Some examples of functions which organizations may choose to treat as indirect costs are accounting, facility maintenance, and human services.

B. You should provide for the full reimbursement of your organization's indirect costs under an approved indirect cost rate.

3-110-30 How do you establish an indirect cost rate?

A. Your indirect cost rate for all Federal assistance is reviewed, negotiated and approved by your cognizant Federal agency. Your cognizant agency as assigned by OMB is generally the Federal agency with the largest amount of funding for your organization.

B. If you do not have an approved indirect cost rate, you must submit an initial indirect cost proposal to your Federal cognizant agency except as provided in subsection 200.414 of 2 CFR.

C. You should base your cost proposal on your organization's actual costs for your most recently completed fiscal year. However, if you are aware of factors that may result in a significant change during the agreement period, you should base your proposal on projected costs for that fiscal year.

D. Requirements for development and submission of indirect cost rate proposals are contained in the applicable OMB cost principles listed above.

3-110-40 How will we document your approved indirect cost rate?

A. You must include a copy of your current indirect cost agreement approved by the cognizant Federal agency with your assistance application.

B. If your cognizant Federal agency delays approval of your agreement, you may alternatively include in your application, a copy of the timely indirect cost rate application that you sent to your cognizant agency.

C. You should be familiar with your organization's indirect cost agreement and what costs are included in it. You must ensure that you do not charge expenses as direct costs which are already being charged to the assistance agreement as indirect costs. We may review your actual costs to ensure that they are being charged appropriately in accordance with your indirect cost agreement.

D. We will maintain a copy of your indirect cost agreement in our official assistance agreement file to support our award.

CHAPTER 3-120
SUBGRANTS AND TRANSFERRING WORK

- **3-120-00 What does this chapter do?**
- **3-120-10 Where do these policies come from?**
- **3-120-20 Must you get prior OSMRE approval for subgrants?**
- **3-120-30 What are our requirements for approving subgrants?**
- **3-120-40 What must you do when you award subgrants?**

3-120-00 What does this chapter do?

This chapter explains our requirements about using a subgrant or contract to transfer financial assistance or the actual performance of work under our assistance agreements to a third party. This chapter also explains our policy on approving a request to subgrant or transfer work or financial assistance to third parties. It also explains the basic principles of awarding and administering subgrants. This information applies to all assistance agreements awarded by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE).

3-120-10 Where do these policies come from?

These policies are found in the Federal Grant and Cooperative Agreement Act of 1977 (P.L. 95-224) and the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,* at 2 CFR 200, Subpart D.

3-120-20 Must you get prior OSMRE approval for subgrants or transfers?

A. Yes, you must obtain our approval before you transfer the actual performance of substantive programmatic work to a third party by a contract or other means. You must also obtain our approval before you provide financial assistance to a third party by a subgrant or other means.

B. If you did not include the transfer in your approved application, you must request our approval through a formal amendment to the current award.

C. Subrecipients must obtain your approval before they award any subgrants or contracts transferring work.

3-120-30 What are our requirements for approving subgrants or transfers?

A. You must perform a substantive role in carrying out project or program activities under an assistance agreement we award to you. We may authorize you to transfer substantive programmatic work, or to award financial assistance only if you will continue to perform at least one of the following roles:

1. Principal performer of project activities.

2. Primary beneficiary of Federal financial assistance.

3. Overall administrator of a program in which third parties perform activities or receive financial assistance.

B. Generally, we must review the specific circumstances of each application or request involving the transfer of work or the award of financial assistance to determine whether approval would violate the rule in the previous paragraph. However, if the proposed transfer falls into one of the following classes, we may assume that approval would not violate the rule:

1. You may contract for construction services under an assistance agreement for construction. Construction includes alteration, or renovation of real property.

2. You may subgrant or contract for projects if we awarded your assistance agreement under a statute or regulation explicitly intending that your primary responsibility is to select projects, and to award, and administer grants, contracts or cooperative agreements.

3. You may transfer activities and funds to a collaborating or cooperating organization if we awarded your assistance agreement under a statute or regulation explicitly intending such collaboration or cooperation.

4. You may transfer activities and funds to a college, university, hospital, or government entity if you are a closely affiliated but separately incorporated organization whose primary purpose is to receive and administer gifts, grants, cooperative agreements and contracts. An example is the transfer of funds to a state university from its affiliated research foundation.

C. We may limit the kinds of third parties eligible to perform the work, or receive financial assistance under your assistance agreement. However, we will not choose a specific entity and directly or indirectly require you to transfer the work, or award the assistance to that entity. You must choose your subrecipient or contractor.

D. We will not require you to submit the contract or subgrant documents for our prior approval.

3-120-40 What must you do when you award subgrants?

A. If you are a state, then you must follow state law and procedures when you award and administer subgrants or financial assistance to local and Indian tribal governments.

1. You must also ensure that every subgrant includes any clauses required by Federal statute and executive orders and their implementing regulations.

2. You must also ensure that subgrantees are aware of requirements imposed upon them by Federal statute and regulation.

3. You must also ensure that a provision for compliance with the record retention and access requirements is included in every subgrant.

4. You must also apply substantially the same standards of timing and amount for our cash advances to you to any advances of assistance funds you make to subgrantees.

5. You must report your subawards on the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS). The web link is https://www.fsrs.gov.

B. All recipients other than states will follow the applicable provisions of the *Grants Common Rule* for awarding and administering subgrants, whether on a cost reimbursement or fixed amount basis.

1 You must ensure that every subgrant includes a provision for compliance with applicable provisions of the 2 CFR Part 200 Subpart D.

2. You must ensure that every subgrant includes any clauses required by Federal statute, and executive orders, and their implementing regulations

3. You must ensure that subgrantees are aware of requirements imposed upon them by Federal statutes and regulations.

CHAPTER 3-130
LEASED FACILITIES OR EQUIPMENT

- **3-130-00 What does this chapter do?**
- **3-130-10 Where do these policies come from?**
- **3-130-20 When can you lease facilities or equipment?**
- **3-130-30 What types of leases can you use?**

3-130-00 What does this chapter do?

This chapter explains how to charge the costs of leased facilities and equipment to any assistance agreement awarded by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE).

3-130-10 Where do these policies come from?

The Office of Management and Budget (OMB) has established principles for determining allowable costs for Federal assistance agreements. We include the appropriate cost principles by reference as conditions for each assistance agreement we award. You can find this in the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, at 2 CFR Part 200.

3-130-20 When can you lease facilities or equipment?

Generally, you own your facilities and equipment and charge the costs of them to your assistance agreement through depreciation or use charges. However, in some cases leasing facilities or equipment is necessary or more economical. In the following examples, leasing may be appropriate, and allowable depending on the specific circumstances:

A. Leasing will reduce expenses charged to the assistance agreement for direct or indirect costs.

B. Your project has a short duration. No owned space or equipment is available.

C. You cannot meet specific program objectives or requirements with facilities you own.

D. You cannot efficiently accommodate an increase in workload volume by modifying or augmenting facilities you own.

3-130-30 What types of leases can you use?

You can use the following types of leases:

A. In a short-term lease, the cumulative term is two years or less for the use of the equipment, or five years, or less for occupancy of the facilities.

B. In a long-term lease, the cumulative term of the use or occupancy is two years, or more for equipment, and five years or more for facilities. If you lease equipment or facilities as a short-term lease but then extend past the two or five year threshold, then the lease would become a long term. In this case, you would treat the lease as short-term until after the two or five-year

point is reached.

C. In a sale and leaseback arrangement, your organization sells the property you own, and then leases it back from the purchasing organization.

D. In a less-than-arms-length lease, one party to the lease agreement is able to control, or substantially influences the actions of the other. The following are examples of such leases:

1. Agreements between divisions of an organization.

2. Agreements between organizations under common control through common officers, directors, or members.

3. Agreements between an organization and a director, trustee, officer or key employee of the organization or his immediate family. This may also be through corporations, trusts or similar arrangements in which they hold a controlling interest.

CHAPTER 3-140
PURCHASING, CONSTRUCTING AND RENOVATING BUILDINGS

- **3-140-00 What does this chapter do?**
- **3-140-10 Where does this information come from?**
- **3-140-20 What costs are allowable for purchasing or constructing a building?**
- **3-140-30 When can you use the Capital Expenditure method?**
- **3-140-40 When will you use the Depreciation or Use Allowance method?**
- **3-140-50 Can you charge costs to alter or renovate a building?**

3-140-00 What does this chapter do?

This chapter explains how to charge the costs of a building or facility you purchase or construct to your assistance agreement from us, the Office of Surface Mining Reclamation and Enforcement (OSMRE). This chapter also explains our requirements for costs to alter or renovate an existing building or facility.

3-140-10 Where does this information come from?

The Office of Management and Budget (OMB) has established principles for determining allowable costs for Federal assistance agreements. You can find this in the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, at 2 CFR Part 200.

3-140-20 What costs are allowable for purchasing or constructing a building?

OMB provides two methods for determining the allowable costs for a building.

A. Under the Capital Expenditure method, you may charge the entire cost of the building to the assistance agreement at the time you buy or build it. We must specifically approve the expenditure in advance. Capital expenditure costs are treated as direct costs.

B. Under the Depreciation or Use Allowance method, you may charge the costs of the building to assistance agreements over time through depreciation or use allowances. You charge a portion of the cost to the program each year over the useful life of the building. Depreciation or use allowance charges are often treated as indirect costs.

3-140-30 When can you use the Capital Expenditure method?

You may request our approval to charge the entire cost of a building you are purchasing or constructing as a capital expenditure. We may approve your request if we determine that it is justified. You must meet all of the following conditions.

A. Existing law does not prohibit the charge.

B. You will use the building exclusively in the performance of an OSMRE supported program, or for Federally supported programs including an OSMRE supported program. You expect to need this facility for this purpose long-term.

C. You must acquire the building to accomplish the objectives of your OSMRE program. A general-purpose building will not meet this condition if the new space is needed because of the expansion of programs supported by non-Federal funds, or because of the expansion of Federally supported programs in facilities also used by non-Federal programs.

D. You cannot already own the facility. However, this requirement does not apply to land you own, if you purchased the land expecting to build a facility meeting the requirements of this section.

E. If you will have more than one Federal program in the facility, all Federal agencies responsible for administering the programs must approve your use of the Capital Expenditure method.

F. If you charge the full cost under the Capital Expenditure method, we may require you to establish a special indirect cost rate for the programs you conduct in the facility. If you do not establish a special rate, we must notify the appropriate Federal cognizant agency before we use the approved indirect cost rate.

G. If you sell the facility or use it for purposes we do not authorize, you will be accountable to the Federal government for the Federal interest in the facility. See the applicable OMB cost circular for more information.

3-140-40 When will you use the Depreciation or Use Allowance method?

If you do not use the Capital Expenditure method to purchase or construct a facility, then you will use the Depreciation method or Use Allowance method. You must use the original acquisition cost of the facility as the base for either method. If you calculate a depreciation charge, use the useful life of the facility. You should normally calculate depreciation on a straight-line basis. Under the Use Allowance method, your annual charge may not exceed 2% of the acquisition cost of the building. See the applicable OMB cost circular for more information on depreciation or use allowance charges.

3-140-50 Can you charge costs to alter or renovate a building?

A. You may request our prior approval to charge renovation costs to your assistance agreement. The renovations may change the building's interior layout, environment, or utilities. These costs are normally charged to individual assistance agreements as a separate category of direct costs.

B. Your request must justify the need to alter or renovate the building to support your program. At a minimum, your request to charge renovation costs to your assistance agreement should include the following information.

1. Provide a cost analysis that compares the proposed alteration or renovation with other options, such as leasing, construction, or purchasing. The level of detail required for the cost analysis will depend on the proposed cost of the project, and the specific circumstances of your request.

2. Demonstrate that the building has an appropriate life expectancy and is suitable for the conversion project you propose.

3. Explain why the building renovation is essential to your program.

4. Confirm that you will occupy the renovated space.

CHAPTER 4-100
AML ACTIVITIES FOR UNCERTIFIED PROGRAMS

- 4-100-00 What does this chapter do?
- 4-100-10 Where does this information come from?
- 4-100-20 What types of AML funds are available to you and how can you use them?
- 4-100-30 What lands and waters are eligible for reclamation with AML funds?
- 4-100-40 How should you determine and document site eligibility?
- 4-100-50 Can you spend AML funds on a site which is not eligible?
- 4-100-60 What are the priorities for coal reclamation?
- 4-100-70 What water supply restoration work is eligible for AML funding?
- 4-100-80 What noncoal reclamation work is eligible for AML funding?
- 4-100-90 What are examples of reclamation expenses eligible for AML funding?
- 4-100-100 What special rules apply to an AML project funded by coal extraction?
- 4-100-110 What happens to AML funds you don't use?

4-100-00 What does this chapter do?

This chapter discusses Abandoned Mine Land (AML) grants to uncertified states and tribes awarded by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE). Your program is uncertified if your state or tribe has not certified that all the coal priorities on eligible lands and waters within your borders or jurisdiction are completed. If you have certified completion of these priorities, this chapter does not apply to you, and you should use Chapter 4-300 instead.

4-100-10 Where does this information come from?

Title IV of the Surface Mining Control and Reclamation Act (SMCRA), P.L. 95-87, as amended, established the AML program. It also established the AML Fund, supported by reclamation fees paid by current coal mining operations. It authorizes OSMRE to use funds from the AML Fund and Treasury to provide financial assistance to states and tribes to carry out their approved reclamation plans. Rules governing this program are found in our regulations at 30 CFR, Parts 870 through 887. In 2006, amendments to SMCRA substantively changed the AML program (see *Federal Register* Vol. 73, No. 221, November 14, 2008).

4-100-20 What types of AML funds are available to you and how can you use them?

A. State or Tribal Share (abbreviated in our accounting system as SS) is authorized in section 402(g)(1) of SMCRA; you may use these funds for the following purposes:

1. Coal reclamation following the priorities of section 403(a) of SMCRA.

2. Water supply restoration projects.

3. Noncoal reclamation requested under section 409(c) of SMCRA.

4. Deposit into an acid mine drainage (AMD) set-aside account.

5. Land acquisition under section 407 of SMCRA.

6. Maintenance of the AML Inventory.

7. General AML program administration.

B. Historic Coal Funds (HC) are authorized in section 402(g)(5) of SMCRA. You may use Historic Coal Funds for the same purposes as State Share Funds.

C. Minimum Program Make Up Funds (FE) are authorized in section 402(g)(8) of SMCRA. You may only use minimum program make up funds for the following purposes.

1. Priority 1 and 2 coal reclamation.

2. Priority 3 coal reclamation that is part of Priority 1 of 2 coal reclamation under our regulations.

3. General AML program administration in proportion to program expenditures allowable with minimum program make up funds.

D. Prior Balance Replacement Funds (HU) are authorized in section 411(h)(1) of SMCRA. You may only use Prior Balance Replacement Funds for the purposes in section 403 of SMCRA, which include coal reclamation of any prior, water supply restoration, and maintenance of the AML inventory. You may also use Prior Balance Replacement funds for general AML program administration in proportion to program expenditures allowable with these funds.

E. Federal Expense Funds (FE) are authorized in section 402(g)(3) of SMCRA. These include emergency funds, which can only be used for your state AML emergency program. You must use Federal expense funds for the specific purpose authorized by Congress if appropriated.

4-100-30 What lands and waters are eligible for reclamation with AML funds?

A. Lands and waters are eligible for reclamation with AML funds if they meet all of the following conditions.

1. They were mined for coal or affected by coal mining or processing.

2. They were mined prior to August 3, 1977, and left in an unreclaimed or inadequately reclaimed state.

3. There is no continuing responsibility for reclamation by the operator or any other party under state or Federal laws.

B. Other lands and waters may be eligible in the following circumstances. In each of these cases, the site must be a Priority 1 or 2, or an emergency.

1. Lands and waters are also eligible if they were mined between August 3, 1977 and the date on which the Secretary approved your state's regulatory program.

2. Lands and waters that were mined and abandoned between August 3, 1977 and November 5, 1990, that the surety of the mining operator became insolvent during this period, and that, as of November 5, 1990, funds immediately available from proceedings relating to the insolvency, or from any financial guarantee, or other source are not sufficient to provide for adequate reclamation, or abatement at the site.

3. Federal lands managed by the U.S. Forest Service are only eligible if they were mined and abandoned before August 28, 1974. Federal lands managed by the Bureau of Land Management are eligible if they were mined, and abandoned before November 26, 1980.

C. Lands are also eligible if they were mined or processed for minerals other than coal and abandoned before August 3, 1977, if there is no continuing reclamation responsibility under state or other Federal laws. They must meet the requirements of section 409.

D. Bond forfeiture sites are considered eligible if the amount forfeited, and any other funds or form of financial guarantee is not enough to pay the total cost of reclamation. If the bond funds and other designated funding for forfeited sites are not adequate to reclaim the site, you may expend AML funds to complete reclamation. Any money available from other sources, or ultimately recovered from responsible parties must be used to cover the cost of reclamation, or transferred to the appropriate AML account.

E. If a site which otherwise meets the eligibility criteria in SMCRA was re-affected by mining after August 3, 1977, the site will remain eligible for AML funding despite the post-SMCRA mining if the following conditions are met.

1. The post-SMCRA mining did not substantially increase or alter the safety issues or environmental damage presented by the pre-SMCRA mining.

2. The total costs of the reclamation activities are not increased by the post-SMCRA mining.

3. There is no known responsible party or, if the responsible party is known, available funds are insufficient to pay the total cost of reclamation.

If these conditions are not met, only parts of the site not affected by the post-SMCRA mining activities will be eligible for AML funding. If this situation occurs, you may alter the project to

include only the eligible part of the project, or you may use non-AML funds to pay for the ineligible part.

F. Multi-use sites, adversely affected by mining prior to August 3, 1977, but subsequently used for some non-mining activity, remain eligible for AML funding. However, they are eligible only to the extent that mining-related problems still exist, and create a safety or environmental issue at the site. When the non-mining activity is the primary cause of the problem, the reclamation responsibility may shift away from the AML program.

4-100-40 How should you determine and document site eligibility?

A. You are responsible to make eligibility determinations under your approved AML Plan. Eligibility determinations must be signed by your Attorney General's Office or by your legal counsel. You must include the eligibility determination in your request for our “Authorization to Proceed (ATP)” with reclamation of the project. You must keep eligibility determinations in the project files.

B. OSMRE may review your project files and eligibility determinations as part of our oversight. If we determine that you funded an ineligible project, we will take appropriate procedures to recover expended funds.

4-100-50 Can you spend AML funds on a site which is not eligible?

You may need to affect property which is not eligible in order to access an eligible site or complete reclamation on an eligible site. You must limit reclamation on these affected sites to repairing the damage caused by using them for AML reclamation activities. If reclamation activities on ineligible property are needed to repair damages caused by accessing an eligible site, you must fully document and justify these activities in the project narrative before you request an ATP from us.

4-100-60 What are the priorities for coal reclamation?

Expenditures of State and Tribal Share and Historic Coal Funds for coal reclamation must reflect the following priorities in order.

A. Priority 1 is the protection of public health, safety and property from extreme danger from the adverse effects of coal mining practices, including the restoration of adjacent land, and water resources, and the environment. We define adjacent as geographically contiguous, or touching the Priority 1 site at a boundary or point.

B. Priority 2 is the protection of public health and safety from the adverse effects of coal mining practices, including the restoration of adjacent land, and water resources and the environment.

C. Priority 3 is the restoration of land and water resources, and the environment previously degraded by adverse effects of coal mining practices. You may expend State or Tribal Share or Historic Coal Funds for Priority 3 lands and waters if any of the following conditions applies.

AML ACTIVITIES FOR UNCERTIFIED PROGRAMS

1. You have completed all the Priority 1 and Priority 2 reclamation within the jurisdiction of your state or tribe.

2. The expenditure for Priority 3 reclamation is made in conjunction with the expenditure of funds for past, present, or future Priority 1 or Priority 2 reclamation projects. Also, one of the following conditions must apply.

   a. The expenditure must facilitate the Priority 1 or Priority 2 reclamation.

   b. The expenditure must provide reasonable savings towards the objective of reclaiming all Priority 3 land, and water problems within the jurisdiction of your state or tribe.

3. The expenditure for Priority 3 reclamation is being made as part of an Appalachian Clean Streams project, a Watershed Cooperative Agreement project, a project authorized under the Enhancing AML Rule, or any AML sites reclaimed under the re-mining incentives provided under section 415 of SMCRA, as revised by the 2006 amendments.

4-100-70 What water supply restoration work is eligible for AML funding?

A. Section 403(b) of SMCRA allows you to expend funds to protect, repair, replace, construct, or enhance facilities related to water supply, including water distribution facilities and treatment plants, in order to replace water supplies adversely affected by coal mining practices.

B. You may use State or Tribal Share, Historic Coal Funds, and/or Prior Balance Replacement funds for water supply restoration projects.

C. Projects eligible for funding as water supply projects include the following:

   1. Sites impacted by coal mining prior to August 3, 1977.

   2. Sites impacted by coal mining during the period beginning on August 3, 1977, and ending on or before the date on which the Secretary approved a state program pursuant to section 503 of SMCRA.

   3. Sites impacted by coal mining during the period beginning on August 3, 1977, and ending on or before November 5, 1990, if the surety of the mining operator became insolvent during this period.

   The adverse effects of coal mining practices need not have occurred entirely within these periods as long as the state or tribe determines that they occurred predominantly in these periods.

AML ACTIVITIES FOR UNCERTIFIED PROGRAMS

4-100-80 What noncoal reclamation work is eligible for AML funding?

A. You may request funds to reclaim eligible noncoal problems as provided in section 409 of SMCRA and 30 CFR 875. Noncoal projects must protect public health, safety, and property from extreme danger of adverse effects of mining practices. Lands and waters which are adjacent to sites with extreme dangers are not eligible for AML funding.

B. The request must be made by the governor of the state or the governing body of the tribe, using the following procedures.

1. The state or tribe must submit a letter request signed by the governor or tribal governing body to the appropriate OSMRE office. You must include it in your complete grant application, even though the letter may be addressed to the Secretary of the Interior or the Director of OSMRE.

2. Since our approval or disapproval of the grant application is our response to your request, we will not send a separate letter response.

3. If you are adding a noncoal project to an existing grant, you must send the letter request signed by the governor or tribal governing body to our awarding office as soon as you identify the need for the project. Your request and our written approval will follow the letter approval process for making a scope change described in Chapter 4-220.

C. You may only use State or Tribal Share or Historic Coal Funds for noncoal reclamation.

4-100-90 What are examples of reclamation expenses eligible for AML funding?

You may use AML funds for activities which are necessary to reclaim eligible lands. The following OSMRE decisions on the use of AML funds for specific types of reclamation activities are provided as examples for determining whether an activity is allowable.

A. Repairs to structures. Costs of repairs to structures damaged by subsidence or other adverse effects of past mining are generally not eligible. Section 407(h) of SMCRA prohibits the use of Title IV funds to pay housing construction costs. AML funds may be used to repair structures only if the repairs are a direct and necessary part of the project reclamation. For example, foundation reinforcement may be funded only as needed to support the foundation during reclamation activities, preventing damage to the structure and harm to the workers (see SMCRA section 412).

B. Asbestos removal from structures. AML funds may not be used to remove asbestos insulation from hot water pipes in houses that were originally built by a mining company for its employees. Houses built for company employees were not directly connected to coal mining or processing, so removing asbestos insulation from the houses is not part of AML reclamation.

C. Moving or relocating structures. Subsidence or other hazards may occasionally make it necessary to move a structure in order to prevent further damage, or conduct effective reclamation at the site. In such situations, you should do the following:

1. Take all necessary steps to prevent the structures from sustaining further damage, including shoring up the structure, and restoring the site so as to achieve the previous load bearing capacity. Some minimal corrective action in the foundation may be appropriate if the damage is not attributable to other problems. The objective is to leave the site in as safe a condition as possible, given the circumstances.

2. Advise occupants that the structure may be unsafe or borderline, and inform local authorities of the conditions. Do not order occupants to vacate.

3. Make all reasonable efforts to reclaim the site without moving the structure. If there is no other way to reclaim the site, the structure may be moved, but only after the OSMRE awarding office approves your written justification. You should move structures only as a last resort and only if the option is cost-effective.

D. Temporary lodging expenses. Reclamation activities are limited to abating, preventing or controlling the primary cause of the hazard. The costs to treat secondary effects of past coal mining go beyond the scope of Title IV. Temporary lodging expenses may be funded only if the residents must be removed to reclaim the site, and only for a limited time. The OSMRE awarding office must approve payment of temporary lodging expenses on a case-by-case basis.

E. Claims for damages resulting from AML reclamation. Where damages occur to adjacent property as a result of AML reclamation, or where claims are made for loss of business or damages to personal property, or where there are other claims relating to the negligence of parties involved in the AML reclamation, you may not settle the claims. You must make a summary report of your investigation of the claim and send it to the OSMRE office which awarded your grant. Our office must immediately send your report to the Department of the Interior, Office of the Solicitor, Division of Mineral Resources, Branch of Surface Mining, for definitive advice or action. The solicitor can determine whether claims may be covered under the Tort Claims Act, contractor liability insurance, subsidence insurance, or other means and could therefore result in litigation.

4-100-100 What special rules apply to an AML project funded by coal extraction?

If a Title IV AML reclamation project will use government financing for less than 50% of the total cost because of planned coal extraction, the following rules apply. See our regulations at 30 CFR 874.17 for more information.

A. You must consult with the Title V regulatory authority to make the following determinations.

AML ACTIVITIES FOR UNCERTIFIED PROGRAMS

1. Determine the likelihood of coal being mined on the site under a Title V permit.

2. Determine the likelihood that nearby mining activities might create new environmental problems or adversely affect existing environmental problems at the site.

3. Determine the likelihood that reclamation activities at the site might adversely affect nearby or adjacent mining activities.

B. If you decide to proceed with the reclamation project after this consultation, you and the regulatory authority must concur in the following determinations.

1. Determine the limits on any coal refuse, waste or deposits which can be extracted under the Federal and state regulations.

2. Delineate the boundaries of the AML project

C. You must keep the determinations made in sections A and B above in the project file. You must document who made the determinations and the information they considered.

D. You must complete the following special requirements for each project.

1. Characterize the site in terms of mine drainage, active slides and slide-prone areas, erosion and sedimentation, vegetation, toxic materials and hydrologic balance.

2. Ensure that the reclamation project is conducted in accordance with the requirements for AML reclamation projects in 30 CFR Part 874.

3. Develop site-specific reclamation requirements, including performance bonds when appropriate.

4. Require the contractor to provide documents that clearly authorize the extraction of coal and the payment of royalties before reclamation begins.

E. If the reclamation contractor extracts coal beyond the limits of the incidental coal as specified in the determinations, they must obtain a permit under Title V of SMCRA.

4-100-110 What happens to AML funds that you don't use?

A. Generally, unused funds remain available for award to your state or tribe for a future grant. Unused funds include funds distributed to you but not awarded in a grant, and funds awarded to you in a grant but not spent.

B. However, there are two exceptions to this general rule. In the following situations, we will recover funds and redistribute them to other states and tribes.

1. We will move unused state or tribal Share Funds in accordance with section 402(g)(1)(D) of SMCRA. If any State or Tribal Share Funds are not expended within three years after the date they are first awarded in a grant, or within five years for grants during fiscal years 2008, 2009, and 2010, we will move them to historic coal funds. Similarly, we will move any State or Tribal Share Funds which have not been awarded in a grant within five years of their distribution, or within five years for 2008, 2009, and 2010 funds, to historic coal funds. We will distribute funds moved to historic coal to eligible states at the next annual distribution.

2. We will move unused state emergency program funds to a central pool. We may distribute funds from that central pool on request to any minimum program state with a specific emergency need. At our discretion, we may use unused funds in this pool for other purposes.

CHAPTER 4-110
ANNUAL DISTRIBUTION OF TITLE IV GRANT FUNDS

- 4-110-00 What does this chapter do?
- 4-110-10 Where do these requirements come from?
- 4-110-20 What is a mandatory distribution?
- 4-110-30 What types of Title IV funding are included in the annual AML mandatory distribution?
- 4-110-40 What are our offices responsible for in the mandatory distribution process?
- 4-110-50 How do we process the annual AML mandatory distribution?
- 4-110-60 How will we distribute appropriated Title IV Funds to you?

4-110-00 What does this chapter do?

This chapter explains our process for distributing Title IV grant funds. The annual distribution process identifies the total Abandoned Mine Land (AML) funding available for this fiscal year, which types of AML funds are included, and how much is available to each eligible state and tribe. After this process is completed, the funds identified for your state or tribe are available for us, the Office of Surface Mining Reclamation and Enforcement (OSMRE), to award to you in a grant.

4-110-10 Where do these requirements come from?

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Public Law 95-87, as amended, authorizes multiple types of AML funds. It establishes how they are distributed or appropriated, and how we must make them available to you, that have approved reclamation programs.

4-110-20 What is a mandatory distribution?

The mandatory annual distribution authorized by SMCRA is the source of most of your AML funding. These funds do not have to be appropriated each year by Congress. The funds are “off budget” and not included in our annual funding request or subject to appropriations laws that provide most Federal funds.

4-110-30 What types of Title IV funding are included in the annual AML mandatory distribution?

SMCRA authorizes a mandatory annual distribution for the following types of Title IV funds. You must have an approved reclamation program to receive any of these funds:

A. State or Tribal Share Funds.

1. It is authorized in section 402(g)(1) of SMCRA. Its source is the AML Fund. We abbreviate it in our accounting system as SS.

2. We distribute it only to uncertified states and tribes.

3. Each year we will distribute 50% of the reclamation fee collections for coal produced in the previous fiscal year (FY) in your state, or on Indian lands within your tribe's jurisdiction.

4. We will phase in State Share Funds at 50% of the total that is required for FY 2008 and 2009, 75% for FY 2010 and 2011, and fully fund it in FY 2012 through 2022.

B. Historic Coal Funds.

1. They are authorized in section 402(g)(5) of SMCRA. Its source is the AML Fund, and we abbreviate them as HC.

2. We distribute them to uncertified states and tribes. You are eligible for historic coal if you have an inventory of unfunded Priority 1 and 2 coal problems greater than your State or Tribal Share Funding.

3. Total annual historic coal funding is 30% of total national reclamation fee collections for coal produced in the previous FY. It also includes 60% of any other revenues to the AML fund except interest from investment activities. It also includes money we transfer from State or Tribal Share after we distribute the equivalent amounts for Treasury Prior Balance Replacement Funds or Certified in Lieu Funds to certified states and tribes.

4. We divide total historic coal between the eligible states by formula based on historic coal mining production in each state before the passage of SMCRA.

5. We will phase in Historic Coal Funds at 50% of the total that is required for FY 2008 and 2009, 75% for FY 2010 and 2011, and fully fund it for FY 2012 through 2022.

C. Minimum Program Make-up Funds.

1. They are authorized in section 402(g)(8) of SMCRA. Its source is the AML Fund. Minimum Program Make-up Funds is the only mandatory distribution from the Secretary's 20% share of total reclamation fee collections. We abbreviate it as FE.

2. SMCRA sets a minimum funding level of $3,000,000 for each uncertified state or tribal program. You are eligible for Minimum Program Make-up Funds if you have an inventory of unfunded Priority 1 and 2 coal problems greater than the total funding your state or tribe would otherwise receive.

3. If an eligible state or tribe would otherwise receive less than $3,000,000, we distribute enough Minimum Program Make-up Funds to increase your total funding from all shares to $3,000,000.

4. We will phase in Minimum Program Make-up Funds at 50% of the total that is required for FY 2008 and 2009, 75% for FY 2010 and 2011, and fully fund it for FY 2012 through 2022.

D. Prior Balance Replacement Funds.

1. They are authorized in section 411(h)(1) of SMCRA. Its source is the General Fund of the Treasury. Our accounting system abbreviates Prior Balance Replacement Funds for uncertified states as HU, and for certified states and tribes as HS.

2. We distribute them to all states and tribes which had an unappropriated balance of State or Tribal Share Funds in the AML Fund as of October 1, 2007. Both uncertified and certified states and tribes may receive them.

3. Each state or tribe will receive total payments of prior balance replacement funds equal to its unappropriated prior balance. We divide the total into seven equal annual payments. We distributed the first payment in FY 2008.

4. When we distribute Prior Balance Replacement Funds, we transfer the equivalent amounts in the AML Fund from State or Tribal Share to Historic Coal Funds. We will distribute these funds to eligible states and tribes in FY 2023, and in subsequent years.

5. We will not phase in these payments.

E. Certified in lieu funds.

1. They are authorized in section 411(h)(2) of SMCRA. Its source is the General Fund of the Treasury. We abbreviate them as H2.

2. We distribute them to certified states and tribes only.

3. We distribute an amount equal to 50% of reclamation fee collections on coal produced in the previous FY in your state, or on lands under your tribe's jurisdiction. We distribute these funds in lieu of the AML Fund moneys for the State and Tribal Share that they are no longer eligible to receive.

4. When we distribute Certified in Lieu Funds, we transfer the equivalent amounts in the AML Fund to Historic Coal and distribute them each year as part of the Historic Coal distribution.

5. We will phase in Certified in Lieu Funds at 25% of the total otherwise required in FY 2009, 50% in FY 2010, 75% in FY 2011, and fully fund them in FY 2012 through 2022. We will distribute the amounts we held back during the phase-in as two equal payments in FY 2018 and 2019.

ANNUAL DISTRIBUTION OF TITLE IV GRANT FUNDS

4-110-40 What are our offices responsible for in the mandatory distribution process?

A. The Director approves the distribution of Title IV funds.

B. The Division of Reclamation Support (DRS) issues distribution instructions, reviews the final distribution calculation for correct application of policy and procedures, and recommends approval of the distribution. DRS also has the lead role in answering policy questions regarding AML distribution.

C. The Division of Financial Management (DFM) determines the amount of Title IV funds to be distributed to each state and tribe in accordance with this chapter. DFM provides an electronic version of the annual distribution to be posted on the OSMRE web site. DFM and the Office of Planning, Analysis and Budget (OPAB) coordinate to ensure that the allotments are properly recorded in the financial system. DFM has the lead role in answering questions regarding financial figures used in the distribution.

D. OPAB works with the DFM to request a warrant from Treasury for the approved amount of Treasury funds to be distributed. OPAB allots all distributed funds to the regions.

E. The regional directors (RDs) and the regional and field offices provide technical assistance and training to the states and tribes to explain the annual distribution process and calculations. They review the proposed distribution to verify that their states and tribes are properly handled. They answer questions about how the distribution affects each program, and the options available to the state or tribe to use the distributed funds.

4-110-50 How do we process the annual AML mandatory distribution?

A. DRS will define the distribution parameters based on SMCRA and OSM regulations and directives. Before the reclamation fee collection cut-off date each FY, DRS will send DFM a memorandum with detailed procedures for calculating this FY's mandatory distribution.

B. DRS will also send DFM an e-AMLIS report showing the total cost of the unfunded Priority 1 and 2 coal problem areas remaining in each state or tribal inventory. The report will be used to determine eligibility for Historic Coal and Minimum Program Make-up Funds.

C. DFM will determine the amount of reclamation fee collections for coal produced in the previous FY for each state and tribe. In order to expedite the distribution, DFM will cut off collections for each FY on November 30 or as close as administratively feasible. Collections for each FY will be net of any adjustments made to prior year collections.

D. Within seven days of the collections cut-off date, DFM will send their proposed distribution to DRS. DFM will prepare a distribution package showing distribution amounts, calculations, and supporting data.

E. DRS will review the calculations to assure correct application of policies and parameters. DRS will also send the proposed distribution to the RDs for their review. DRS will work with DFM to resolve any concerns. Within seven days of receipt of the distribution package from DFM, DRS will prepare a memorandum outlining its acceptance of distribution calculations and requesting the Director's approval.

F. The OSMRE Director will approve the AML grant distribution.

G. OPAB will request a warrant from the Department of the Treasury for the approved amount.

H. DRS will send the approved distribution package to OPAB and DFM. OPAB and DFM will coordinate implementation of the distribution in the budget and financial systems. The distribution will also be provided to RDs for use in their offices and by states and tribes. DFM will provide an electronic version of the approved distribution package for posting on the OSMRE web site.

4-110-60 How will we distribute appropriated Title IV Funds to you?

Congress may appropriate additional Title IV grant funds for state and tribal reclamation programs each year. We will distribute these funds to you as soon as practicable after we receive the appropriation. DRS will develop distributions based on the requirements of the appropriations law. The Director will approve the distributions. DRS will provide the distribution to OPAB and DFM and the RDs. OPAB and DFM will coordinate implementation of the distribution in the budget and financial systems, and will provide the distribution to the public.

State emergency program grant funding must be appropriated. We will distribute funding based on your requests. DRS will ask the RDs to obtain estimates from you for your emergency program needs in the upcoming fiscal year. Emergency grant estimates should not include amounts for contingencies or extremely large one-time events. State emergency program requests will be reviewed by the ROs. The ROs will send state estimates and regional recommendations to DRS.

CHAPTER 4-120
STATE EMERGENCY AML RECLAMATION PROGRAM

- 4-120-00 What is an AML emergency?
- 4-120-10 What is the objective of the AML emergency program?
- 4-120-20 How does state emergency funding work?
- 4-120-30 What are our responsibilities?
- 4-120-40 What are your responsibilities?
- 4-120-50 What are the grant funding procedures for the state emergency program?
- 4-120-60 What should your initial investigation procedures include?
- 4-120-70 What must you include in your request for an emergency declaration?
- 4-120-80 How will we review your request and process an emergency declaration?
- 4-120-90 What are the emergency project progress reporting requirements?
- 4-120-100 What do you do if the emergency project needs a scope change?
- Exhibit 1 AML Emergency Program Guidelines
- Exhibit 2 Compliance with the National Historic Preservation Act
- Exhibit 3 Complaint Information Gathering Guide
- Exhibit 4 AML Complaint Investigation
- Exhibit 5 National Pollution Discharge Elimination System Storm Water Discharge Permits

4-120-00 What is an AML emergency?

We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), define an Abandoned Mine Land (AML) emergency as a sudden danger or impairment related to coal mining that presents a high probability of substantial physical harm to the health, safety, or general welfare of people before the danger can be abated under normal AML program operation procedures.

4-120-10 What is the objective of the AML emergency program?

The objective of the emergency reclamation program is to stabilize the emergency aspects of the problem by eliminating the immediate danger to public health, safety, and welfare. Any remaining reclamation should then be accomplished as part of a regular non-emergency AML project.

4-120-20 How does state emergency funding work?

A. Only states who are eligible for minimum program funding and who have an approved emergency reclamation program are eligible to receive and expend funds for AML emergency projects provided that funding is available. If funding is not available, all states or tribes may only use their other funding sources to address and pay for the emergency problem. You may not transfer funding to the emergency cost category from non-emergency cost categories. You must submit reports for the emergency projects within the non-emergency cost categories.

B. Sites must be eligible for AML funding. See FAM chapter 4-100 for more information on site eligibility.

C. You can only use emergency program grant funds for emergency hazard abatement. Emergency funding is limited. To be fair to other programs, we cannot allow you to use emergency funds for any additional work beyond what is necessary to abate the hazard.

D. A major consideration of the emergency program is determining the proper split between the use of emergency, and non-emergency AML funds to fully reclaim a problem area when the use of emergency funds is required to address the problem quickly. We will monitor your use of emergency funds in the same manner as we monitor your use of other AML funds. When you determine that a problem should be reclaimed using both emergency and non-emergency project funds, use the following procedures.

1. Consult with us before we define the extent and scope of the emergency. If we agree that a problem should be reclaimed using both emergency and non-emergency funding, we will make the final determination concerning how much of a project should be funded with emergency funds.

2. You will determine the extent and scope of non-emergency work.

3. You are responsible for managing the emergency funds to ensure that funding limits are not exceeded.

E. You cannot use emergency program funds for any of the following types of high priority projects.

1. Exploratory and design work for projects which have the potential to deteriorate into emergencies.

2. Projects which need prompt attention but require considerable evaluation efforts.

3. Projects which will require more than six months to complete.

4-120-30 What are our responsibilities?

Our regional or field office will perform the following functions.

A. Receive and review applications and awarding assistance agreements.

B. Declare emergencies. We will determine whether the problem meets the definition of emergency under 30 CFR 700.5, and our emergency program guidelines (see Exhibit 1 at the end of this chapter). We also approve the scope of work necessary to abate the emergency.

C. Work with you to ensure appropriate use of emergency funds.

D. Assure compliance with National Environmental Policy Act, P.L. 91-190, (NEPA), and REG-1, *Handbook on Procedures for Implementing the National Environmental Policy Act* (*NEPA Handbook*), and Chapter 4-160 of this directive.

E. Assure compliance with the National Historic Preservation Act, P.L. 89-665, (NHPA). (See Exhibit 2 of this chapter for more information.)

F. Assure that you have met the requirements of the Endangered Species Act, P.L. 93-205, the Clean Water Act, P.L. 92-500, and any other applicable Federal, state or tribal, and local laws imposed for the protection of the environment.

G. Monitor performance of reclamation activities and expenditure of emergency grant funds.

4-120-40 What are your responsibilities?

You must perform the following functions.

A. Respond to emergency complaints, tracking complaints and individual reclamation project progress, and monitoring all emergency program costs.

B. Ensure that emergency abatement activities are conducted in accordance with your approved reclamation plan, and the guidelines in Exhibit 1 of this chapter.

C. Ensure that project funds are properly allocated and expended when projects contain both emergency and non-emergency work.

D. Assist us in complying with NEPA, our *NEPA Handbook*, Chapter 4-160 of this directive, and the National Historic Preservation Act (NHPA).

E. Comply with the Endangered Species Act, the Clean Water Act, and any other applicable Federal, state or tribal, and local laws imposed for the protection of the environment.

F. Award and manage contracts for services necessary to abate emergency conditions, including rights of entry, appraisals, and other realty requirements.

4-120-50 What are the grant funding procedures for the state emergency program?

A. If you require emergency project funding, you may submit an amendment application for specific emergency project costs.

B. We normally approve emergency program funding for a period of one year.

C. We will deobligate any funds unexpended at the end of the one year performance period.

4-120-60 What should your initial investigation procedures include?

A. You perform initial investigations of AML citizen complaints. However, we encourage you to contact us to determine if a joint inspection is practical.

B. You should normally use the following procedures for your initial investigation.

1. Visit the problem site within two working days after receipt of the complaint. If the problem appears to be of an emergency nature, promptly notify our regional or field office. We can provide assistance if needed.

2. Your field investigation should obtain all pertinent information. See Exhibit 3, *Complaint Information Gathering Guide*, and Exhibit 4, *AML Complain Investigation*," for guidance on the information needed.

3. Note any procedures required by NEPA, NHPA, Endangered Species Act, Clean Water Act, or any other Federal, state or tribal, or local requirements imposed for protection of the environment.

4. If appropriate, notify emergency assistance organizations and local authorities of conditions at the site so that they can take immediate protective steps such as fencing or street closing.

5. Determine if local or other state or tribal institutions, such as the county highway department, can and will correct the problem.

6. If you should need non-emergency funds to complete reclaiming the site, you should discuss the situation with us. If non-emergency funds are needed, you should take action to get the necessary funds, or to include the problem in your AML inventory.

7. If required, get information necessary for an appraisal.

4-120-70 What must you include in your request for an emergency declaration?

Regardless of funding source, you must submit the following materials to us for each proposed emergency before we can declare it. However, in certain situations we may agree to declare an emergency with only the information we need immediately, and allow you to provide the remaining information afterward. The size of the project usually determines how much discussion you need about abatement alternatives.

A. Your investigation report. You may use an optional OSM-51 form, a state form, or any narrative or bullet-type description to provide the following information.

1. Project objective: Describe the project objective in relation to the definition of an emergency (a sudden danger or impairment that presents a high probability of substantial physical harm to the health, safety, or general welfare of people before the danger can be abated under normal program operation procedures). Show how the project will abate the danger. Evaluate alternative abatement methods if there are any, to show that the most effective, and cost efficient method is being used.

2. Approach: Briefly describe the project schedule, scope of work, and expected accomplishments.

3. Bonds: Identify the existence or absence of any bonds or other financial guarantees associated with the disturbed area, and provide specific details on those which have been released, forfeited and expended, or are otherwise unavailable. If a bond or other financial guarantee has been forfeited but not expended, it must be applied to the work to be done. A commitment to do that from the holder of the bond is required. This commitment may initially be verbal, documented in a telephone log, but a written commitment must follow. If the amount of the unexpended bond funds or other applicable financial guarantees is inadequate to complete emergency reclamation, you can use emergency funds.

4. Non-emergency work: Estimate the cost of any non-emergency work associated with the emergency project. You may not use emergency funds to complete the non-emergency portion of a project. Indicate whether non-emergency funds will be available to complete the reclamation, or whether the non-emergency portion will be included in your inventory for future funding.

5. Maps: Include maps showing location of the problem and of any active mining in the area.

B. Approval. An authorized official of your organization must sign or approve your recommendation for emergency action.

4-120-80 How will we review your request and process an emergency declaration?

A. Upon receipt of your request for emergency declaration, we will review the information and ensure that the project meets the requirements listed below. We may visit the site to verify the information contained in your report.

1. The project meets the criteria for an emergency.

2. The scope of work is reasonable to abate the emergency hazard.

3. An authorized official of your state or tribe signed or approved the emergency recommendation and scope of work.

4. If the project is in proximity to any active mining or mined area, or we may reasonably expect that reclamation activities could impact such an area, we will contact the appropriate Federal and/or state or tribal Mine Safety and Health Administration agency to determine if site conditions or probable reclamation activities could affect the health and safety of mine workers. We have discretion to apply the "proximity" and "reasonably expect" criteria based on the specific site conditions.

5. The project will comply with NEPA and NHPA. The state or tribe will comply with the Endangered Species Act, Clean Water Act, and any other Federal, state or tribal, and local requirements imposed for the protection of the environment.

6. The request includes the information on the status of any bond(s) or other financial guarantee(s) associated with the disturbed area as required in the previous section.

7. If part of the site will be referred to or funded by the non-emergency program, there is documentation of planned coordination with the non-emergency AML program.

B. We will process the emergency declaration as follows.

1. We declare an emergency by signing a Finding of Fact/Authorization To Proceed (ATP). The Finding of Fact certifies that the problem meets the criteria of an emergency, and qualifies for available emergency funding. It also serves as the point of Federal action, authorizing you to proceed with reclamation work on the site.

2. Our authorized official must approve the Finding of Fact. We should complete this approval within two working days of receiving your information.

3. We may approve a limited emergency response based on verbal information when we determine that delaying issuing a Finding of Fact until all required information is available could result in substantial physical harm to the health, safety, or general welfare of people. Before doing so, we must assure that you or we have met the environmental compliance requirements applicable when emergency circumstances at the site require immediate abatement action. We can later approve an expanded scope of work after receiving and reviewing more complete information.

4. The Finding of Fact must include the following information:

   a. Project name and other identifying information. Include the Problem Area (PA) number if the problem is in the Abandoned Mine Land Inventory System (e-AMLIS).

b. Project location should be specifically stated and detailed as to street, township, and county.

c. Condition which requires emergency abatement.

d. Declaration that the project meets the definition of an emergency using the criteria given in Exhibit 1.

e. Scope of work, including the following:

(1) A description of actions to be taken, and an explanation why those actions are necessary to stabilize the emergency aspects of the problem by eliminating the danger to public health, safety, and general welfare.

(2) Documenting planned coordination with the recipient's non-emergency AML program if a portion of the problem is to be reclaimed using emergency program funds and the remainder reclaimed or funded under the recipient's non-emergency AML program.

f. Documented compliance with NEPA and our *NEPA Handbook*. If there is an immediate threat of substantial physical harm, and the emergency action must be completed before the required NEPA document can be completed, you may submit environmental and other information to assist us in making the required determination.

g. Documented compliance with NHPA.

5. If the project appears to be an emergency, our reviewer prepares and signs the Finding of Fact/ATP, and forwards it to our authorized official for approval and signature. We will notify you immediately that the emergency has been approved; we will send you a copy of the signed Finding of Fact/ATP.

C. Emergency Denial. If we determine that a complaint does not constitute an AML emergency, we must give you a written determination within two working days. If you determine it to be an eligible high priority AML problem, we may assist you in submitting timely NEPA documentation. Special consideration should be given to those problems which do not currently meet the criteria for emergency declaration but which may deteriorate into emergencies if not reclaimed promptly. As appropriate on a case-by-case basis, this assistance could include help with the documentation to enter the problem in the electronic Abandoned Mine Land Inventory System (e-AMLIS), preparation of the Environmental document, or other technical assistance as needed. Contact our regional or field office to request assistance.

4-120-90 What are the emergency project progress reporting requirements?

A. You must include emergency projects in your annual and final AML performance reports (see Chapter 4-230 for information on reporting). Your performance report narrative must include the following information on emergency projects.

1. Name of project.

2. Date work started on project.

3. Discussion of abatement measures and their success or failure.

4. Original contract(s) cost estimates.

5. Final project cost.

6. Date work was completed on the project. (Do not include final revegetation if it was delayed awaiting proper weather conditions)

B. You must enter AML inventory information into e-AMLIS for all approved emergency projects at project completion to show your accomplishments.

4-120-100 What do you do if the emergency project needs a scope change?

Generally, our approval is not necessary for changes to the scope of an emergency project. However, you must address the impact of the scope change on the environmental documents using the appropriate alternative below.

A. If you prepared the NEPA related documents and conducted the required consultations, you must prepare any necessary revised documents to address additional environmental impacts from the proposed scope change, and submit those documents to us.

B. If we prepared the NEPA related documents and conducted the required consultations, you must notify us prior to making changes in the scope of work. We will review the existing NEPA document and findings, and change the existing documents as necessary. Additional findings must be made to ensure that the proposed changes are in conformance with applicable requirements.

Exhibit 1

AML EMERGENCY PROGRAM GUIDELINES

1. Emergency Criteria

As defined in 30 CFR 700.5 an emergency is a sudden danger or impairment that presents a high probability of substantial physical harm to the health, safety, or general welfare of people before the danger can be abated under normal program operation procedures. For an AML problem to be declared an emergency the answers to the following three questions must be yes.

a. Was there a sudden event?

b. Is there a high probability of substantial physical harm to the health, safety, or general welfare of people?

c. Does the emergency condition need to be abated in a time frame that is not possible under normal state/tribal program procedures in order to protect the health, safety, or general welfare of people?

2. Proper Response to Declared Emergencies

The proper amount of emergency reclamation is the amount necessary to stabilize the emergency aspects of the problem by eliminating the immediate danger to public health, safety, and general welfare. Any remaining reclamation should then be accomplished as part of a regular, non-emergency AML project.

Emergency reclamation must be sufficient to stabilize conditions and eliminate the hazards until the remaining non-emergency reclamation can be undertaken. When non-emergency reclamation is needed after abatement of the emergency, the project should be classified as a high priority if the remaining reclamation needs to be done expeditiously. This action will help prevent deterioration of the emergency work already completed.

It is not appropriate to use emergency program funds for exploratory and design work for high priority projects which have the potential to deteriorate into an emergency situation. The design work should be done as part of the normal AML program.

3. Specific Guidance for Selected Types of AML Problems

a. Surface Burning (SB). Surface Burning is an emergency when it threatens to burn occupied dwellings or when it is producing poisonous or dangerous gases, (e.g., carbon monoxide, hydrogen sulfide, etc.) and suddenly begins to threaten people. The presence of poisonous gases must be confirmed through the collection and laboratory analysis of ambient air samples or the use of a hand held monitor. Most refuse pile fires are characterized by noxious fumes, smoke, and open fires. While these conditions may be annoying, they do not normally constitute an emergency and should be considered under the regular AML grant program.

When non-emergency fires suddenly expand and threaten any inhabited structure(s) or poisonous gases suddenly begin to threaten people, emergency action will be considered to eliminate the threat.

Refuse fires are easier and cheaper to extinguish if discovered early. Therefore, notwithstanding the criteria for emergency definition discussed above, fires which are discovered at an early stage may be treated as emergencies.

b. Gases/Underground Burning (GUB). Underground mine fires are considered emergencies when they threaten to burn occupied dwellings, either directly or by starting surface fires, or when they produce poisonous or dangerous gases (e.g. carbon monoxide, hydrogen sulfide, etc.). The presence of poisonous gases must be confirmed through the collection and laboratory analysis of ambient air samples or the use of a hand held monitor.

Normally, inventoried underground mine fires are not sudden occurrences and do not present an immediate danger to the public. The states/tribes will, generally, conduct abatement or control procedures through normal program operations. However, emergencies may be declared when these fires suddenly break to the surface or where poisonous gases generated by the fire suddenly begin to threaten people.

As with Surface Burning, underground mine fires are easier and cheaper to extinguish if discovered early. Therefore, notwithstanding the criteria for emergency definition discussed above, fires which are discovered at an early stage may be treated as emergencies.

c. Dangerous Slides (DS). Dangerous slides are emergencies when there is immediate danger to the occupants of dwellings which are, or could be, endangered by the slide. In some cases, a slide may be considered an emergency when it blocks a stream, threatening upstream or downstream flooding. Blockage of roadways and driveways may be considered an emergency if access for emergency vehicles is prevented and no highway maintenance agency can act to clear the roadway.

Where these situations occur, emergency AML work will address only the emergency portion of the landslide. Permanent reclamation of the entire slide area may be considered when the emergency cannot be stabilized without it or it is clearly demonstrated that it is not cost effective to delay full reclamation. Where emergency work abates the emergency but achieves less than permanent reclamation, the remaining work should be considered under the regular AML grant program.

d. Portals (P) and Vertical Openings (VO). Vertical Openings are emergencies when there is a risk of falling into the opening. A portal can be an emergency when there is a substantial danger of entering the opening and being subjected to either fall material (e.g., roof rock or mine timbers) or an inhospitable mine atmosphere, such as methane and /or low oxygen conditions. The possibility of mine explosions from methane buildup would also create an emergency situation.

Historically, mine openings were often capped or sealed at the conclusion of mining with no provisions for continuous maintenance. Subsequent surface activities or vegetation may have covered or hidden these openings. The sudden uncovering of a previously unknown shaft or other mine opening in a populated area will generally be considered an emergency. Open shafts, although previously detected, which are now considered to be in or near populated areas may be treated as emergency work.

An opening which exposes persons to poisonous gases should be declared an emergency. The presence of poisonous gases should be confirmed when this can be done safely and conditions allow meaningful sampling. This may be accomplished through the collection and laboratory analysis of ambient air samples or the use of a hand held monitor.

e. Subsidence (S). Emergencies resulting from subsidence involve the danger of falling into the opening and/or the risk of damage to occupied dwellings, threatening the safety of occupants. Subsidence damage that significantly affects the structural integrity of occupied dwellings or adversely

affects gas or electric lines is usually an emergency. Subsidence beneath a roadway may be treated as an emergency only when a roadway maintenance agency cannot act to correct the problem.

f. Other Problem Types. While the five problem types above represent those most commonly associated with emergencies, this Directive does not preclude other problem types from being declared an emergency. The problem must meet the emergency criteria as set forth in Section 1 of these guidelines and follow other guidance provided in this Directive.

Exhibit 2

COMPLIANCE WITH THE NATIONAL HISTORIC PRESERVATION ACT

The Advisory Council on Historic Preservation's (ACHP) regulations at 36 CFR Part 800 established procedures to protect historic and archeological resources and implement Section 106 of the National Historic preservation Act (NHPA). NHPA requires a review of Federal emergency projects to determine the effect on historic properties.

Under the Federal Reclamation Program, the Office of Surface Mining Reclamation and Enforcement (OSMRE) is responsible for all the activities set out below. Under state-managed emergency programs, the state is responsible, except that OSMRE decides when immediate action must be taken to protect the public and must document findings in the Finding of Fact.

This appendix sets out the steps to follow when emergency construction can be initiated within 30 days of OSMRE declaring the emergency. If construction cannot be initiated within 30 days of OSMRE declaring the emergency, the regular NHPA procedures must be followed. In no event will an emergency action necessary to prevent substantial physical harm to the health, safety, or general welfare of people be delayed in order to meet NHPA requirements.

The first step in the review process is to determine whether any historic properties might be affected by the emergency project. Historic property includes any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places (NR). For the purpose of this directive, the term also includes artifacts, records and remains that are related to and located within such properties. The term "eligible for inclusion in the NR" includes both properties formally determined as such by the Secretary of the Interior and all other properties that meet NR listing criteria at 36 CFR 800.2(e).

While few emergency projects potentially affect historic properties, the following steps should be taken for each emergency project.

1. **If no historic properties are found that may be affected by the emergency abatement project** you will document this in the Finding of Fact for state/tribe managed emergency projects. You must send a copy of the documentation to the state Historical Preservation Officer (SHPO) or tribal leaders. No further steps in the Section 106 process are required.

Please note that, within the context of this appendix, the term SHPO includes tribal leaders if the project is on tribal lands and briefing paper includes the Finding of Fact for state/tribe projects.

2. **If a historic property is found that may be affected by the emergency abatement project**, whoever declares the emergency will contact the SHPO. In consultation with the SHPO, you will use the Criteria of Effect, pursuant to 36 CFR Part 800.9(a), to determine if the historic property will be affected. If all parties are satisfied that the historic property will not be affected this will be noted in the briefing paper. OSMRE/state will photograph the property. No further steps in the Section 106 process are required.

3. **If there are concerns that the emergency abatement may adversely affect a historic property**, all parties will make a reasonable attempt to resolve the concerns before work begins. If the concerns are resolved the briefing paper will:

(a) describe the historic property and explain how it will may be affected; and

(b) specify the concerns of the SHPO and explain how they were resolved.

After the abatement has been accomplished, any agreed upon information will be sent to the SHPO and a copy will be included with the emergency project's final report.

4. **If the SHPO has concerns which cannot be resolved and OSMRE determines that immediate action must be taken**, the briefing paper must include:

(a) a description of the SHPO's concerns;

(b) an explanation of why emergency abatement must be initiated immediately to prevent substantial physical harm to the health, safety, or general welfare of people; and

(c) a description of the emergency work to be done, its impact on the historic property(s), and the measures to be used to avoid or minimize harm to historic properties.

OSMRE/state will photograph the property and then take only that emergency action required to prevent immediate substantial physical harm to the health, safety, or general welfare to people.

When the emergency has been stabilized, OSMRE/state will provide the SHPO with photographs, maps, and a description of the actual impact on the property. A copy of this information will be included with the emergency project's final report. If additional work is required to complete reclamation, the regular NHPA procedures must be followed.

5. **If it is not possible to contact the SHPO (for example, on a weekend) and OSMRE determines that immediate action must be taken**. Photograph the property, and then take only that emergency action required to prevent immediate substantial physical harm to the health, safety, or general welfare of people. Note in the briefing paper that an unsuccessful effort was made to contact the SHPO and notify him/her at the first opportunity.

Guidelines for Photographs of Historic Properties

It is recommended that the SHPO be contacted beforehand to determine what is required of photographs of historic properties. In lieu of specific guidance from the SHPO, the following guidelines should be followed.

Photograph Type: You may use digital photographs, or color or black and white film. Polaroid type photographs are not acceptable.

Buildings or structures:

Environment: Photograph should show the environment in which the property is located.

Exterior: Photographs must include views which show the entire length and/or width of the building or structure. These can be used to identify the style of the building and the type of construction.

Elements: Photographs should show the elements of the building or structure, such as wall and roofs that contain repeated features such as doors, windows and large decorative details. Additional photographs should be taken of the individual features of the elements, such as porches, entryways and large significant decorative aspects. Machinery should be photographed.

Details of the Features: Close-up photographs of unusual windows, doors, and repeated designs and motifs should be taken. Also, include views of typical work methods and materials.

Historic and archeological sites: Photographs should document the condition of the site and present features. If relevant to the evaluation, photographs may also show artifacts that have been recovered from the site. Photographs must show the physical environment and land configuration of the site.

Identification: Identification of photographs should contain the following:

- The name of property/site.
- The location, including the State, county, city and address (if relevant).
- The emergency project name and number.
- The date of photograph.
- The role and negative number.
- Location where the negative is stored.
- A description of what the photograph is showing.

STATE EMERGENCY AML RECLAMATION PROGRAM

Exhibit 3

COMPLAINT INFORMATION GATHERING GUIDE

1. Was there a sudden event? When did it occur, if known?
2. Is there a high probability of substantial physical harm to the health, safety, or general welfare of people?
3. Does the problem have to be addressed immediately to protect health, safety, or general welfare of people?
4. How many people are endangered and to what extent?
5. How soon does the problem need to be addressed? (What is the urgency?)
6. What is the history of mining in the area?
7. If the mining operator is known, does he/she have continuing reclamation responsibility?
8. Are there any bonds associated with the disturbed area?
9. What is the source of the problem and where is it located?
10. How does the problem relate to past coal mining practices?
11. Is access to the property safe?
12. If needed, have the residents secured alternative housing within the commuting area?
13. Have photographs of all aspects of damaged property been taken (including inside of houses).
14. Is there a potential for any emergency abatement to impact the environment (NEPA), historic properties (NHPA), public utilities, private water supplies, or water waste disposal systems?
15. Does the current problem indicate a seasonal or other periodic (non-random) fluctuation that may change at a later date?
16. What can the landowner, mineral owner, and/or municipal agencies do?
17. What is the state's or tribe's regular AML program willing to do and when?
18. What is the local community willing to do and when?
19. What are the utility companies willing to do and when?
20. What are other state/tribal and Federal agencies willing to do and when?
21. Is an insurance company responsible?
22. Was the owner involved in or benefited from mining?
23. Are active mines operating in the area?

STATE EMERGENCY AML RECLAMATION PROGRAM

Exhibit 4

AML COMPLAINT INVESTIGATION

Type of Complaint: _____Reported by: _____

Address: _____

Telephone: _____

Date OSMRE Received Complaint: _____Time:_____

Date OSMRE Field Office Received Complaint: _____Time:_____

OSMRE Person Receiving Complaint: _____

Address of Complaint: _____

City: _____County:_____State:_____

SITE INVESTIGATION

Date: _____Time:_____ OSMRE Investigators: _____

State representative(s) Present: _____

_____

Others Present: _____

_____

Name of other agencies contacted (local, state or Federal): _____

_____

LOCATION OF SITE

Directions to Location (Describe Route): _____

_____

_____

USGS Quadrangle Name: _____

Coordinates: _____

_____

AREA MINED

Mined by: _____

Address: _____City: _____

State: _____Zip Code: _____Telephone Number: _____

Permitted Operation: No___ Yes ___ Permit Number(s) _____

STATE EMERGENCY AML RECLAMATION PROGRAM

Was the property owner involved in the mining? Yes ___ No____ If yes, explain: _____

_____

_____

Duration of Mining: From_____ Until _____

Type of Mining: _____

Field Elevation: _____Coal Elevation: _____Seam Name: _____

BOND (Optional)

Amount Received: _____Date_____

Amount Returned: _____Date_____

Amount Forfeited: _____Date_____

Amount Available: _____Date_____

PRESENT OWNERS

Surface Owners: Name: _____

Address: _____

City: _____State: _____Zip Code: _____Telephone: _____

Mineral Owner's Name: _____

Address: _____

City: _____State: _____Zip Code: _____Telephone: _____

AFFECTED PARTIES

Name: _____

Address: _____

City: _____State: ____Zip Code: _____Telephone: _____

Land Owner: _____ Adjacent Owner: _____

Name: _____

Address: _____

City: _____State: ____Zip Code:_____Telephone: _____

Land Owner: _____Adjacent Owner: _____

SITE INFORMATION

Date problem began or was first noticed:_____

Are there any active mining or related activities in or around the area? No____ Yes____

Name of Operators(s) _____

STATE EMERGENCY AML RECLAMATION PROGRAM

Nature of Problem:
_____ Water Discharge
_____ Sedimentation
_____ Flooding
_____ Air Pollution
_____ Slide
_____ Void, Shafts, Slope, Entries, etc.
_____ Mine Fire
_____ Subsidence
_____ Other, Specify _____

Source of Problem:
_____ Underground Mine
_____ Surface Mine
_____ Processing Area
_____ Refuse Pile
_____ Treatment Facility
_____ Other, Specify _____
_____
_____

Potentially Affecting:
_____ Persons . . . . . Estimated Number_____
_____ Streams . . . . . Name_____
_____ Public Road . . Name_____
_____ Housing . . . . . Number_____
_____ Building . . . . . Number_____
_____ Schools . . . . . Name_____
_____ Utility . . . . Power Line_____Treatment Plant_____
Sewer Line_____Gas Line_____
Water Line_____
_____ Historic or archeological site(s) Number_____
_____ Other, Specify_____
Estimate acres Affected_____

NATURE OF PROBLEM

Describe the problem (details: i.e., size shape; is problem spreading, expanding; first noticed, etc.):
_____
_____
_____

OTHER INFORMATION

Describe what other information is available and its location (i.e., maps, inspections, etc.):
_____
_____
_____

ELIGIBIITY (Optional)

State legal officer Notification

Name:_____

Address:_____

City:_____ State:_____ Zip Code:_____Telephone:_____

Method Used

Oral_____Date_____Written_____ Date_____

STATE EMERGENCY AML RECLAMATION PROGRAM

Declaration of Eligibility from state

Name:_____

Address:_____

City:_____State:_____Zip Code:_____Telephone:_____

Method Used

Oral_____ Date_____ Written_____ Date_____

Eligible: Yes_____No_____Explain_____

_____

POTENTIAL NEPA PROBLEMS

Note any potential National Environmental Policy Act Related problems. See REG-1, *Handbook on Procedures for Implementing the National Environmental Policy Act (NEPA)*. Actual responsibility for complying with NEPA rests with the RD.

REMARKS

INVESTIGATOR: _____
_____

Name: _____
_____

Address: _____
_____

City: _____State: _____ Zip Code: _____

Telephone:_____

Exhibit 5

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM STORM WATER DISCHARGE PERMITS

Background

The 1987 amendment to the Clean Water Act required the United States Environmental Protection Agency (EPA) to regulate storm water discharges in the National Pollution Discharge Elimination System (NPDES). Final regulations for permit applications for storm water discharges were published on November 16, 1990. The NPDES regulates storm water discharges from municipal and industrial activities, including mining, inactive mines, and construction sites. Also, for those states and Indian lands where they are responsible for issuing Storm Water Discharge Permits, EPA published NPDES general permits in the September 9, 1992, Federal Register, 57 FR 41176.

States and Indian tribes may apply to EPA for approval to issue permits and administer their own pollution Discharge Elimination System. Most states have done so and are responsible for regulating storm water discharges with EPA providing guidance and oversight. However, in those states or Indian tribes that do not have the authority to issue permits, EPA remains the authorizing agency.

Storm Water Discharge Permits

The agency responsible for abandoned mine land reclamation (OSMRE, state, tribe) must ensure that all applicable permits are obtained.

When obtaining a permit from EPA a Notice of Intent must be submitted two days prior to the commencement of construction and a storm water pollution plan must be developed and implemented. See 57 FR 41176 for detailed instructions.

Specifics for storm water discharge permits will vary by state or tribe. Check with your state agency or EPA representatives to determine the permit requirements for the proposed disturbance.

Emergencies

Emergency action necessary to prevent substantial physical harm to the health, safety, or general welfare of people must not be delayed by procedures for obtaining a storm water discharge permit. After the emergency is stabilized, if a storm water discharge permit is required, that permit must be obtained before any additional work is begun.

CHAPTER 4-130
ACID MINE DRAINAGE SET-ASIDE PROGRAM

- 4-130-00 What does this chapter do?
- 4-130-10 Where do these requirements come from?
- 4-130-20 Who may establish an Acid Mine Drainage Fund?
- 4-130-30 What money can you use for your AMD set-aside?
- 4-130-40 How may you spend funds from the AMD set-aside account?

4-130-00 What does this chapter do?

This chapter explains procedures for you to establish, fund, and operate an acid mine drainage (AMD) set-aside account. The set-aside program allows you, the recipient of an Abandoned Mine Land (AML) program grant from us, the Office of Surface Mining Reclamation and Enforcement (OSMRE), to deposit some AML funds into the AMD set-aside account, and use the funds and interest for AMD problems.

4-130-10 Where do these requirements come from?

The AMD abatement and treatment program is authorized in Section 402(g)(6) of the Surface Mining Control and Reclamation Act, as amended (SMCRA). It was first authorized in 1990. The 2006 SMCRA amendments increased the funding limits and removed a previous requirement for us to approve an AMD plan.

4-130-20 Who may establish an Acid Mine Drainage Fund?

You may establish an AMD set-aside fund if you are a state or tribe with an approved reclamation program which has not certified it has completed coal reclamation.

4-130-30 What money can you use for your AMD set-aside?

A. Each year you may keep and deposit the following funds into your AMD set-aside account.

1. Up to thirty percent (30%) of the State or Tribal Share Funds distributed to you this year. State or Tribal share funds (abbreviated in our accounting system as SS) are authorized by section 402(g)(1) of SMCRA.

2. Up to thirty percent (30%) of the historic coal funds distributed to you this year. Historic Coal Funds (HC) are authorized in section 402(g)(5).

B. You may not put Prior Balance Replacement Funds (HU) or Minimum Program Make-up Funds (FE), in an AMD set-aside account.

C. You should apply for the set-aside funds, and we will award them, as a separate subaccount within your annual AML program grant.

ACID MINE DRAINAGE SET-ASIDE PROGRAM

4-130-40 How may you spend funds from the AMD set-aside account?

A. You must spend amounts from the fund, together with all interest earned, for the abatement of the causes and treatment of the effects of AMD in a comprehensive manner within a qualified hydrologic unit affected by coal mining practices.

B. A “qualified hydrological unit” means a hydrologic unit which meets the following requirements:

1. Water quality has been significantly affected by acid mine drainage from coal mining practices in a manner that adversely impacts biological resources.

2. The unit contains lands and waters that meet both the following requirements.

   a. Eligible under section 404 of SMCRA, and include any of the coal priorities described in section 403(a).

   b. The subject of expenditure from the forfeiture of a bond under section 509 or from other State sources to abate and treat acid mine drainage.

C. We consider all funds you deposit in the set-aside account, plus interest earned, to be state or tribal funds.

D. You may use funds in the AMD set-aside account to meet another Federal grant program’s matching requirement as long as the goals of the other program are comparable to set-aside program.

CHAPTER 4-140
AML SPECIAL FUTURE SET-ASIDE PROGRAM

- 4-140-00 What does this chapter do?
- 4-140-10 Where do these requirements come from?
- 4-140-20 Can you put more money in a future set-aside account?
- 4-140-30 What can you do with funds in a future set-aside account?

4-140-00 What does this chapter do?

This chapter explains procedures for special Abandoned Mine Land (AML) future set-aside program funding awarded to you, a state or tribal recipient, by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE).

4-140-10 Where do these requirements come from?

The AML special or future set-aside program was authorized, then changed, and finally abolished by Congress in amendments to the Surface Mining Control and Reclamation Act (SMCRA). In 1987, Congress established the future set-aside program to allow states and tribes with approved AML programs to set aside AML funds to use for mine reclamation after the end of AML funding. The initial set-aside allowed you to spend the funds after August 3, 1992, for the purposes of Title IV. In 1990, Congress amended the program to allow you to spend the funds after September 30, 1995, for the coal priorities in section 403(a). In 2006, Congress abolished the future set-aside program.

4-140-20 Can you put more money in a future set-aside account?

No, you cannot put any more AML funds in a future set-aside account.

4-140-30 What can you do with funds in a future set-aside account?

A. We will consider all set-aside funds deposited in your set-aside account, plus any interest earned, as state or tribal funds.

B. You may spend funds in the set-aside account according to the terms in effect at the time we awarded each grant.

   1. You must spend funds awarded under the 1987 set-aside, and related interest, for the purposes of Title IV of SMCRA.

   2. You must spend funds awarded under the 1990 set-aside, and related interest, for any of the coal priorities in section 403(a) of SMCRA.

C. You can use funds in the set-aside account to meet a non-Federal funding match requirement for another Federal assistance program. However, the goals of the other program must meet the spending requirements for the AML set-aside program.

CHAPTER 4-150
AML SUBSIDENCE INSURANCE PROGRAM

- 4-150-00 What does this chapter do?
- 4-150-10 Where do these policies come from?
- 4-150-20 What is a subsidence insurance program?
- 4-150-30 What types of AML funds and how much funding may you use?
- 4-150-40 How does subsidence insurance funding work in your AML grant?
- 4-150-50 What costs are allowable and unallowable?
- 4-150-60 How must you use subsidence insurance premiums?

4-150-00 What does this chapter do?

This chapter explains the rules governing the subsidence insurance program. As a state or tribe with an approved reclamation program, you may receive subsidence insurance funding through your Abandoned Mine Land (AML) program grant from us, the Office of Surface Mining Reclamation and Enforcement (OSMRE).

4-150-10 Where do these policies come from?

A. Section 401(c)(1) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) authorizes you to operate a subsidence insurance program.

B. OSMRE regulations at 30 CFR 887 governing the subsidence insurance program provide more information.

4-150-20 What is a subsidence insurance program?

Subsidence insurance programs insure private property against damages caused by land subsidence resulting from underground coal mining. Programs are administered by your state or tribe. They must be self-sustaining.

4-150-30 What types of AML funds and how much funding may you use?

A. If you have certified that you have completed your coal reclamation priorities, you may use any AML funds for subsidence insurance.

B. If you are uncertified, you may only use state or tribal share funds for subsidence insurance funding. State/tribal share is authorized in section 402(g)(1) of SMCRA and abbreviated as SS in our accounting system.

C. Total cumulative subsidence insurance funding for each state or tribe must not exceed 3,000,000. We may award funds up to this total in one single AML grant or in a series of grants.

D. Our regional or field office must ensure that these requirements are met when it awards your grant.

AML SUBSIDENCE INSURANCE PROGRAM

4-150-40 How does subsidence insurance funding work in your AML grant?

A. We will award subsidence insurance funds as a subaccount within your annual AML grant.

B. Your application must include a statement in the program narrative describing how you will use the funds to achieve a self-sustaining, individual state or tribal administered program to insure private property against subsidence resulting from underground coal mining. It must also describe how the program is "state-administered" or "tribal-administered".

C. The performance period of a subsidence insurance subaccount may be up to eight years.

4-150-50 What costs are allowable and unallowable?

A. The following costs are allowable with subsidence insurance funds.

1. You may cover capitalization requirements and initial reserve requirements mandated by State law. However, you must ensure that your expenditures are consistent with the OMB cost principles in 2 CFR Part 200 Subpart E.

2. You may pay administrative costs to establish and operate the subsidence insurance program.

B. The following costs are unallowable with subsidence insurance funds.

1. You must not use AML funds for lands that are not eligible for AML funding under section 404 of SMCRA.

2. You must not pay for subsidence damage caused by active mining.

3. You must not pay for actual construction costs of housing or for damages to public property.

4-150-60 How must you use subsidence insurance premiums?

A. You must treat subsidence insurance premiums as program income. See Chapter 2-210 for guidance on using and reporting program income.

B. You must use all subsidence insurance premiums received to further the goals of the subsidence insurance program. We authorize you to use program income to add to the program funding (the Addition option).

CHAPTER 4-160
ENVIRONMENTAL COMPLIANCE

- **4-160-00 What does this chapter do?**
- **4-160-10 Do these requirements apply to you?**
- **4-160-20 How do we define the terms used in this chapter?**
- **4-160-30 When during project development should NEPA evaluations be done?**
- **4-160-40 Who is responsible for environmental compliance?**
- **4-160-50 What procedure will we use for environmental compliance reviews?**
- **Exhibit 1 Abandoned Mine Lands Categorical Exclusion Determination**
- **Exhibit 2 Instructions for Categorical Exclusion Determination**
- **Exhibit 3 Authorization to Proceed**
- **Exhibit 4 Environmental Assessment**
- **Exhibit 5 Finding of No Significant Impacts**
- **Exhibit 6 FONSI: Authorization to Proceed**

4-160-00 What does this chapter do?

This chapter presents the Office of Surface Mining Reclamation and Enforcement (OSMRE) responsibilities for compliance with the National Environmental Policy Act of 1969 (NEPA) and related environmental laws, regulations, and executive orders.

4-160-10 Do these requirements apply to you?

These responsibilities apply to the Abandoned Mine Lands (AML) Reclamation program and any other reclamation or construction projects. For Title IV grants to certified states and tribes, this chapter applies only to coal reclamation projects under 30 CFR Part 874, and to projects supported with state or tribal share funds distributed before FY 2008.

4-160-20 How do we define the terms used in this chapter?

The following definitions are critical to the understanding of this chapter.

A. Authorization to Proceed (ATP). (See Exhibit 3 and Exhibit 6 at the end of this chapter.) A formal notification from an OSMRE Regional Director (RD) or authorized official that a National Environmental Policy Act (NEPA) review is complete and the state/tribe may proceed with project construction using AML grant funds. For all other AML grant activities the point of Federal action will be at the grant award. See chapter 4-170 for more information on the ATP process.

B. Categorical Exclusion. (See Exhibit 1 and the instructions at Exhibit 2.) A category of actions which do not individually or cumulatively have a significant effect on the human environment and for which neither an environmental assessment or an environmental impact statement is required. For purposes of AML construction activities, the following projects can be excluded: AML reclamation projects involving no more than 100 acres; no hazardous wastes; no explosives; no hazardous or explosive gases; no dangerous impoundments; no mine or refuse fires; no undisturbed, non-commercial borrow or disposal sites; no dangerous slides where abatement has

the potential for damaging inhabited property; no subsidence involving the placement of material into underground mine voids through drilled holes to address more than one structure; and no unresolved issues with agencies, persons, or groups or adverse effects requiring specialized mitigation. Departmental Manual (DM) exceptions in 516 DM 2, Appendix 2 apply to this exclusion.

1. Categorical Exclusion Certification. A finding that the information provided on Exhibit 1 is accurate and complete.

2. Categorical Exclusion Determination. A finding by the responsible OSM official that the information provided pursuant to Exhibit 1 does or does not conform to the exclusion criteria in 516 DM 6, Chapter 13.

C. Environmental Assessment (EA). (See Exhibit 3.) A brief public document, prepared pursuant to 40 CFR 1508.9, that analyzes the effects the proposed project might have on the human environment for the purpose of determining whether the project might be expected to cause significant impacts, which would result in the need to prepare an Environmental Impact Statement (EIS), or to aid in the agency's compliance with NEPA if an EIS is found not to be required.

D. Environmental Document. An EA, an EIS, a Finding of No Significant Impact, and a Notice of Intent to prepare an EIS (40 CFR 1508.10) are environmental documents. For the purposes of this chapter, a Categorical Exclusion Determination is also an environmental document.

E. Environmental Impact Statement (EIS). A detailed statement prepared pursuant to section 102(2)(C) of NEPA and the implementing regulations (40 CFR 1500).

F. Finding of No Significant Impacts (FONSI). (See Exhibit 5.) A document prepared pursuant to 40 CFR 1508.13 which briefly presents the reasons why a proposed AML project, not otherwise excluded (by categorical exclusions), will not have a significant effect on the human environment and for which a detailed EIS will not be prepared.

G. Notice of Intent (NOI). A notice published in the Federal Register, that OSMRE intends to prepare an EIS for the proposed project.

H. Point of Federal Action. For purposes of construction activities under the AML program, the Point of Federal Action is the authorization to proceed with site specific activities following completion of the NEPA review.

4-160-30 When during project development should NEPA evaluations be done?

Completion of NEPA evaluation and review responsibilities must occur prior to the point of Federal action. For the purposes of AML construction activities, NEPA evaluations will be prepared early enough so that they can serve practically as an important contribution to the decision making process and will not be used to rationalize or justify decisions already made. For example, NEPA evaluations must occur prior to

the acquisition of real property, commitment to a final plan of action, or any other actions which limit the choice of reasonable alternatives.

4-160-40 Who is responsible for environmental compliance?

A. OSMRE Awarding Office

1. Our awarding office is responsible for the environmental document for each proposed project. The state or tribal agency may prepare the document, but the awarding office must ensure that each document prepared by the state/tribe is adequate under NEPA and related requirements. The awarding office is also responsible for developing a process to verify the accuracy of information and the implementation of commitments made in the environmental document (40 CFR 1506.5).

2. The Regional Director (RD) or authorized official signs the FONSI or the Categorical Exclusion Determination and issues an authorization for the state/tribe to proceed with project activities.

3. The RD or authorized official, as an official of the responsible Federal agency, carries out certain consultations with other Federal agencies, required by law, when necessary. (For example, OSMRE must consult with the U.S. Fish and Wildlife Service when the proposed project may adversely affect a Federally listed species.)

4. The RD or authorized official is responsible for ensuring that all environmental documents are made available to the public as required by 40 CFR 1506.6.

B. State or Tribal Agency

1. The state or tribal agency may prepare the appropriate environmental document for each proposed project.

2. If the state or tribal agency prepares the environmental document, it also conducts initial consultations, where appropriate.

4-160-50 What procedure will we use for environmental compliance reviews?

A. Consultations. The awarding office reviewer will assist the state or tribal agency (if the state or tribe elects to prepare the environmental document under section 4-160-40B) in carrying out any required consultations with agencies having jurisdiction over potentially affected resources. It is important to start as early as possible so that results of any required consultations can be incorporated into the environmental documents. An early start also facilitates the development of mitigation measures for consideration.

B. Preparation of Environmental Document. The following procedures apply when an environmental document is to be prepared by the state or tribe. If the state or tribe chooses not to prepare the environmental document, the OSMRE awarding office carries out these procedures.

1. The state/tribal agency should review the site and determine what resources or concerns could be affected and what special procedures are needed (see Exhibit 4 for a list of resources or concerns that may be affected).

2. The state/tribal agency should then decide, based on the following criteria, what kind of environmental document should be prepared.

   a. A categorical exclusion certification may be prepared if the proposed project meets the criteria specified in 516 DM 6, Chapter 13, and outlined in Exhibit 1.

   b. An environmental assessment may be prepared if the proposed project does not qualify for a categorical exclusion.

   c. An EIS is required if the proposed project would have significant impacts on one or more of the resources or concerns listed in Exhibit 4. If the State/Tribal agency finds that significant impacts could be expected from any proposal, the agency consults with the awarding office reviewer on preparing an EIS.

3. The state/tribal agency then prepares the required environmental document (see recommended format provided in Exhibit 1 or Exhibit 4, as appropriate), incorporating information gained as a result of the consultations and field surveys. If the document is an EA, the state/tribal agency may also prepare a draft FONSI (see recommended format provided in Exhibit 5).

4. The state/tribal agency sends the completed environmental document to the appropriate awarding office for review.

5. The state/tribal agency monitors the reclamation project to ensure that all activities conform to the approved environmental document. If reclamation activities are altered or if new environmental circumstances are encountered, the state/tribe must review the existing categorical exclusion determination, EA, or EIS.

   If the new project activities or environmental circumstances are not in conformance with the criteria specified in 516 DM 6, Chapter 13, and as outlined in Exhibit 2, the categorical exclusion is no longer applicable. In those cases where the existing environmental document no longer accurately describes project activities or conditions, the state/tribal agency will contact the awarding office for additional guidance.

C. NEPA Compliance in the Emergency Program. An emergency is declared by the RD or authorized official through the signing of a Finding of Fact. This should be done within 48 hours of receipt of information described in chapter 4-120-60. AML projects declared emergencies

pursuant to Section 410 of the SMCRA are subject to NEPA and the requirements and procedures outlined in this chapter. The authorization by the Council on Environmental Quality (CEQ) at 40 CFR 1506.11 to abate emergency conditions without preparing an environmental document does not relieve OSMRE or the states/tribes of the responsibility to complete consultation duties or obtain necessary permits in accordance with other Federal, state and local laws. It may be necessary to negotiate special consultation procedures for emergency actions to accelerate the review with other resource agencies.

1. The responsible project officer should evaluate the proposed emergency project and determine if the environmental document [environmental assessment, categorical exclusion determination, or Environmental Impact Statement] can be completed before the abatement action must be initiated. If site conditions do not require immediate abatement, sufficient time exists to make the required NEPA finding. Consultations must be completed and the appropriate environmental document must be prepared. The completed document should be submitted to the awarding office with the state Investigation Report. (See Exhibits 1, 2, and 4) The RD or authorized official will review the environmental document and, if appropriate, issue a Categorical Exclusion Determination, or Finding of No Significant Impact (FONSI). The RD will then issue an Authorization to Proceed, in conjunction with the Finding of Fact/Funding Authorization.

2. Where emergency circumstances at the site require immediate abatement action, and the environmental document discussed in this chapter cannot be completed prior to the initiation of that action, OSMRE and the states are authorized to act, but the abatement action taken must be limited to that necessary to control the immediate impacts of the emergency. The following procedures are applicable:

    a. Consultations with other state, Federal, and local interests must be completed as required by law or approved program procedures.

    b. Specific findings or permitting responsibilities relative to the National Historic Preservation Act (see Directive AML-4, Appendix 10); Endangered Species Act, Clean Water Act and other applicable environmental statutes must be completed.

    c. The awarding office must make a determination whether the emergency abatement action may result in a significant environmental impact. This determination must be based upon the results of the above consultations/findings, and the best site and abatement information available. In addition, the determination must include an explanation of why an abatement action has to be taken without preparation of an environmental document. The determination should be included in the finding of fact or other similar review document prepared by the awarding office in support of a Declaration of Emergency.

    d. Any action with a potentially significant environmental impact that must be taken to respond to an emergency without complying with NEPA must be brought to

the immediate attention of the CEQ. For these situations, the awarding office, concurrent with the action being taken, must notify the Branch of Environmental and Economic Analysis which will coordinate with the Department's Office of Environmental Affairs and the CEQ as per 516 DM 5.8, and 40 CFR 1506.11. CEQ may require follow-up site activities and documentation.

e. Actions which remain to be taken at the site of an emergency after the abatement of the immediate impacts require the preparation of an environmental document.

Please consult Directive AML-4 and REG-1 (OSMRE's *NEPA Handbook*) for additional information regarding the emergency program and NEPA compliance.

D. Review.

1. The awarding office will conduct a systematic review to determine adequacy of the environmental document. This review may include a site visit to verify the accuracy of information in the document.

2. Any issues raised during review of the document should be resolved with the State/Tribe through telephone conversations, meetings or site visits.

3. If the document is adequate, the RD or authorized official signs the FONSI or Categorical Exclusion Determination, and notifies the State/Tribal agency that NEPA review is complete and that the State/Tribe is authorized to proceed with the project. The awarding office will issue an Authorization to Proceed within 14 working days from receipt of the request, or provide reasons why the action cannot be completed. Some factors affecting the awarding office's ability to meet the time schedule include compliance with consultation and coordination requirements and adequacy of the environmental document.

4. If the environmental document is not adequate, the awarding office may return the environmental document to the state or tribe with the reasons why it is not adequate, or may supplement the document as needed to make it adequate.

5. The awarding office will select AML projects to inspect during and after construction to confirm the implementation of any commitments or stipulations stated in the environmental document.

EXHIBIT 1

ABANDONED MINE LANDS
CATEGORICAL EXCLUSION DETERMINATION

State:_____ PA #
Project Name:
Project Description:

***Yes* responses require submission of an environmental assessment.**

I.	GENERAL EXCEPTIONS

Does the project type specifically require an EA in 516 DM 6, Chapter 13, as specified in Item I of the attached instructions? No [ ] Yes [ ]

II.	DEPARTMENT OF INTERIOR EXCEPTIONS

Will the project have any of the following:

A significant adverse effect on public health or safety? No [ ] Yes [ ]

An adverse effect on any of the following unique geographic characteristics? No [ ] Yes [ ]

If yes, check the ones that apply.
[ ] Parks (State, Local, or National)
[ ] Wild or Scenic Rivers
[ ] Recreation or Refuge Lands
[ ] Wetlands
[ ] Wilderness Areas
[ ] Floodplains
[ ] Ecologically Significant or Critical Areas
[ ] Sole or Principal Drinking Water
[ ] Prime Farmland
[ ] Aquifers

Highly controversial environmental effects? No [ ] Yes [ ]

Highly uncertain and potentially significant environmental effects or unique or unknown environmental risks? No [ ] Yes [ ]

A precedent for future action or a decision in principle about future actions with potentially significant environmental effects? No [ ] Yes [ ]

Directly related to other actions with individually insignificant but cumulatively significant environmental effects? No [ ] Yes [ ]

ENVIRONMENTAL COMPLIANCE

Adverse effects on properties listed or eligible for listing on the National Register of Historic Places?	No [ ]	Yes [ ]
Adverse effects on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species?	No [ ]	Yes [ ]

ENVIRONMENTAL COMPLIANCE

Require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Wetlands Protection) or The Fish and Wildlife Coordination Act?

No [ ] Yes [ ]

Threaten to violate a Federal, State, Tribal or local law or requirement imposed for the protection of the environment?

No [ ] Yes [ ]

III. RESOURCE IMPACT EXCEPTIONS

Are there any unresolved issues, or adverse effects requiring specialized mitigation, for any of the following resources? If yes, check the ones that apply. No [ ] Yes [ ]

( ) Topography
( ) Land Use (includes prime farmland)
( ) Soils
( ) Vegetation (includes wetlands)
( ) Hydrology
( ) Fish and Wildlife
( ) Historic and Cultural
( ) Recreation
( ) Air Quality
( ) Noise
( ) Other (includes socioeconomics)

IV. ATTACH CONSULTATION LETTERS AND A LOCATION MAP

V. RESPONSIBLE OFFICIAL CERTIFICATION

Signature: _____ Date: _____

Name and Title: _____

VI. OSMRE DETERMINATION

[ ] This project conforms with the exclusion criteria in 516 DM 6, Chapter 13, and is excluded from further NEPA compliance.

[ ] This project does not conform with the exclusion criteria in 516 DM 6, Chapter 13, and requires an environmental assessment.

OSMRE Reviewer Signature: _____ Date: _____

Name and Title: _____

ENVIRONMENTAL COMPLIANCE

Signature: _____ Date: _____

Name and Title: _____

EXHIBIT 2

INSTRUCTIONS FOR CATEGORICAL EXCLUSION DETERMINATION

The attached checklist is used to determine if an abandoned mine land project funded through Title IV of the Surface Mining Control and Reclamation Act (SMCRA) is eligible for a categorical exclusion under the National Environmental Policy Act (NEPA). A yes answer to any question means that the project is not eligible and requires preparation of an environmental assessment. Additional guidance in complying with NEPA is found in the OSMRE NEPA Handbook.

A brief description of the project using AML Inventory keywords is required for the title block.

I. GENERAL EXCEPTIONS

Abandoned Mine Land projects that include any of the following problems, situations, or activities require an EA.

1. Subsidence projects involving the placement of any material into underground mine voids through drilled holes to address more than one structure.	6. Undisturbed, non-commercial borrow or disposal sites.
2. Mine fires and refuse fires.	7. Hazardous wastes as defined by EPA.
3. Hazardous or explosive gases. For instance, projects involving the venting of methane or carbon dioxide.	8. The use of explosives.
4. Dangerous impoundments, both surface and underground, as defined in the inventory guidelines (AML 1).	9. Projects over 100 acres in size.
5. Dangerous slides where the abatement work can result in damage to inhabited property.	

II. DEPARTMENT OF INTERIOR EXCEPTIONS

These exceptions are presented in 516 DM 2, Appendix 2. The Department's procedures were published in the Federal Register on April 29, 1980 (45 FR 27541) and revised on May 21, 1984 (49 FR 21437).

III. RESOURCE IMPACT EXCEPTIONS

The resource values correspond to those listed in the OSMRE NEPA Handbook. If any agencies, persons, or groups have unresolved issues with the proposed project, an EA must be prepared.

If project activities result in impacts that must be mitigated through the use of techniques beyond common construction practices, an EA must be prepared to analyze the potential environmental effects, and alternatives. Specialized mitigation is an indicator of the potential for significant adverse effects. Please refer to the NEPA Handbook for more discussion on resource values and definitions.

The following examples are provided to help the reviewer determine when mitigating measures require preparation of an EA. These examples are for guidance only and are not inclusive.

Common Mitigation Practices Not Normally Requiring an Environmental Assessment:	Specialized Mitigation Practices Normally Requiring an Environmental Assessment:
Watering roads to suppress dust.	Developing detailed dust control plans in response to air quality zone requirements, or public health considerations.
Installation of silt fence and hay bales to control sediment.	A specialized sediment control plan required to protect sensitive off-site resources.
Routine traffic control such as flagmen, safety barricades.	The use of road closures and detours resulting in a substantial alteration of traffic patterns.
Replanting of trees, shrubs and grass to replace lost vegetation types.	Developing a specialized revegetation plan in response to concerns over adverse impacts on plant communities.
Placement of brush piles and rock piles to replace wildlife habitat.	Developing a specialized plan in response to concerns over adverse impacts on wildlife communities.
The routine placement of barriers that allow continued use of mines by non-endangered bats or other species.	Specialized mine closure procedures in response to site specific concerns about bat habitat.

IV. ATTACH CONSULTATION LETTERS AND A LOCATION MAP

Attach the SHPO consultation letter, the endangered species consultation letter, and any other consultation letters required by the State reclamation plan. The location map should be from a 7.5 minute quadrangle map, with the map name, project name, and project location legibly marked.

V. RESPONSIBLE OFFICIAL CERTIFICATION

Please complete the block as indicated. The official signing this block is certifying the accuracy and completeness of the statements on the form. The person's name and title should be typed on the second line.

VI. OSMRE DETERMINATION

The OSM official making the determination is to review this document, check the appropriate block, and sign as indicated. The person's name and title should be typed on the second line.

EXHIBIT 3

Authorization to Proceed

State Agency
Address

Dear [State AML Director]

OSMRE has reviewed the categorical exclusion certification regarding [name of project] and determined that the project conforms with exclusion criteria in 516 DM 6, Chapter 13, and is excluded from further NEPA compliance. Accordingly, pursuant to section 4-160--50 D.3 of the Federal Assistance Manual, you are authorized to proceed with this project and expend Federal funds in accordance with AML grant terms and conditions.

Sincerely

Regional Director
Field Office Director

EXHIBIT 4

ENVIRONMENTAL ASSESSMENT

(General Project Title)
Abandoned Mine Lands Project
(Project Number(s), if applicable)
(County and State)
(Any other identifying information)

Prepared by

(Name of Federal/State/Tribal Agency)

In Cooperation with

U.S. Department of the Interior
Office of Surface Mining Reclamation and Enforcement Reclamation and Enforcement
(Name FO)
(Date)

ENVIRONMENTAL COMPLIANCE

A. Description of the Proposed Action

[Provide a complete description of the proposed AML project, including the decision to be made and the State/Tribe's proposal, if any.

B. Need for the Proposed Action

[Briefly describe the need for this project. If there have been instances of death, personal injury, property damage, or environmental degradation because of the abandoned operation to be reclaimed, include these facts in the discussion of need. Include the priority rating as per the AML Inventory as applicable.]

C. Alternatives Considered

[A major purpose of an EA is to help the decision maker determine whether to prepare an EIS. In addition, it is to provide compliance with NEPA if an EIS is found not to be required, so that Federal decisions are made based on an understanding of environmental consequences. The purpose of this section is to provide the decision maker and the public with a clear basis for choice among the available options.]

Alternative 1: Issue an authorization to proceed with the proposed project.

Under this alternative, the OSMRE RD/FOD would authorize construction activities in the amount of (insert $ amount) for use by the (name state/tribal agency) in implementing the abandoned mine land reclamation proposal described in the following.

[Describe the proposal in enough detail to allow the reader to understand what on-the-ground activities would take place if the proposal is funded. Include a description of the project in terms of what construction activities would take place, the number of acres involved, and the proposed time schedule for completion of the project. Identify past problems, if any, that would not be corrected by the proposal or acres of past disturbance that would not be reclaimed.

[Describe any design features of the project that would be used to mitigate environmental harm during the construction phase and after reclamation. These mitigation measures include ones that (I) minimize impacts by limiting the degree or magnitude of the action or its implementation, (ii) compensate for the impact by replacing or providing substitute resources or habitat, (iii) rectify the impact by repairing, rehabilitating, or restoring the affected environment, and (iv) reduce or eliminate the impact over some Stated time period. Do not include discussions of impacts.]

Alternative 2: Do not issue an authorization to proceed with the proposed project [No Action].

Under this alternative, the OSMRE (Name) RD/FOD would deny a Federal grant in the amount of (insert $ amount) to implement the abandoned mine land reclamation proposal described above under alternative 1. As a result, current conditions would continue, some growing worse and others lessening.

[Describe what conditions would continue. To the extent possible, identify the conditions that would lessen and those that would intensify, and describe the extent to which they would be expected to lessen/worsen. For example, in the case of a slide, if not reclaimed, the material may continue to advance downhill at the same rate it is now moving, or move at an accelerating rate, or the amount of material in the slide may increase, etc. Do not discuss environmental impacts.]

Alternative 3: Other reasonable alternative(s)

[Ideally, the decision maker should be given a choice of alternative designs for each reclamation proposal. Where appropriate, describe any other alternatives. Provide a complete description of the modifications, as accurate and as detailed as needed to enable the decision maker to understand how the on-the-ground activities in this alternative would differ from the proposed project. Include, as appropriate, any differences in description, acreage involved, time schedule for completion, and conditions to be addressed. As appropriate, indicate what current conditions would not be corrected, if different from the proposed project, any acreage disturbed by past mining that would not be reclaimed, or any other outcome that would be different from the proposed project. Do not discuss environmental impacts of the alternative.]

D. Affected Environment

1. General Setting

[Describe the conditions at the site of the project. Begin with a description of the general setting of the environment that would be affected by the proposed project. This will provide the reader with a mental picture of what the area looks like. In addition, the description must include details such as type, dates, and extent of past mining activity, total disturbed acreage, current land use, past and current problems, the anticipated future land use of the project area, and a detailed description of the location. A map showing the location of the proposed project and surrounding area should be included. Photographs may be included when available.]

2. Other Affected Resources, including Special Areas of Consideration

[In addition to the above information on the general project setting, descriptions are to be provided for resources found in the project area. Generally, limit descriptions of resources, factors, or concerns including special areas of consideration to those from the list below that may or would be impacted by the proposed action or any of the alternatives under active consideration. Describe these in sufficient detail to understand a change from the present as a result of the proposed action or alternative actions. Identify those resources from the list below that would not be affected by the project, and attach clearance letters as appropriate. **DO NOT** discuss the impacts to the resources as this will be accomplished under section E (Environmental Impacts of the Proposed Alternatives). This section is to provide the reader with an understanding of the current condition of resources found on the site.]

[Special areas of consideration are items that may be considered in the EA because of law, regulation, executive order, or directive. These must be specifically addressed as being or not being present in the project area. This may be accomplished in separate sentences for each concern, or, if several are not present, one sentence (i.e. "the following resources or environmental components are not present in the area....”]

RESOURCE VALUES

a. Historic and Cultural Resources: This includes resources protected by the Archeological Resources Protection Act of 1979, the Archaeological and Historic Preservation Act of 1974; National Historic Preservation Act of 1966, as amended; the American Indian Religious Freedom Act of 1978; the Native American Graves Protection and Repatriation Act of 1990 and OMB Circular A-102.

b. Hydrology: This includes water quantity and quality, surface water, ground water, floodplains (Clean Water Act, as amended, Executive Order 11998). Are there any streams located in or near the project area?

c. Vegetation: This includes Wetlands values (Clean Water Act, Executive Order 11990 and Army/EPA MOA Concerning the Determination of Mitigation under the Section 404(b)(1) Guidelines). Describe the general vegetation conditions at the site. This will allow the reader to understand how the project will affect existing stands of trees, shrubs, or herbaceous ground cover. The results of wetland delineations should be presented here.

d. Fish and Wildlife Resources:

1). Threatened or endangered plant or animal species (Endangered Species Act): This should include any plant or animal species of State or local concern.

2). Other wildlife in the area: Describe the general status of wildlife present at the site. This should include both game and non-game species. Descriptions should be in sufficient detail to allow reader to understand how they will be affected by the project (especially if, being displaced, they may in turn disturb a species that is threatened or endangered).

e. Soils: This includes Prime and unique farmland values (Farmland Protection Policy Act).

f. Recreational resource values: Describe any recreation resources found at the site. This should include any Federal, State, or local interests (Wild and Scenic Rivers Act).

g. Air quality (Clean Air Act): Is the project located in any special air quality zones regulated by State or Local authorities? Describe the general air quality of the project area (often a consideration where surface burning or gases are present at the site of the proposed project).

h. Noise: Existing environment such a quiet residential or rural area.

I. Topography: Site topography descriptions should include discussions of any off-site borrow, disposal, or access areas.

j. Other: This includes socioeconomic factors such as residences, communities, traffic patterns, and effects on businesses, and political factors such as existing local and State interests in the project/area.

E. Environmental Impacts of the Proposed Alternatives

[The purpose of this section is to provide the reader/decision maker with the basis for choosing between the proposed action and the alternative(s). This section should identify and discuss the environmental impacts from implementing each of the alternatives identified. The EA needs to present an evaluation of all the environmental impacts that could result from the various alternatives. The analysis should be concise. It should also analyze impacts on both short term bases (during reclamation) and long term bases (after reclamation). The analysis should address each of the resource values appropriate for the area. Also, indirect impacts should be considered. For example, if common bats, displaced by the proposed project, would be likely to move to a nearby cave and disturb an endangered species of bats, this should be discussed.]

Alternative 1: Issue an authorization to proceed with the proposed project.

1. Resource Values

[For each of the resource values listed under Section D.2., identify only the ones to be affected by the proposed project and describe how the value would be affected. AML projects generally have beneficial impacts; the quality of the human environment is improved as a long-term result of these projects. These beneficial impacts should be analyzed, pursuant to 40 CFR 1508.8. Discuss the intensity, context, and duration of the potential impacts.

[The analysis should identify the ultimate impacts to that resource value; e.g., raising the pH of a stream or pond would be likely to lead to an increase or change in the diversity of aquatic life. This increase or change in diversity is the impact and should be identified and described.]

2. Cumulative Impacts

[For each of the resource values, identify the potential cumulative impacts of this proposed project along with other ongoing and/or planned projects. This helps ensure that incremental impacts are not overlooked as a result of "fragmentation" of actions.]

Alternative 2: Do not issue an authorization to proceed with the proposed project (No Action).

[For each of the resource values included in the above analysis, describe how they would be affected if the proposed project is not carried out, including which effects would worsen over time. Be sure to include ongoing and/or planned projects (cumulative impacts) but not projects of a speculative nature.]

Alternative 3: Approve a differently-designed construction project (See Section II)

[For each of the resource values potentially affected by the proposed action, describe how they would be affected if this alternative project proposal were carried out.]

Supplemental Guidance: The following guidance is provided to assist in analyzing all alternatives.

1. [Impacts: Analyze the individual and cumulative impacts of the proposed action for the alternatives under active consideration. Describe the impacts on each resource discussed in section D.2. (Affected Environment). Include in the introduction for each alternative a statement that only the environmental resources or factors that will be affected will be discussed. Making one negative declaration for all the resources that will not be affected is permissible (i.e. the following resources will not be affected). Evaluate the direct and indirect impacts of the proposed action and each alternative under active consideration. Characterize the impacts in terms of the following three criteria:

   1. Intensity: negligible, minor, moderate, major,
   2. Context: local, regional, national
   3. Duration: short term, long term]

2. [Mitigation: Discuss mitigation measures in any alternatives, including the State/Tribal proposal, that could reduce or eliminate any identified impacts. Indicate the degree to which they would reduce impacts. Remember, the mitigation is relevant only if included as part of a proposed or alternative action.]

3. [Unavoidable Adverse Impacts: Discuss the adverse impacts that would remain after mitigation.]

4. [OSM-EIS-11, Approval of State and Indian Reclamation Program Grants Under Title IV of the Surface Mining Control and Reclamation Act of 1977, issued in 1983, is a programmatic EIS that describes and analyzes the potential environmental impacts of funding State and Indian projects with "State-share" funds. It may be tiered for the site-specific analysis (that is, it may be a source document for general discussion of impacts. While the program decision to fund proposals submitted for approval by State and Tribal agencies was made following completion of this EIS, **the decision on the design of the specific reclamation projects and the related cost** is the purpose of this site-specific EA. Impacts discussed in the environmental documents accompanying the grant proposals must be specific to the site of the proposed project. If the proposal is a simple project involving one of the generic types described in OSM-EIS-11, the description of the impacts in that EIS can be used in this document, but they must be tailored to the specific site. If so, the resource elements still need to be addressed in Section III, and required consultations must still be made for this particular site/project.]

F. Summary

Give a brief summary of the proposed action, alternatives and their beneficial and adverse impacts as appropriate. Compare the impacts associated with each alternative under active consideration, including the proposed action.

G. Persons and Agencies Contacted to Assist in the Preparation of the Environmental Assessment

List the following: (for individuals and agencies provided give address and phone number)

1. The OSMRE contact for the proposal,
2. Any other person or agency directly involved in the proposed action,
3. Any other person or agency providing information for the environmental assessment.

[List all persons or agencies consulted for information or opinions during the planning and preparation of this document. Required consultations may include:

1. FWS, for threatened/endangered species
2. Army Corps of Engineers, where waters that involve section 404 of the Clean Water Act are involved,
3. State Historic Preservation Officer, if historical properties are involved.
4. State Natural Heritage program office.

[If a response was received from the person or agency, include a copy in Appendix A.]

H. Preparer

[List the name of the person who prepared the environmental assessment, his or her position, agency, branch, city, state.]

I. References

[List all references cited in the text or relied on for major source material for the analysis including all other environmental documents which consider the area involved.]

_____

Name and Title of responsible state/tribe official

_____

Signature of state/tribal Agency

_____

Date

ENVIRONMENTAL COMPLIANCE

Appendix A

Consultation Letters

[Attach a copy of the letter seeking consultation and the response(s) from each official.]

EXHIBIT 5

FINDING OF NO SIGNIFICANT IMPACTS

(General Project Title)
Abandoned Mine Lands Project
(Project Number(s), if applicable)
(County and State)
(Any other identifying information)

OSMRE has thoroughly reviewed the attached environmental assessment, prepared by [insert State/Tribal agency name], and determined that it adequately discusses the environmental issues and impacts for OSMRE abandoned mine lands reclamation construction activities authorization purposes.

Based on the analysis in this environmental assessment, I find that reclamation of this abandoned mine site would not have significant effects on the quality of the human environment. I therefore conclude that no detailed statement (EIS) is necessary.

My specific reasons are as follows:

[List factors in the EA such as absence of endangered species or a determination that any present are not likely to be affected; commitment to relocate affected families during the construction phase; site does not contain wetlands or floodplains; etc., whatever the major items are in the EA.]

OSMRE Environmental Reviewer (or Preparer)

_____ _____
Title Date

_____ _____
OSMRE Representative Date

_____ _____
Awarding Office Date

EXHIBIT 6

FONSI
Authorization to Proceed

State Agency
Address

Dear [State AML Director]

The Office of Surface Mining Reclamation and Enforcement (OSMRE) has reviewed the environmental assessment for the [name of project] and determined that it adequately discusses the environmental issues and impacts associated with the project. Based on analysis of this document, I have determined that reclamation of this abandoned mine site would not have significant effects on the quality of the human environment and therefore conclude that no environmental impact statement is necessary. In addition, the AML inventory information submitted for this project has been accepted for inclusion in the inventory.

Accordingly, pursuant to section 4-160-50D.3 of the Federal Assistance Manual, you are authorized to proceed with this project and expend available Federal funds in accordance with AML grant terms and conditions.

Sincerely:

Field Office Director

CHAPTER 4-170
THE AUTHORIZATION TO PROCEED PROCESS

- **4-170-00 What does this chapter do?**
- **4-170-10 What is the Authorization to Proceed (ATP)?**
- **4-170-20 What is the ATP approval process?**

4-170-00 What does this chapter do?

This chapter explains how you, a state or tribe with an Abandoned Mine Land (AML) grant, can get approval from us, the Office of Surface Mining Reclamation and Enforcement (OSMRE), to proceed with construction on a specific reclamation project.

4-170-10 What is the Authorization to Proceed (ATP)?

A. You must request and receive our approval before you begin construction on an individual non-emergency reclamation project. We call the process in which you request and we approve individual projects the Authorization to Proceed (ATP).

B. Our ATP letter notifies you that we have determined that the environmental review is complete and the problem area information is properly recorded in the Abandoned Mine Land Inventory System (e-AMLIS). The ATP is our approval for you to spend AML grant funds to reclaim this specific project. You may proceed with project construction as soon as you receive the ATP.

C. The ATP is the official "Point of Federal Action" for AML construction activities. Because you do not have to include information on individual AML projects in your grant application, we do not approve them in the grant award. After approval of your AML grant, you must request the ATP for each project when you are ready.

D. The ATP process also meets OMB requirements for an assistance application to identify specific project objectives, results, benefits expected, approach, and geographic location. You normally fulfill this requirement when you send us environmental compliance documentation and when you enter site information into the funded category in e-AMLIS.

4-170-20 What is the ATP approval process?

A. You must include the following information in a complete ATP request.

1. Confirmation that you have entered the problem area information into e-AMLIS in compliance with directive AML-1. Problem features proposed for reclamation should be in the funded category, the unfunded category or not listed, as appropriate for the particular site.

2. Environmental documents with compliance information for the National Environmental Policy Act (NEPA) and other environmental requirements. See Chapter 4-160 for a detailed description of the appropriate environmental compliance information and documents.

3. AML eligibility statement and basis for claiming AML eligibility.

4. For AML enhancement projects, or Title IV projects less than 50% governmentally funded, the determinations document you developed jointly with the Title V State regulatory authority. See Chapter 4-100-100 for more information.

B. We will process the ATP request within 14 working days after receipt of a complete ATP package. We will send you our ATP or notification of our disapproval in writing.

CHAPTER 4-200
THE APPLICATION PROCESS FOR AN AML GRANT

- **4-200-00 What does this chapter do?**
- **4-200-10 How does the AML grant work?**
- **4-200-20 How do you send us your application for an AML grant?**
- **4-200-30 When should you apply?**
- **4-200-40 What should you include in your application?**

4-200-00 What does this chapter do?

This chapter explains how you, a state or tribe with an approved Abandoned Mine Land (AML) program that has not certified, can apply to us, the Office of Surface Mining Reclamation and Enforcement (OSMRE), for an AML grant. This chapter does not apply to states or tribes which have certified that they have addressed all known coal problems (see chapter 4-300). This chapter also explains how your AML grant works.

4-200-10 How does the AML grant work?

A. You may submit a single grant application each year for all AML activities. This combined annual grant is sometimes called "simplified" because it consolidates AML functions which we used to award as separate grants into a single grant award.

B. The AML budget or cost categories which are combined into this single grant are called subaccounts. AML subaccounts are costs which you must track separately, such as administrative costs and project costs for non-emergency coal reclamation. See 4-200-40 below for a list of standard AML subaccounts.

C. The performance periods for all subaccounts included in an agreement normally start on the beginning date of the agreement. However, we may later add a new subaccount which starts on the date of the grant amendment which added it. For example, immediately after the annual fund distribution you may apply for an amendment to add current AMD set-aside funds to the previous year's AML grant in order to deposit the set-aside funds sooner and earn additional interest.

D. The grant performance period is determined by the subaccount with the longest designated period in the AML grant. The grant performance period is normally three years. However, within the grant performance period, you can only obligate funds for each subaccount within its specified performance period. The subaccount performance periods end on different dates.

1. All administrative cost subaccounts last for one year.

2. All project cost subaccounts except emergency project costs last for three years.

3. Emergency project cost subaccounts last for one year.

4. AMD set-aside subaccounts last until you deposit the funds into your trust account.

5. Subsidence insurance subaccounts last for eight years.

E. When a subaccount ends before the end of the grant performance period, we normally close the subaccount. If there are any unexpended funds, we deobligate them or transfer them to a different subaccount or grant as you request.

F. We track grant property through the administrative cost subaccount. When we close the administrative subaccount, we will note your transfer of AML property into the administrative cost subaccount of the subsequent AML grant or your disposition of the property.

4-200-20 How do you send us your application for an AML grant?

A. You must submit a complete grant application to us by one of the following methods.

1. You may enter your application in an OSMRE-approved electronic grants portal such as Grants.gov.

2. You may send us a complete application on paper with an original signature. You may have the application delivered to us by regular mail or any other method.

3. You may send us an application package by e-mail. The application forms must include the name and title of the authorized official who signed them and the date they were signed. You must keep the original signed application in your files.

B. We will notify you that we have received your application within three days of the date we receive it.

4-200-30 When should you apply?

A. You may apply at any time for a grant of any or all of the AML funds that are available to you.

B. You should send us your application at least 60 days before the date you want your grant performance period to begin.

4-200-40 What should you include in your application?

A. We do not require detailed information on individual AML construction projects in the AML grant application.

B. Your application must include the following items:

THE APPLICATION PROCESS FOR AN AML GRANT

1. Signed or approved Application for Federal Assistance, Standard Form (SF) 424.

2. Budget information. You may use the optional OSM 49 form, or provide the information in an alternate format of your choice.

   a. Break out the funding you are requesting by subaccount, using the following list of standard AML subaccounts:

      01 Administrative Costs (Non-Emergency)
      02 Emergency Administrative Costs
      03 Coal Project Costs (Non Water Supply or Emergency)
      04 Water Supply Project Costs
      05 Emergency Project Costs
      07 Acid Mine Drainage Set-Aside Costs
      08 Subsidence Insurance Costs
      09 Indirect Costs (Non-Emergency)
      10 Emergency Indirect Costs
      11 Non-coal Reclamation Project Costs
      13 Clean Streams Project Costs
      16 Non Reclamation Activities (Prior Balance-Certified)
      17 Non Reclamation Activities (In-Lieu Funding-Certified)

   b. To classify costs as project costs or administrative costs, consider whether you can track the cost to an individual reclamation project. Project costs include actual construction, and also other activities such as project development and design, realty work, construction contracting, construction inspection, post-construction costs and other costs which you can allocate to a specific project. Administrative costs include non-site-specific activities, such as program policy, inventory management, and program management and support.

   c. The subaccount list above includes subaccounts for indirect costs, but we suggest that you consider including indirect costs within the related direct cost subaccounts rather than setting up these separate subaccounts. This may reduce the need for subsequent grant amendments moving money between subaccounts.

   d. You should also break out the total for each subaccount by the type of AML funds you are requesting. The fund types which may be available to you include State or Tribal Share Funds(SS), Historic Coal Funds (HC), Prior Balance Replacement Funds (HU), and Minimum Program Make-up Funds and Emergency Funds (FE). See chapter 4-100 for an explanation of these AML fund types and how you may use them.

3. The program narrative statement should include the following information. You may use the optional OSM 51 form or any format you choose.

a. Regulations at 2 CFR Part 200 require that the program narrative address the following criteria. However, information on specific reclamation projects is not required:

Objectives and Need for Assistance. Based on your approved AML state program, describe any relevant abandoned mine land problems (physical, economic, social, financial, or institutional) requiring a solution. Indicate the need for the assistance and state the primary and secondary objectives of the grant.

Results and Benefits Expected. Identify results and benefits to be derived from the reclamation program. For example, describe how the reclamation program will protect public health and safety, and improve the environment.

Approach. Outline a plan of action for the scope of the grant and describe how the proposed work will be accomplished. Cite factors (such as weather, eligibility issues, etc.) which might help or delay the work. Explain your reasons for taking this approach as opposed to others. Describe any unusual features of this grant, such as design or technological innovations, and reductions in cost or time. Identify the kinds of data to be collected and maintained. Discuss the criteria and methodology to be used to evaluate the results and success of the reclamation program.

Geographic Location. No information required.

b. You must include the following additional information in your application:

Personnel. List the number and type of full-time equivalent positions supported by this grant.

Fringe Benefits. Show the basis and estimated total amount of fringe benefits.

Travel. Show how the travel expenses were calculated. Estimate the number of trips, their purpose, and average costs.

Equipment. List each item of equipment requested and explain why it is needed for the program. Estimate the total cost of equipment to be purchased, leased or rented.

Supplies. Estimate the total cost for supplies and describe any major or

unusual items.

Contractual. List proposed contracts with their purpose and estimated cost.

Other. List costs by type and explain how you estimated them.

Indirect Costs. Show how you calculated estimated indirect costs based on the indirect cost rate and base approved by your cognizant Federal agency.

4. Signed or approved Assurances for Construction Projects form SF 424D.

5. If applicable, Disclosure of Lobbying Activities form SF LLL.

CHAPTER 4-210
APPLICATION REVIEW AND PROCESSING FOR AN AML GRANT

- **4-210-00 What does this chapter do?**
- **4-210-10 How long will we take to review your application and award your grant?**
- **4-210-20 How do we review your application?**
- **4-210-30 How do we process your grant award?**
- **4-210-40 How do we document our review and award actions?**

4-210-00 What does this chapter do?

This chapter explains procedures used by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE), to receive and review your Abandoned Mine Land (AML) grant application, and to award your grant. These procedures apply only to grants for states and tribes which have not certified the completion of coal reclamation. If your program has certified, see the procedures in chapter 4-300.

4-210-10 How long will we take to review your application and award your grant?

We will process all complete AML grant applications within 60 calendar days of receipt.

4-210-20 How do we review your application?

Our awarding office must take the following actions.

A. Determine that the application is complete. See Chapter 4-200 for the requirements for a complete application.

B. Determine that the proposed objectives and activities are appropriate for your program.

C. Confirm availability of funds.

D. Check the budget. Confirm that the proposed costs are allowable. Confirm that the budget uses AML fund types appropriately.

E. Identify and resolve any questions or issues.

F. Check the System for Award Management (SAM) to determine whether your organization or its officials are debarred, suspended, voluntarily excluded or ineligible for Federal assistance.

G. Confirm that you are in compliance with the single audit requirements found at 2 CFR Part 200 Subpart F.

H. Assess the risks associated with awarding you a grant.

APPLICATION REVIEW AND PROCESSING FOR AN AML GRANT

4-210-30 How do we process your grant award?

A. Based on this review, our awarding office will decide whether to approve or disapprove your application. If we decide to approve it, we will award your AML grant. If we disapprove your application, we will notify you of our decision in writing.

B. Before making the award, we will send information about the award to our Office of Communications for Congressional and public news release. Our awarding office must follow the notification procedure established by the Office of Communications.

C. We must process and approve the grant award through our electronic grants system. Our accounting system will post the award into the grant payment system so that the funds will be available for you to draw down.

D. We will send you the approved award document, by e-mail or in hard copy.

4- 210-40 How do we document our review and award actions?

We will document our application reviews and all programmatic and financial findings and recommendations in the official grant file kept in the awarding office. The following list of required documentation is only a minimum. Awarding offices must include any additional supporting information which would help an outside reviewer to understand the application review process and award decision for a particular grant.

A. Your application as we originally received it, all subsequent revisions, and any other information you sent us.

B. Records of all meetings or telephone conversations with your organization which provided information about the application.

C. All our correspondence with you about the application or the award decision.

D. All our internal reviews of the application or parts of the application. We will use a checklist to document application completeness.

E. All explanations or resolutions of questions rose during the review process.

F. All records or explanations of the timing of the award process, especially any time period when the awarding office could not process the award because it was waiting for actions outside its control, such as your responses to questions.

CHAPTER 4-220
AMENDMENTS AND POST-AWARD CHANGES FOR AN AML GRANT

- **4-220-00 What does this chapter do?**
- **4-220-10 Where do these requirements come from?**
- **4-220-20 How can you request changes to a grant?**
- **4-220-30 What changes require a formal grant amendment?**
- **4-220-40 What is the process for a grant amendment?**
- **4-220-50 What changes must we approve in a letter?**
- **4-220-60 How do you make all other changes?**

4-220-00 What does this chapter do?

This chapter explains policy and procedures used by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE), for Abandoned Mine Land (AML) grant amendments. It explains which changes to grants require our prior approval, either in a formal grant amendment or in a letter. This information applies to all your AML grants and cooperative agreements if your state or tribe has not certified that you have completed coal reclamation. If your AML program has certified, see Chapter 4-300 for guidance on amendments.

4-220-10 Where do these requirements come from?

Requirements for changing the terms of a grant come from the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, at 2 CFR 200, subpart D.

4-220-20 How can you request changes to a grant?

A. If your change requires our prior written approval, you must apply for and receive our approval before you make the change or obligate any funds. If you incur any costs before we approve the change, the costs may not be allowed.

B. We will not approve any request for a change to an agreement (including a time extension, funding increase, or changes in the subaccounts) which we receive after the scheduled end of the performance period. We will only make an exception if there are unforeseen circumstances not under your direct control, and if you justify these extenuating circumstances to the satisfaction of the authorized official in our awarding office.

C. We should receive requests to extend the performance period of your grant at least 30 days before the date it is scheduled to end. Normally we will approve only one extension of the performance period and we will not extend the time for more than one year. We will only make an exception if you justify the special or unusual circumstances to our satisfaction.

4-220-30 What changes require a formal grant amendment?

We must approve the following changes to your AML grant in a formal amendment document:

AMENDMENTS AND POST-AWARD CHANGES FOR AN AML GRANT

A. Extend the performance period.

B. Add more funds to the grant.

C. Deobligate unneeded funds.

D. Add a new subaccount to the grant.

E. Transfer funds from one subaccount to another.

4-220-40 What is the process for a grant amendment?

A. Either you or we may initiate a grant amendment. However, we must both agree on the amendment terms.

B. You should make multiple changes by a single amendment whenever possible.

C. You must submit an amendment application using by e-mail or by regular mail. The amendment application must include the following.

1. Signed or approved Form SF 424, identifying the type of change you are requesting in item 8.

2. A narrative explanation and justification for the requested change. You may use the optional OSM 51 form, or your transmittal letter or any other format.

3. If your request will change the budget or the subaccounts, provide revised budget information. You may use the optional OSM 49 form or any alternative format showing the proposed subaccounts and amounts.

D. We will process AML amendments, except emergency funding, using the same steps as new grants that are outlined in Chapter 4-210. However, we will approve or disapprove your complete amendment request within 30 days of receiving it. We will only notify the Office of Communications for Congressional and public announcement if the amendment increases the grant funding by more than $100,000.

E. We will process amendments for additional emergency funding as quickly as possible using accelerated review and approval procedures. We recognize that it is important not to delay abatement of an emergency hazard.

F. The amendment takes effect when the authorized official in our awarding office approves it in our electronic grant system. The amendment applies to the entire grant performance period unless otherwise stated. The approved amendment becomes part of the original agreement.

G. Amendments closing out the administrative subaccount of your AML grant also require submittal

of all required closeout reports, including financial and performance reports and property inventories. See Chapter 4-230 for information on financial and performance reports, and Chapter 4-240 for information on closing out an AML subaccount.

H. We will notify you when we have approved the amendment action and we will send you the appropriate documentation.

4-220-50 What changes must we approve in a letter?

You are required you to get our prior written approval for some changes which do not require formal grant amendments. You must request these changes, and we will approve them, in writing with a letter or e-mail. The following changes require our written approval.

A. OBM Cost principles found in 2 CFR Part 200 Subpart D, state that some cost items are allowable only if you have our prior approval.

B. Significant changes in the scope of your program may require our written approval. For example, subgranting major activities of your program to another entity would require our approval. However, changes such as reorganizations or new administrative systems would not require our approval.

4-220-60 How do you make all other changes?

A. You may make all other changes without our approval. However, you must notify us in writing of the change.

B. You do not need our approval for changes to a specific AML construction project which fits the broad scope or objectives of an AML project costs subaccount unless you need additional funding for the subaccount. However, you may need to revise and resubmit the environmental compliance (NEPA) and Authorization to Proceed (ATP) documents for the project. See chapters 4-160 for more information on the NEPA process and 4-170 for the ATP process.

CHAPTER 4-230
PERFORMANCE AND FINANCIAL REPORTING FOR AN AML GRANT

- **4-230-00 What does this chapter do?**
- **4-230-10 Where do these requirements come from?**
- **4-230-20 When must you submit reports?**
- **4-230-30 How can you submit reports?**
- **4-230-40 What information must you provide?**
- **4-230-50 Are there any alternatives to these reporting requirements?**
- **4-230-60 How will we review your reports?**

4-230-00 What does this chapter do?

This chapter explains the reports required from you, a state or tribe that received an Abandoned Mine Land (AML) grant from us, the Office of Surface Mining Reclamation and Enforcement (OSMRE). It describes, when your reports are due, how to submit them, and what information you must report. This information applies to you if your state or tribal reclamation program has not certified that it has completed coal reclamation. If your program has certified, see chapter 4-300 for information on your reporting requirements.

4-230-10 Where do these requirements come from?

The requirements for submission of recipient performance and financial reports are established in the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, at 2 CFR 200, Subpart D.

4-230-20 When must you submit reports?

You must submit programmatic and financial reports to us annually. These reports are due 90 days after the end of each 12-month reporting period.

A. Your first annual report will normally be a final report for the subaccounts within your grant that last one year, such as administrative costs. The reporting period starts on the effective date of the grant and ends on the last day of the performance period of the closing subaccounts.

B. Your second annual report will normally be an interim report. You may choose whether to end the report period on the same day of the year as your first report or on the next calendar quarter end date: March 31, June 30, September 30, or December 31. For example, if your grant begins on March 1, you could end the second report period on February 28 or extend it to March 31.

C. If your grant performance period is extended beyond three years, you must complete an annual interim report for each 12-month period.

D. The final report for the grant has a report period ending on the last day of the performance period. You will find further guidance on AML close out reports in chapter 4-240.

E. If you cannot meet a due date on a required report, contact our awarding office. We may extend the report due date if you have an adequate justification and your report is not yet overdue.

4-230-30 How can you submit reports?

A. You may submit reports by regular mail. Hard copy reports must have original signatures.

B. You may also submit reports by e-mail. If you e-mail your reports, the forms must include the name and title of the authorized official who signed them, the date signed, and you must maintain the original signed forms in your files.

4-230-40 What information must you provide?

A. Financial Report.

1. You have options for your financial reporting:

   a. Complete the SF 425, Federal Financial Report, and SF 425A attachment form.

   b. Complete the optional OSM 49 Budget Information and Financial Reporting Form.

2. The report must break out your expenditures by subaccount and by fund type. If the report method or form you use does not provide this level of detail, you must attach a document which breaks out the reported costs.

3. You must prepare your OSMRE financial reports on a cash basis.

B. Narrative Performance Report.

1. You may use the optional OSM 51 form, a blank page, or any narrative format for your performance report.

2. The report must list all reclamation sites worked on during the performance period. At a minimum, the report must include the following information for each site: the site name, problem area identification number, start date, completion date if completed, keyword accomplishments, and costs to date.

3. If your completed problem area is in the OSMRE AML Inventory System (e-AMLIS) you don't need to duplicate it in the performance report but you must include the appropriate e-AMLIS key for the completed problem area.

4-230-50 Are there any alternatives to these reporting requirements?

Yes. After receiving our approval, you may submit grant performance and financial report information in an alternative format or timeframe. This gives you flexibility in providing grant performance data in a manner that is more efficient and effective while still meeting our grant performance data needs. We will be as flexible as possible in approving alternative grant performance reporting schedules or formats. Please contact our awarding office to work out an alternative reporting plan that is acceptable to both you and us. However, if we have not approved an alternative reporting plan, you must comply with the performance and financial reporting requirements outlined above.

4-230-60 How will we review your reports?

A. We will review your programmatic and financial reports. We will verify and determine if you have complied with the reporting requirements and provided all the information we need. The following list is a minimum review.

1. An official authorized to act for your organization must sign or approve the reports. Reports received by e-mail must include the name and title of the authorized official who signed the original forms, and the date signed.

2. We must receive reports by the due dates.

3. All reported activities and claimed costs must be in compliance with the approved state plan and Federal regulations.

4. Programmatic reports must compare the planned and actual accomplishments of AML program activities.

5. Financial reports must be mathematically accurate and is consistent with our drawdown records.

6. All claimed costs must be supported by your accounting records and you must be able to reconcile them.

B. If any concerns are identified, our awarding office will work with you to correct the report.

C. We will prepare a monitoring statement to document our review.

CHAPTER 4-240
CLOSING AN AML GRANT

- 4-240-00 What does this chapter do?
- 4-240-10 Where do these requirements come from?
- 4-240-20 When do we close out an AML agreement?
- 4-240-30 When is your closeout package due?
- 4-240-40 How can you submit these reports?
- 4-240-50 What information must you submit to close out an AML grant?
- 4-240-60 How do you report and how do we close an AML subaccount?
- 4-240-70 How will we review your information and close your grant?

4-240-00 What does this chapter do?

This chapter describes what must be done to close the Abandoned Mine Land (AML) grant you received from us, the Office of Surface Mining Reclamation and Enforcement (OSMRE). It also describes how to close a completed AML subaccount. This chapter applies to you if your state or tribal reclamation program has not certified that it has completed coal reclamation. If your state or tribe has certified, see chapter 4-300 for grant closeout information.

4-240-10 Where do these requirements come from?

The requirements for closeout procedures come from the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, at 2 CFR 200 subpart D.

4-240-20 When do we close out an AML agreement?

A. We normally close out an AML grant 180 days after the end of the grant performance period. The first 90 days allows you to report to us. The remaining 90 days allows us to complete the closeout process.

B. We normally close out individual AML subaccounts when they end before the end of the grant performance period. We close the subaccount no later than 180 calendar days after it ends.

C. We may close AML grants without audit. However, we may take additional administration action after closeout if a subsequent audit identifies findings or questioned costs.

D. We will not close a grant until you have paid all allowable costs and we have deobligated all unexpended funds.

E. We will not close a grant if it is in litigation or under appeal.

F. If we terminate a grant, we will not close it until all termination actions have been completed.

4-240-30 When is your closeout package due?

A. Your complete closeout package is due to us 90 days after the end of the grant performance period.

B. If you have made every reasonable effort to send us a complete closeout package within 90 days but cannot meet the due date, you may request and we may approve an extension. You must send us a written request to extend the due date with a justification explaining why you need the extension. We will notify you of our approval along with any interim steps that we may require.

4-240-40 How can you submit these reports?

A. You may send hard copy reports with original signatures to us by mail.

B. You also have the alternative of submitting reports by e-mail. The forms must include the name and title of the authorized official who signed them and the date signed, and you must maintain the original signed forms in your files.

4-240-50 What information must you submit to close out an AML grant?

A complete closeout package for an AML grant includes the following documents.

A. Final financial report. See chapter 4-230 for information on how to prepare and submit a financial report.

1. You must report all program income in accordance with the deduction option, applying program income to your expenditures to reduce Federal costs. See chapter 2-210 for more information on program income.

2. You cannot show any unliquidated obligations on your final report. You must pay all obligations before we can close the grant.

B. Final performance report. See chapter 4-230 for information about your narrative performance report.

C. Report of Government Property, if you acquired or held property under this grant. Report your property inventory on the Tangible Personal Property Report (SF-428) that allows for any other inventory format acceptable to our awarding office.

1. Your inventory must list all equipment or real property acquired under this grant or transferred into this grant from previous AML grants. You must notify us whether you transferred the property to the subsequent AML grant or disposed of the property.

2. Normally you will hold property in an Administrative Costs subaccount, and report the property inventory when we close that subaccount rather than at final grant closeout.

D. Report of Federally-Owned Property, if any. You must list all Federally-owned property provided to you separately from grant-purchased property. To report use the Tangible Personal Property Report (SF-428) that allows for any other acceptable property list. You must request that the property be transferred to the subsequent grant or properly disposed.

E. Update the Abandoned Mine Land Inventory System (e-AMLIS), if necessary. You should enter completion data on each problem area when you complete it, but you must ensure that all completion data under this grant has been entered in e-AMLIS before you send us your closeout package. You must provide a statement that you have completed this step.

4-240-60 How do you report and how do we close an AML subaccount?

We will use the following process to close out AML subaccounts which end before the end of the grant performance period.

A. You must send us the closeout documents listed above for the subaccounts which have ended. You must send the closeout package to our awarding office within 90 days after the end of the subaccount performance period.

B. Within 60 days of receipt, our awarding office must review the package and complete all actions necessary to close the subaccount. We will notify you that we have completed the actions and send you the appropriate documents.

C. If you have any unexpended funds in the subaccount, we must process an amendment to deobligate the funds or transfer them to another subaccount within the same grant. See chapter 4-220 for amendment processes.

4-240-70 How will we review your information and close your grant?

Our awarding office will review the closeout package and determine if it is complete and acceptable. If the package is not acceptable, we may return it to you with an explanation of what you should do to complete or correct it, or ask you for additional information, or take other actions to resolve the problems. After we receive an acceptable closeout package, our awarding office must complete the following actions within 60 days.

A. Review the closeout package and the grant.

CLOSING AN AML GRANT

1. Verify that we have added all known changes to the grant by appropriate revisions or grant amendments.

2. Resolve with you any grant suspensions, withholding of funds, disputes, and violations of grant clauses and assurances.

3. Write a brief evaluation of your performance under the grant and keep it in our official grant file.

4. Reconcile the inventory of Federally-owned property with our records and approve the transfer to a subsequent agreement.

5. Verify that the agreement and the file are complete. We will use a checklist to document this step.

B. Process the final grant action to deobligate any unexpended funds. See chapter 4-100 for information on what we will do with the deobligated funds.

C. We will send you a written notice that we consider the grant to be closed, and remind you of the record retention and access requirements in chapter 2-260.

CHAPTER 4-300
TITLE IV GRANT PROCEDURES FOR CERTIFIED PROGRAMS

- 4-300-00 What does this chapter do?
- 4-300-10 What types of Abandoned Mine Land (AML) funds may you get and how may you use them?
- 4-300-20 What grant policies apply to your program?
- 4-300-30 How do you apply for a Title IV grant?
- 4-300-40 How will we process your grant award?
- 4-300-50 How do you meet environmental compliance requirements?
- 4-300-60 How will we process grant amendments?
- 4-300-70 What reports must you send us?
- 4-300-80 What closeout information will you send us and how will we close your grant?

4-300-00 What does this chapter do?

This chapter explains the procedures used by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE), for grants to certified states and tribes under Title IV of the Surface Mining Control and Reclamation Act (SMCRA). These procedures apply to your reclamation program if you have certified that you have achieved all the priorities in section 403(a) of SMCRA for coal reclamation on eligible lands and waters in your jurisdiction. Because the SMCRA Amendments of 2006 gave you wide authority over your activities and expenditures, we created separate grant procedures to reflect our limited role after coal reclamation is completed.

4-300-10 What types of Abandoned Mine Land (AML) funds may you get and how may you use them?

A. Prior Balance Replacement Funds (abbreviated in our accounting system as HS) are general Treasury funds authorized in section 411(h)(1) of SMCRA starting in FY 2008. You must use these funds for the purposes established by your state legislature or your tribal council, with priority given to addressing the impacts of mineral development.

B. Certified in Lieu Funds (H2) are general Treasury funds authorized in section 411(h)(2) of SMCRA starting in FY 2009. You may use these funds for any purpose.

C. Emergency Program Funds (FE) are from the AML Fund, and awarded to states and tribes which manage the emergency program. You must use these funds for abatement of coal emergency problems under section 410 of SMCRA.

D. You may have unexpended State or Tribal Share Funds (SS) from fiscal years before 2008. You must use these funds for coal reclamation, or for noncoal reclamation or public facility projects under section 411 of SMCRA.

TITLE IV GRANT PROCEDURES FOR CERTIFIED PROGRAMS

4-300-20 What grant policies apply to your program?

A. You must use funds for activities authorized in SMCRA and described in your approved reclamation plan or your grant application.

B. You must comply with all applicable Federal laws and regulations. This includes Department of Interior, Office of Management and Budget (OMB) and Treasury regulations, including the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, at 2 CFR Part 200 Subpart D.

C. Some cost items in OMB's Cost Principles require the prior approval of the awarding agency in order to be allowable costs, including equipment and capital expenditure costs. OSMRE hereby approves these costs for certified States and Tribes. You do not need to request individual OSMRE approvals for each such cost.

4-300-30 How do you apply for a Title IV grant?

A. You may mail or e-mail your application to the appropriate OSMRE awarding office.

B. You may apply at any time for a grant of any or all of the program funds that are available to you.

C. Your application must include the following items.

1. SF-424 cover page signed by an authorized official.

2. A budget breakout showing the requested funding by OSMRE subaccount categories. Use subaccounts from the following standard list. You must identify what type of AML funds you want to use for each subaccount.

01	Administrative costs (non-emergency)
02	Emergency administrative costs
03	Coal project costs
05	Emergency project costs
08	Subsidence insurance costs
11	Noncoal reclamation project costs
16	Non-reclamation activities with prior balance replacement funds
17	Non-reclamation activities with certified in lieu funds

3. A program narrative statement very briefly describing the planned activities. The application is not required to include information on individual projects or activities.

The narrative must include a statement that activities to be supported with Prior Balance

Replacement Funds are for purposes established by the state legislature or tribal governing body. The narrative must discuss how priority was given to addressing the impacts of minerals development for these activities.

4. SF-424D, Assurances for Construction Programs.

5. Certifications form showing compliance with Debarment and Suspension, Drug-Free Workplace, and Lobbying statutes.

6. If applicable, Disclosure of Lobbying Activities form SF LLL.

C. The application must provide the information we need to award the grant. If the application is not complete, we will inform you as soon as practicable of the additional information we need to process the award.

4-300-40 How will we process your grant award?

A. We will award the grant as soon as practicable, but no more than 30 days after receipt of a complete application. We will complete the following actions.

1. Determine that the application is complete.

2. Confirm that the amount of funds requested is available.

3. Check the System for Award Management (SAM) to confirm that your organization or its officials are not debarred, suspended, or ineligible for Federal assistance.

4. Confirm that you are in compliance with OMB's single audit requirements.

5. Assess your risk to receive grant funds.

6. Announce the award to Congress and the public using the notification procedures established by OSM's Office of Communication.

7. Approve the award through our electronic grants system.

8. Send the approved award to you.

9. Document the award in an official grant file. The file must include your application and all other materials you sent us, all our findings and determinations, and all other information needed to understand the application and award process.

B. The award will cover the performance period you requested in your application. If any subaccounts have different performance periods than the grant period, the performance periods

must be specified in the application or the award.

C. The award we approve obligates the Federal funds. You accept the award and its conditions when you start work under the agreement or when you first draw down the funds.

4-300-50 How do you meet environmental compliance requirements?

A. When you conduct a coal reclamation project to comply with certification requirements under 30 CFR 875.14(b), you must implement the environmental compliance procedures under Chapter 4-160 in cooperation with us. You must request an Authorization to Proceed (ATP) from us. You must not expend any funds on a coal reclamation project until we have ensured that all necessary actions have been taken to comply with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and any other applicable laws, clearances, permits or requirements, and we issue the ATP.

1. A complete ATP request must confirm that you have entered the problem area information into the Abandoned Mine Land Inventory System (AMLIS) in compliance with directive AML-1.

2. The ATP request must also include the appropriate NEPA compliance information. See Chapter 4-160 for a detailed description of the information and documentation.

B. You are responsible to ensure that all applicable laws, clearances, permits, or requirements are met before you expend Title IV funds.

C. Projects or activities other than coal reclamation under 30 CFR Part 874 do not require an ATP from us. The NEPA requirements in Chapter 4-160 do not apply to those projects or activities where we are not required to issue an ATP.

4-300-60 How will we process grant amendments?

A. When you wish to make changes in an assistance agreement, you must follow the requirements in the 2 CFR Part 200.

B. We will not approve a request for a change to a grant, including a time extension, if we receive the request after the end of the performance period unless there are unforeseen circumstances not under your direct control. You must justify these extenuating circumstances to the satisfaction of the authorized official in our awarding office.

C. We must approve the following changes to a grant agreement with a formal grant amendment.

1. Add more funds to the agreement.

2. Deobligate funds before the end of the grant performance period.

3. Make the grant performance period longer or shorter.

4. Transfer funds from one subaccount to another.

5. Add a new subaccount.

D. You may enter an amendment application using an approved electronic grant system. Alternatively, you may send an e-mail or paper application which must include a signed Form SF-424 cover page and a brief explanation of the requested change. If the amendment will revise the budget, you must also include a revised breakout of the grant budget by subaccount.

E. We will award the amended grant agreement within 20 days of receiving an amendment application. We will process amendments in accordance with the provisions for awarding new agreements in section 4-300-40 above, except that we will only announce the amendment through the Office of Communications if the amendment provides additional funding of more than $100,000.

4-300-70 What reports must you send us?

A. You must provide performance and financial reports to OSMRE annually. Reports are due 90 days after the end of each 12-month period of the grant performance period, starting on the effective date of the grant. Alternatively, you may provide reports on another annual cycle mutually acceptable to you and us.

1. You may file the financial report through an electronic grant system or on an SF 425 and 425A reporting form. Alternatively, information may be provided in another format mutually acceptable to you and us. An alternative format must include the grant number, the report period, cumulative expenditures for each subaccount, cumulative indirect costs and program income if any, and a dated signature or approval by an authorized official of the State or Tribe.

2. The narrative performance report may be filed electronically or on paper in any format. The report must describe your accomplishments under the grant during this reporting period.

B. When an OSMRE office receives grant financial and performance reports, it must review the reports and document that the reports comply with all requirements. We will prepare a monitoring statement to document our review.

C. You must annually update e-AMLIS for each reclamation project as it is completed. If you add any coal problems to e-AMLIS in a new or existing problem area, we must approve the amendment to the inventory before you expend Title IV funds.

4-300-80 What closeout information will you send us and how will we close your grant?

A. Upon completion of each grant, you must send us a final financial report and a final performance report. You must make every reasonable effort to send the reports no later than 90 calendar days after the end of the grant. We may extend the due date for the final reports at your request.

B. The receiving OSM office must perform the following actions to close out the grant.

1. Review the closeout information you provided.

2. Deobligate any unexpended grant funds.

C. All Title IV grant funds are available until expended. If we deobligate any unexpended funds when we close out your grant, the funds will be available for re-award to you. You may apply for unused funds whenever you choose, either in a new grant or as an amendment to an existing open grant.

CHAPTER 4-400
PROCEDURES FOR CIVIL PENALTY GRANTS

- **4-400-00 What does this chapter do?**
- **4-400-10 What types of funds may you get and how may you use them?**
- **4-400-20 What grant policies apply to your program?**
- **4-400-30 How do you apply for a Civil Penalty Grant?**
- **4-400-40 How will we process your grant award?**
- **4-400-50 How do you meet environmental compliance requirements?**
- **4-400-60 How will we process grant amendments?**
- **4-400-70 What reports must you send us?**
- **4-400-80 What closeout information will you send us and how will we close your agreement?**

4-400-00 What does this chapter do?

This chapter explains the procedures we, the Office of Surface Mining, Reclamation, and Enforcement (OSMRE) use for grants for civil penalty reclamation under Title IV of the Surface Mining Control and Reclamation Act (SMCRA). These procedures apply to your program if we have provided funding for a civil penalty project in your state or tribe as defined in section 402(g) of SMCRA for coal reclamation on eligible lands and waters in your jurisdiction. We created separate procedures to reflect the unique characteristics of civil penalty collections and funding.

4-400-10 What types of funds may you get and how may you use them?

If you have a qualifying project under Section 402(g)(4) of SMCRA, you may submit a request for funds to us. It is our discretion to provide you with funding based on amounts collected from the assessment of civil penalties under Section 518 of SMCRA.

4-400-20 What grant policies apply to your program?

A. You must use funds for activities authorized in SMCRA and described in your approved reclamation plan or your grant application.

B. You must comply with all applicable federal laws and regulations. This includes OMB and Treasury regulations such as the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, found at 2 CFR Part 200.

C. Some cost items in OMB's Cost Principles require the prior approval of the awarding agency in order to be allowable costs, including equipment and capital expenditure costs.

PROCEDURES FOR CIVIL PENALTY GRANTS

4-400-30 How do you apply for a Civil Penalty Grant?

A. You may mail or e-mail your application to the appropriate OSMRE awarding office.

B. You may apply at any time for a grant of any or all of the program funds that are available to you.

C. Your application must include the following items.

1. SF-424 cover page signed by an authorized official.

2. A budget narrative explaining and justifying the requested budget.

3. A program narrative statement must explain the proposed project. You may use the Optional OSM 51 form or plain paper.

   a. Explain the need for the project.

   b. Provide a summary of the project. Who will be responsible for the contract and oversight?

   c. What are the purpose, goals and objectives of the project?

   d. Do you have the legal right of entry to the property for construction and continuing monitoring and maintenance? Provide a copy of the authorizing document.

4. SF-424D, Assurances for Construction Programs.

5. If applicable, Disclosure of Lobbying Activities form SF LLL.

D. The application must provide the information that we need to award the grant. If the application is not complete, we will inform you as soon as practicable of the additional information needed to process the award and work with you to obtain the required documents.

4-400-40 How will we process your grant award?

A. We will award your grant as soon as funding becomes available. We will complete the following actions:

1. Determine that the application is complete.

2. Confirm that the amount of funds requested is available.

3. Check the System for Award Management to confirm that your organization or its officials are not debarred, suspended, or excluded for purposes of receiving funding.

4. Confirm that you are in compliance with OMB's single audit requirements.

5. Assess your risk to receive grant funds.

6. Before the planned award, we will send information about the award to our Office of Communications for Congressional and public news release. Our awarding office must follow the notification procedure established by the Office of Communications.

7. Approve the award through our electronic grants system.

8. Send the approved award to you.

9. Document the award in an official grant file. The file must include your application and all other materials you sent us, all our findings and determinations, and all other information needed to understand the application and award process.

B. The award will cover the performance period you requested in your application.

C. The award we approve obligates the federal funds. You accept the award and its conditions when you start work under the agreement or when you first draw down the funds.

4-400-50 How do you meet environmental compliance requirements?

A. When you conduct a coal reclamation project using civil penalty funds, you must comply with the requirements in Chapter 4-160 in cooperation with us. You must request an Authorization to Proceed (ATP) from us. You must not expend any funds on a coal reclamation project until we have ensured that all necessary actions have been taken to comply with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and any other applicable laws, clearances, permits or requirements, and we issue the ATP.

1. The ATP request must also include the appropriate NEPA compliance information. See Chapter 4-160 for a detailed description of the information and documentation.

B. You are responsible to ensure that all applicable laws, clearances, permits, or requirements are met before you expend Civil Penalty funds.

C. Projects or activities other than coal reclamation under 30 CFR Part 874 do not require an ATP from us. The NEPA requirements in Chapter 4-160 do not apply to those projects or activities where we are not required to issue an ATP.

PROCEDURES FOR CIVIL PENALTY GRANTS

4-400-60 How will we process grant amendments?

A. When you wish to make changes in an assistance agreement, you must follow the requirements in 2 CFR Part 200 Subpart D.

B. We will not approve a request for a change to a grant, including a time extension or funding increase which we receive after the scheduled end of the performance period unless there are unforeseen circumstances not under your direct control. You must justify these extenuating circumstances to the satisfaction of the authorized official in the awarding OSMRE office.

C. We must approve the following changes to a grant agreement with a formal amendment.

1. Add more funds to the agreement.

2. Deobligate funds.

3. Make the grant performance period longer or shorter.

D. Either you or we may initiate a grant amendment. However, we must both agree on the amendment terms. You must submit an amendment application via email or mail a paper application. The amendment application must include the following:

1. Signed or approved Form SF 424, identifying the type of change you are requesting in item 8.

2. A narrative explanation and justification for the requested change. You may use the optional OSM 51 form, or your transmittal letter or any other format.

3. If your request will change the budget or the subaccounts, provide revised budget information. You may use the optional OSM 49 form or any alternative format showing the proposed subaccounts and amounts.

E. We will approve or disapprove your amendment application within 30 days of receiving it. We will process amendments in accordance with the provisions for awarding new agreements in section 4-400-40 above, except that notification of the Office of Communications is required only if the amendment provides additional funding of more than $100,000. We will send you notification that the amendment has been approved.

4-400-70 What reports must you send us?

A. You must provide periodic performance and financial reports to OSMRE. The awarding office will define reporting frequency, but it will be no more frequent than quarterly. Reports are due 30 days after the end of each defined reporting period starting at the end of the on the first calendar quarter after the effective date of the grant.

1. You must submit your financial report on an SF 425 reporting form.

2. The narrative performance report may be filed electronically or on paper in any format. The report must describe your accomplishments under the grant during this reporting period.

B. We will review your programmatic and financial reports. We will verify and determine if you have complied with the reporting requirements and provided all the information we need. The following list is a minimum review:

1. An official authorized to act for your organization must sign or approve the reports. Reports received by e-mail must include the name and title of the authorized official who signed the original forms, and the date signed.

2. We must receive reports by the due dates.

3. All reported activities and claimed costs must be in compliance with the approved State plan and Federal regulations.

4. Programmatic reports must compare the planned and actual accomplishments of AML program activities.

5. Financial reports must be mathematically accurate and is consistent with our drawdown records.

6. All claimed costs must be supported by your accounting records and you must be able to reconcile them.

C. If any concerns are identified, our awarding office will work with you to correct the report.

D. We will prepare a monitoring statement to document our review.

4-400-80 What closeout information will you send us and how will we close your agreement?

A. Upon completion of each agreement, you must send us a final financial report (SF-425) and a final performance report. You must make every reasonable effort to send the reports no later than 90 calendar days after the end of the grant. We may extend the due date for the final reports at your request. You however must provide justification for the need to extend this date.

B. The receiving OSMRE office must perform the following actions to close out the agreement:

1. Review the closeout information you provided.

2. Verify that we have added all known changes to the grant by appropriate revisions or grant amendments.

3 Resolve with you any grant suspensions, withholding of funds, disputes, and violations of grant clauses and assurances.

4. Write a brief evaluation of your performance under the grant and keep it in our official grant file.

5. Reconcile the inventory of Federally-owned property to our records, and approve the transfer to a subsequent agreement.

6. Verify that the agreement and the file are complete. We will use the Grant and Cooperative Agreement Closeout Checklist or an approved alternative form to document this step.

C. Process the final grant action to deobligate any unexpended funds. See chapter 4-100 for information on what we will do with the deobligated funds.

D. We will send you a written notice that we consider the grant to be closed, and remind you of the record retention and access requirements in chapter 2-260.

E. All civil penalty funds are available until expended or the performance period has ended, whichever occurs first. You may submit subsequent requests for funding if we authorize additional funding and apply for either a new agreement or as an amendment to an existing open agreement.

CHAPTER 5-100
REGULATORY PROGRAMS OVERVIEW

- 5-100-00 What is the purpose of this chapter?
- 5-100-10 Where does this information come from?
- 5-100-20 What are OSMRE's regulatory financial assistance programs?
- 5-100-30 What budget estimates of your regulatory funding needs must you send us?
- 5-100-40 How will we distribute annual regulatory grant funding?
- 5-100-50 Can you use regulatory funds to cover certain bond forfeiture costs?

5-100-00 What is the purpose of this chapter?

This chapter provides a general overview of financial assistance programs in our coal regulatory program. The instructions in this chapter apply to all regulatory assistance programs and agreements awarded by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE), to you, a state or tribe with active coal mining.

5-100-10 Where does this information come from?

Title V of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), P.L. 95-87, authorizes us to fund state, tribal and Federal programs to control the environmental impacts of surface coal mining. It authorizes states and tribes to develop and assume regulatory primacy, act as the regulatory authority, and operate their coal regulatory program. Our regulations at 30 CFR Chapter VII implement SMCRA.

5-100-20 What are OSMRE's regulatory financial assistance programs?

We provide financial assistance under the following programs to states and tribes to implement the coal regulatory provisions of Title V.

A. Interim grants to fund the initial regulatory program.

B. Program development grants to assist states and tribes to develop a permanent program.

C. Administration and Enforcement (A&E) grants to states and tribes to operate an approved permanent regulatory program. See chapter 5-110 for more information.

D. Federal lands cooperative agreements to States which elect to administer their approved regulatory program on Federal lands. See chapter 5-120 for more information.

E. Small Operator Assistance Program (SOAP) operational grants to states to assist small coal mine operators to meet their permit requirements. See chapter 5-130 for more information.

5-100-30 What budget estimates of your regulatory funding needs must you send us?

A. Eighteen months before the beginning of each Federal fiscal year (FY), you must send us your estimated program budget with the regulatory funding you will request for that FY. You must

break out the program budget by the categories listed below. We will review your estimates and use this information in preparing our Federal budget request.

1. Show functional categories: permitting, inspection and enforcement, SOAP administration, lands unsuitable and other administrative costs.

2. Show object class categories: personnel and fringe benefits, travel, equipment, supplies, contractual, other and indirect costs.

3. If applicable, show the estimated costs of Federal lands and SOAP operations.

B. Three months before the beginning of the FY, you must send us an updated estimate of your regulatory funding needs, using the same format as the eighteen-month estimates.

5-100-40 How will we distribute annual regulatory grant funding?

A. If we have enough regulatory funds available, we will distribute to each state and tribe the amount you requested or the amount recommended by our awarding office. The distribution process designates funds for a particular state or tribe, but does not actually award or provide any funds.

B. If we do not have enough funds available to fund the total regulatory needs of all states and tribes, we will distribute the available funds among the states and tribes as equitably as possible.

C. When we distribute a specific amount of funds to you, it does not commit us to award you a grant for that amount. You must still apply for your grant, and we will approve or disapprove it based on your application and program. See Chapter 5-200 for more information on your application and Chapter 5-210 on our review and award processing.

D. When Congress appropriates regulatory grant funds, they specify whether we may obligate the funds during a period of one fiscal year or two fiscal years. In either event, we normally award regulatory grants for a twelve month period using the current fiscal year's annual appropriation.

5-100-50 Can you use regulatory funds to cover certain bond forfeiture costs?

This section explains which reclamation activities associated with bond forfeiture sites are allowable costs under the regulatory program grant. You must fund activities which are not allowable under the grant with the proceeds of the forfeited bond or other State resources.

A. Sites forfeited under the permanent program.

1. You may fund administrative costs not directly associated with site-specific reclamation from your regulatory grant if the costs are part of the forfeiture process or if the activities would have been performed had there been no forfeiture. Allowable costs may include site inventories, site priority ranking activities, forfeiture processing, site inspections, and

contract monitoring to the extent that it does not exceed the level of effort that would have been expended had there been no forfeiture.

2. You cannot use grant funds for costs associated with site-specific activities directly related to completion of the reclamation plan. Unallowable costs include redesign of a reclamation plan after forfeiture and the reclamation work itself. You must fund these costs from the proceeds of forfeited bonds or with other state resources.

B. Sites forfeited under the Initial Program

1. SMCRA's Initial Regulatory Program did not require reclamation bonds. However, section 505(b) of SMCRA did not prevent a state from imposing bonding requirements for initial program sites as a more stringent environmental control. Therefore, administrative costs related to bond forfeiture on initial program sites may be an allowable program cost if an approved regulatory program contains bonding provisions.

2. Administrative costs associated with "bid preparation" are considered to be allowable program costs, to the extent that they do not include the costs of designing or redesigning the approved reclamation plan.

a. Eligible costs include those related to bid specification preparation, such as planimeter work and office calculations needed to determine areas and volumes. Reclamation costs are allowable to the extent that they would normally be incurred regardless of the quality of the original reclamation plan. Such costs include site visits and limited surveys to obtain data necessary for the preparation of bid specifications, including those conducted to determine drainage control needs, backfilling and grading volumes or the size of areas in need of seeding or soil amendments.

b. Ineligible costs include those related to the preparation of new maps, plans or drawings and those related to site surveys conducted for the purpose of horizontal or vertical control, acquisition of photogrammetric data or preparation of a new reclamation plan or design. The costs of the reclamation work itself are also ineligible.

CHAPTER 5-110
REGULATORY ADMINISTRATION AND ENFORCEMENT GRANTS

- 5-110-00 What does this chapter do?
- 5-110-10 What is the purpose of regulatory A&E grants?
- 5-110-20 Who is eligible for an A&E grant?
- 5-110-30 What are the non-Federal funding requirements for A&E grants?
- 5-110-40 What costs are allowable under your A&E grant?
- 5-110-50 What costs are unallowable under your A&E grant?
- 5-110-60 What is the performance period for an A&E grant?

5-110-00 What does this chapter do?

This chapter explains our requirements for regulatory Administration and Enforcement (A&E) grants awarded to your state or tribal coal regulatory program by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE).

5-110-10 What is the purpose of regulatory A&E grants?

We award regulatory A&E grants to support your regulatory program approved under Section 503 of the Surface Mining Control and Reclamation Act (SMCRA).

5-110-20 Who is eligible for an A&E grant?

To be eligible for an A&E grant, your state or tribe must meet both of the following requirements.

A. You must have an approved program to regulate surface coal mining.

B. You must have a single agency designated in writing by the governor or head of the tribal governing body to receive and administer the grants.

5-110-30 What are the non-Federal funding requirements for A&E grants?

A. States must provide non-Federal funds to cover part of the costs of operating your program.

1. We normally approve Federal funding for A&E grants up to 50% of the total costs for administering and enforcing your program. SMCRA requires 50% match for costs of regulatory program operations on non-Federal lands by a state which has received more than two years of regulatory funding.

2. If this is your first A&E grant and we have not awarded you a program development grant, we may award up to 80% of the total costs for administration and enforcement of the program.

3. If this is your second year of funding, we may award up to 60% of the total costs.

4. We may reimburse you up to 100 percent of your total costs to regulate Federal lands. See Chapter 5-120 for policies on Federal lands funding.

B. Currently, tribes are not required to provide non-Federal funding.

5-110-40 What costs are allowable under your A&E grant?

A. You may charge costs to your grant if they are necessary to administer and enforce your program and if they meet one of the following standards:

1. Costs are for activities directly identified in your approved program.

2. Support costs are for the activities identified in your program, including such activities as equipment and support services.

3. Costs are to develop an amendment to your approved program.

B. Costs must be allowable according to the Office of Management and Budget's (OMB) *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* at 2 CFR Part 200. See Chapter 3-100 for more information.

C. You may charge costs to purchase real property only if you comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

5-110-50 What costs are unallowable under an A&E grant?

A. You may not charge costs to the regulatory A&E grant which are not related to the administration and enforcement of the permanent coal regulatory program.

B. You may not charge costs for activities that significantly deviate from those identified in your approved program.

C. You may not give financial assistance to mine operators. However, you may provide general technical assistance.

D. You may not charge costs which are unallowable according to the OMB cost principles (2 CFR Part 200).

5-110-60 What is the performance period for an A&E grant?

We normally award regulatory A&E grants for a twelve-month performance period.

CHAPTER 5-120
FUNDING FOR STATE REGULATION ON FEDERAL LANDS

- **5-120-00 What does this chapter do?**
- **5-120-10 Can states regulate mining on Federal lands within their borders?**
- **5-120-20 How do we provide Federal lands funding?**
- **5-120-30 What are the limits on how much Federal lands funding you can receive?**
- **5-120-40 What are the three options you may use to calculate Federal lands costs?**
- **5-120-50 Can you choose not to request Federal lands funding?**
- **5-120-60 What information on Federal lands funding must you include in your grant application?**
- **5-120-70 How will we review the Federal lands funding in your application?**
- **5-120-80 What special requirements apply to Federal lands expenditures?**

5-120-00 What does this chapter do?

This chapter explains policies and procedures for us, the Office of Surface Mining Reclamation and Enforcement (OSMRE) to fund states to regulate surface coal mining on Federal lands within their borders. These policies and procedures apply to you if your approved state coal regulatory program has an approved Federal lands cooperative agreement.

5-120-10 Can states regulate mining on Federal lands within their borders?

Section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) allows any state with an approved regulatory program to enter into a cooperative agreement with the Secretary of the Interior to regulate surface coal mining and reclamation operations on Federal lands within the state. To approve a Federal lands cooperative agreement, the Secretary must determine in writing that the state has the necessary personnel and funding to fully implement the agreement.

5-120-20 How do we provide Federal lands funding?

We award funds to you for a Federal lands cooperative agreement as a component of your regulatory program Administrative & Enforcement (A&E) funding. This combines all annual funding in a single regulatory grant for your state.

5-120-30 What are the limits on how much Federal lands funding you can receive?

A. Section 705(c) of SMCRA limits the amount of Federal funds that we may award to you for Federal lands funding to the amount we estimate it would cost us if we did the regulatory work.

B. Our regulations at 30 CFR 735.16(c) specify that you may not receive more money than your actual costs for your regulatory operations on Federal lands.

5-120-40 What are the three options you may use to calculate Federal lands costs?

We have established three options for you to calculate your Federal lands funding. You may choose which of these three options you use as the basis for the amount of Federal lands funding you request in your grant application.

A. Mine Acreage Option.

1. Under this option, you use the percentage of all permitted Federal lands acres to all permitted acres in the state (except Indian lands) to determine the split between Federal and non-Federal program costs.

2. Determine the number of permitted acres of Federal land and the total number of permitted acres in your state. List each mine which is under permit, or for which a permit is anticipated, during the grant period, and the number of Federal acres and total acres for each mine. Calculate the total number of Federal lands acres and total acres in the state. You must include this list in your grant application.

3. Divide the Federal lands acres by total acres to calculate the percentage of Federal lands acres. You can use the percentage of Federal lands acres as the percentage of your total program costs which are for Federal lands operations. Apply this percentage to your estimate of the total cost of your program for this period to determine your costs for Federal lands operations. The remaining costs are your non-Federal lands costs. Calculate the final budget funding split by applying the 50% match requirement to your non-Federal lands costs.

4. For example, if 30% of a state's total permitted acreage is on Federal lands, and then 30% of that program's total costs would be Federal lands costs which are 100% Federally funded. The remaining 70% of the program costs would be for non-Federal lands, and would be split evenly between Federal and non-Federal funds. If the total program costs for this state were $1,000,000, the state would apply for Federal funding of $650,000 ($300,000 for Federal lands costs and $350,000 for 50% of the non-Federal lands costs) and show $350,000 in state funds for the other 50% of the non-Federal lands costs.

B. Area-Weighted Acreage Option.

1. Under this option, the Federal lands acreage is adjusted up to reflect the additional requirements and higher costs states experience in working on Federal lands.

2. For each permit area, calculate the percentage of Federal lands within the total of all lands (non-Indian) in the permit area. Then determine the appropriate funding level for each permit area using the following table.

FUNDING FOR STATE REGULATION ON FEDERAL LANDS

If the Federal lands percent is:	Then the Federal lands funding percent is:	And the Federal funding percent (with 50% match) is:
0%	0%	50%
>0 but ≤ 25%	25%	62.5%
>25 but ≤ 50%	50%	75%
>50 but ≤75%	75%	87.5%
>75%	100%	100%

2. Multiply the Federal funding percent for each permit area by the total acreage for the permit to determine the Federally-funded acres in each permit area. List each mine which is permitted or expected to be permitted during the grant performance period showing the permitted Federal lands and total acres, the Federally-funded acres calculation for each mine, and the total Federally-funded acres. Include the list in your grant application.

3. Divide the total Federally-funded acres in the state by the total permitted acres to get the percentage of Federally-funded acres. Then apply the percentage of Federally-funded acres to the estimated total state regulatory program costs to determine the Federal lands funding. The remaining program costs, representing operations on non-Federal lands, must be funded with 50% Federal and 50% state share funds.

C. Workload Option.

1. Under this option, you calculate the Federal cost sharing percentage based on your detailed workload projections for the grant period. To estimate your costs, multiply your average costs for permitting and inspection and enforcement activities by the workload you anticipate during this grant period. You may also add any unique workload costs not included in the permitting or inspection and enforcement to the cost estimate.

2. You must use your own system to determine what percent of the total projected workload for the grant period involves regulation on Federal lands. You must provide item-specific information in the analysis of your workload, and include data from your records and other supportable information to justify your calculations for the Federal lands cost and the Federal/state funding split in your grant application.

5-120-50 Can you choose not to request Federal lands funding?

Yes, states with approved Federal lands cooperative agreements may choose not to request additional funding above the fifty percent normal cost-sharing ratio for your work on non-Federal lands. If you do

not request Federal lands funding, you do not have to separate costs for work on Federal lands or to provide any of the additional information or calculations required above.

5-120-60 What information on Federal lands funding must you include in your grant application?

A. You must prepare each grant application in accordance with any requirements of the approved cooperative agreement and in accordance with grant application procedures outlined in Chapter 5-200. In addition, as part of your grant application for Federal lands funding, you must provide the following information.

1. A detailed breakdown of the estimated total cost of implementing the regulatory program into Federal and non-Federal lands components. You must explain and document the option and calculations used.

2. If you use the acreage or area-weighted acreage options, you must provide a list of each mine and the actual permitted acreage of Federal and total lands.

3. If you use the workload option, you must include a detailed estimate of the Federal lands workload, discussed in terms of the specific permitting, inspection and enforcement, and administrative requirements of your state regulatory program and the cooperative agreement.

B. You should calculate the Federal lands funding using your preferred option. Then add it to the Federal share of the non-Federal lands funding (normally 50% of the cost) to determine your total regulatory grant request. When we review your application, we will determine whether the calculation is adequately documented and the proposed budget meets the funding limits in this section.

5-120-70 How will we review the Federal lands funding in your application?

Our awarding office must perform the following functions.

A. Prepare state-specific data estimating what it would cost us to regulate these Federal lands if there were no cooperative agreement. Include permitting, inspection and enforcement, and administrative activities which we would conduct under a Federal program.

B. Review the grant application, cost estimates, and workload information you submitted. Compare the state costs for Federal lands regulation to the Federal cost estimate.

C. If the cost comparison shows state costs exceeding the estimated Federal costs, we will provide you with our cost estimates and work with you to resolve concerns and differences so that we can support the cooperative agreement with Federal lands funding which meets the requirements in this chapter.

FUNDING FOR STATE REGULATION ON FEDERAL LANDS

5-120-80 What special requirements apply to Federal lands expenditures?

A. You must account for Federal lands costs consistently. You must use the option you chose in your grant application, and the resulting match percentage that we approved in your grant award, throughout the entire grant period to charge costs and report regulatory expenditures.

B. We will not pay expenses for litigation relating to Federal lands issues. This is a responsibility of the Department's Office of the Solicitor.

CHAPTER 5-130
SMALL OPERATOR ASSISTANCE PROGRAM (SOAP) GRANTS

- 5-130-00 What does this chapter do?
- 5-130-10 What is the purpose of our SOAP grants?
- 5-130-20 What are the limits on SOAP funding?
- 5-130-30 How long is the SOAP grant performance period?
- 5-130-40 What activities can you support with SOAP funds?
- 5-130-50 What limitations are placed on administrative costs?
- 5-130-60 What costs are unallowable with SOAP funds?
- 5-130-70 How long are you responsible to seek reimbursement from SOAP recipients who are no longer qualified for assistance?
- 5-130-80 How do you process reimbursed SOAP funds?

5-130-00 What does this chapter do?

This chapter explains our policies and procedures for the Small Operator Assistance Program (SOAP) grant awarded by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE). A SOAP grant provides funds to you, a state or tribe with an approved permanent coal regulatory program to operate a program to help small coal mining operators get the scientific and technical information they need to apply to you for a permit to mine coal.

5-130-10 What is the purpose of our SOAP grant?

Section 507(c) of the Surface Mining Control and Reclamation Act (SMCRA) authorizes us to provide SOAP funding. You use SOAP funds to contract with qualified laboratories and consultants to collect, analyze, and interpret hydrologic and geologic data and produce technical reports for the small mine operators. Surface coal mining operators whose production at all their locations will not exceed 300,000 tons in a continual consecutive 12 month period would be eligible to receive SOAP assistance.

5-130-20 What are the limits on SOAP funding?

A. No new SOAP funds have been appropriated since FY 2005.

B. If funds are available, the following guidelines apply to SOAP funding.

1. You may be reimbursed for up to 100% of your allowable SOAP costs.

2. If the available funds are insufficient to fully fund the grant requests of all the states, we will distribute the available funds based on need or in the proportion of each state's program activity to the total of all SOAP activity nationwide.

3. If you do not receive sufficient funds to support all the mine operator requests, you must develop and use a formula to allocate the reduced funds among operators as required by 30 CFR 795.11(b).

5-130-30 How long is the SOAP grant performance period?

A. SOAP operational grants have a three-year performance period. We selected the three-year period to allow you to start and complete projects within the same grant.

B. You should not obligate a new project into a grant that does not have sufficient time remaining to complete the project.

C. We will not normally extend the three-year grant performance period.

5-130-40 What activities can you support with SOAP funds?

A. Costs must be allowable under Office of Management and Budget (OMB) regulations in the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.at 2 CFR Part 200.

B. Only some of the services necessary to meet permit requirements are allowable as SOAP costs.

C. The following services may be allowable if the state regulatory authority (RA) requires them in order to apply for a permit.

1. Determination of the Probable Hydrologic Consequences (PHC) of the proposed operation upon the quality and quantity of surface and ground water under seasonal flow conditions for the proposed permit and adjacent areas, including the following:

a. Gathering baseline ground water and surface water information.

(1) Sample collection, field measurements and laboratory analyses.
(2) Seasonal flow and quality analyses.
(3) Inventory of ground water wells and usage and surface water usage in the permit and adjacent areas by contacting local, state or Federal agencies and a representative portion of local residents or property owners.
(4) Field reconnaissance of the site.

b. Well drilling for ground water baseline data on a case-by-case basis.

c. Engineering analyses and designs necessary to determine the PHC, including those for sediment ponds and diversion ditches, when approved by our awarding office.

d. Supplemental information if PHC indicates adverse impact to hydrologic balance on or off the proposed site or the presence of acid-forming or toxic-forming material that may result in contamination of surface or ground water supplies.

2. Preparation of impact estimates regarding the quality and quantity of surface and ground water under seasonal conditions using best professional judgment as accepted by the RA to prepare the following findings:

a. Whether adverse impacts may occur to the hydrologic balance.

b. Whether acid-forming or toxic-forming materials are present that could result in the contamination of surface or ground water supplies.

c. Whether the proposed operation may result in contamination, diminution or interruption of an underground or surface source of water in the proposed permit or adjacent area that is used for domestic, agricultural, industrial or other legitimate purpose. If findings indicate these outcomes are possible, then additional information on water availability and alternate water sources for existing pre-mining and approved post-mining land uses may be collected.

d. Impact of the proposed operation on the following:

(1) Sediment yield from the disturbed area.
(2) Acidity, total suspended and dissolved solids and other important water quality parameters of a local impact.
(3) Flooding or stream flow alteration.
(4) Ground water and surface water availability.
(5) Other characteristics as required by you as the RA.

3. Statement of results of test borings or core samplings for overburden geology.

a. Geologic description of permit and adjacent area, including the areal and structural geology and other parameters which influence reclamation, and the occurrence, availability, movement, quantity and quality of potentially impacted surface and ground waters. This information shall be based on:

(1) Cross sections, maps and plans, as described in item c below.
(2) Geologic literature and practices.
(3) Information described in items b(2) and c below and any additional information required by you to protect the hydrologic balance or meet the performance standards.

b. Overburden drilling, sample collection and laboratory analyses from the permit area including either the stratum immediately below the lowest coal seam to be mined or any aquifer below that seam which may be adversely impacted by mining in order to prepare:

(1) Logs showing lithologic characteristics including physical properties and thickness of each stratum, and location of ground water.
(2) Chemical analyses identifying those strata that may contain acid or toxic-forming and alkalinity-producing materials to determine their content, if found necessary by the RA.
(3) Chemical analyses of the coal seam for acid or toxic-forming materials including total sulfur and pyritic sulfur, if found necessary by the RA.

The RA may waive all or part of the sampling requirements based on the availability of equivalent information in a satisfactory form.

c. Development of cross sections, maps, and plans showing

(1) Location and elevation of test borings.
(2) Locations and elevations of monitoring stations for baseline ground and surface water data, fish and wildlife and, if required, air quality data.
(3) Nature, depth and thickness of any coal seams to be mined, each stratum of the overburden, and the stratum immediately below the lowest coal seam to be mined.
(4) All crop lines and strike and dip of coal to be mined within the permit area.
(5) Location and extent of known workings of active, inactive or abandoned underground mines in the permit and adjacent area including mine openings to the surface.
(6) Location and extent of subsurface water, if encountered, within proposed permit or adjacent area.
(7) Location of surface water bodies such as streams, lakes, ponds, springs, constructed or natural drains and irrigation ditches in the proposed permit and adjacent areas.
(8) Location and extent of existing or previously surface-mined areas within the proposed permit area.
(9) Location and dimensions of existing areas of spoil, waste, and non-coal waste disposal, dams, embankments, other impoundments and water treatment and air pollution control facilities within the proposed permit area.
(10) Location and depth, if available, of gas and oil wells in the proposed permit area and water wells in the permit and adjacent area.

These maps, plans and cross sections are developed from information already collected under other allowable SOAP services, information provided with the SOAP application, and information collected by the operator to meet regulatory provisions not covered by SOAP. SOAP pays only for the preparation of the maps and cross sections; it does not pay to collect this information except under other allowable SOAP services as discussed above.

4. Collection of archeological and historic information and preparation of related plans sufficient to describe and identify the following:

   a. The nature of cultural, historic and archeological resources listed or eligible for listing on the National Register of Historic Places and known archeological sites within the proposed permit and adjacent area.

   b. Important historic and archeological resources that may be eligible for listing in the National Register by collecting additional information, conducting field investigations or other appropriate analyses as required by the RA.

   c. Publicly owned parks or any place listed on the National Register that may be adversely impacted. This action may include a plan describing the measures to be used to prevent adverse impacts and minimize adverse impacts where there are valid existing rights or where joint agency approval is required under the coordination provisions of 30 CFR 761.12(f).

5. Pre-blast surveys at the written request of a resident or owner of a dwelling or structure located within 1/2 mile of any part of the permit area.

6. Collection of site-specific fish and wildlife information when such information is necessary to address the respective species or habitats, and the permit or adjacent area is likely to include:

   a. Listed or proposed endangered or threatened species of plants or animals or their critical habitats protected under the Endangered Species Act of 1973, as amended, or similar state statutes.

   b. Habitats of unusually high value for fish and wildlife such as important streams, wetlands, riparian areas, cliffs supporting raptors, areas offering special shelter or protection, migration routes, or reproduction or wintering areas.

   c. Other species or habitats identified through agency consultation as requiring special protection under State or Federal law.

7. Preparation of protection and enhancement plans for fish and wildlife habitat, including plans to minimize disturbances and adverse impacts. Plans must comply with the Endangered Species Act and should include protective or enhancement measures used during active mining and reclamation.

8. Information and plans for any other environmental value required by the RA.

5-130-50 What limitations are placed on administrative costs?

A. Allowable SOAP administration costs are funded in the regulatory Administration and Enforcement (A&E) grant, except as noted below.

B. Administrative costs (personnel, travel, supplies, notifications, and indirect costs) charged to the SOAP grant are strictly limited. You may only charge the costs for training and outreach as defined in this section. You must not exceed the maximum spending limits for training and outreach explained below. You must also meet each of the following three conditions:

1. Costs must be necessary and reasonable to meet the objectives of SMCRA.

2. You must specifically identify the costs in your grant application.

3. You must document personnel costs with records of specific training, or outreach events. You may not charge them based on a budget estimate or proration.

C. Training includes services that teach qualified small coal operators how to prepare permit applications and how to comply with the SMCRA regulatory program.

D. Outreach includes activities to ensure that qualified small coal operators are aware of the assistance available to them from SOAP.

E. Costs for training and outreach in a SOAP operational grant must be incidental to project costs. We limit training and outreach costs to 1% of the total estimated project costs in the grant application or $2,000, whichever is greater. Supplies, such as educational pamphlets, brochures, posters, etc., may not exceed 5% of the costs allowed for training and outreach. The following examples illustrate these limits.

Example 1: If you have total project costs of $500,000, your training and outreach costs cannot exceed $5,000, bringing the total grant to $505,000. Supplies cannot exceed $250 of the $5,000 total for training and outreach.

Example 2: If you have total project costs of $100,000, training and outreach cannot exceed $2,000, bringing the total grant to $102,000. Supplies cannot exceed $100 of the $2,000 total for training and outreach.

F. Additional technical services specified by state law or regulation and in accord with 30 CFR 795 are allowed.

5-130-60 What costs are unallowable with SOAP funds?

Federal funds appropriated for SOAP, as mandated by the narrow statutory authorization in SMCRA, are linked precisely to baseline information and reports needed to satisfy hydrologic and geologic permitting requirements for an approval of a permit application by that state RA. The following costs are unallowable under the SOAP operational grant.

A. You may not charge expenses you incur to administer SOAP, except certain training, and outreach activities as described above. You must fund SOAP administrative costs out of your regulatory A&E grant.

B. You may not charge costs of exploratory test drilling, core drilling or observation well drilling to define the extent of coal or for sampling overburden materials.

C. You may not charge costs of collecting data from local or regional sites before you receive applications for assistance.

D. You may not charge Interest penalties associated with late payments for contractual work with laboratories.

5-130-70 How long are you responsible to seek reimbursement from SOAP recipients who are no longer qualified for assistance?

Operators may become ineligible for SOAP funds after you provide assistance if they subsequently exceed the SOAP tonnage limit for small operators. They may also become ineligible if they fail to apply for a permit within one year, or if they fail to mine after obtaining a permit. You must recover Federal funds which you spent for operators who are no longer qualified to receive SOAP assistance. Your liability period for recovering these funds is the term of the surface mining permit for which you provided assistance, or five years after you issued the permit, whichever is less.

5-130-80 How do you process reimbursed SOAP funds?

Reimbursements are funds you previously expended from a SOAP operational grant which you recover. You must identify and collect funds previously expended for an operator if the operator subsequently exceeds the tonnage limit which makes them eligible for SOAP assistance. We define SOAP reimbursements as program income which you may spend using the addition option. This authorizes you to add all reimbursements you collect to the funds we awarded in an open SOAP grant and to expend them for the purposes of the SOAP.

CHAPTER 5-200
THE APPLICATION PROCESS FOR A REGULATORY GRANT

- 5-200-00 What does this chapter do?
- 5-200-10 How long is a regulatory grant?
- 5-200-20 How do you send us your application for a regulatory grant?
- 5-200-30 When should you apply?
- 5-200-40 How can you report and account for the costs of regulatory functions?
- 5-200-50 What must you include in your application?

5-200-00 What does this chapter do?

This chapter explains how you, a state or tribe with an approved coal regulatory program, can apply to us, the Office of Surface Mining Reclamation and Enforcement (OSMRE), for a regulatory program Administration & Enforcement grant.

5-200-10 How long is a regulatory grant?

Your application should normally request a 12-month performance period for your regulatory grant.

5-200-20 How do you send us your application for a regulatory grant?

A. You must submit a complete grant application to us by one of the following methods.

1. You may enter your application in an OSMRE-approved electronic grants portal or system such as Grants.gov.

2. You may submit a complete paper application, with original signature, by regular mail or any other delivery method.

3. You may send your application package by e-mail. The application must include the name and title of the authorized official who signed it and the date signed. You must keep the original signed application in your files.

B. Our office must confirm that it received the application within three working days.

5-200-30 When should you apply?

You should submit your application at least 60 days before the beginning of the grant performance period.

5-200-40 How can you report and account for the costs of regulatory functions?

THE APPLICATION PROCESS FOR A REGULATORY GRANT

A. Before you complete your application, you must choose how you will identify the regulatory functions for accounting and reporting purposes. We have identified the following major regulatory functions or activities:

1. Permitting. includes the costs of reviewing new permit applications and modifying existing permits. It also includes costs of determining and approving a bond amount and reviewing ownership and control.

2. Inspection and Enforcement. includes costs of mine inspections for compliance with state performance standards and of all activities to enforce compliance. It also includes bond release costs and legal costs related to inspection and enforcement activities.

3. Lands Unsuitable. includes costs to evaluate and decide petitions about designating lands unsuitable for coal mining.

4. Regulatory program administrative activities and costs to support the above functions. include costs for executive direction and standard administrative support functions, such as personnel, accounting, and procurement.

B. You must choose one of the following options to identify the costs of these functions.

1. Option 1. You must break out the functions in your reporting and accounting. You must break out the line item and total costs of each function in your application. You must support the functional costs with detailed accounting records.

2. Option 2. You show only the total budget figures in your grant application budget. In the program narrative, you must describe the methodology you will use to distribute the total budgeted costs to the functions either as a percentage of the total or as dollar amount. This methodology must meet the requirements of the state comptroller or comparable organization as required by state law.

5-200-50 What must you include in your application?

The application must include the following items:

A. Signed or approved Application for Federal Assistance, form SF 424.

B. Budget information report. You may use the optional OSM 47 form or provide the information in an alternate format of your choice.

1. Break out the budget by object class. Object classes are the budget line items, including personnel, fringe benefits, travel, equipment, supplies, contractual expenses, construction, other, and indirect costs.

2. If you chose to account separately for regulatory functions or activities, including permitting, inspection and enforcement, lands unsuitable, and administrative costs, break out the budget for each object class and for the total grant by function.

3. Identify the total Federal and non-Federal funds the program will spend. Show the overall percentage of non-Federal support.

4. Estimate the program income that you might spend during this grant.

5. Show the total estimated indirect costs. Show how your estimate is calculated using the indirect cost rate and the direct cost base which have been approved by your cognizant Federal agency.

C. Budget narrative. You may provide this information in any format to explain and justify the requested budget.

1. Personnel. List all the positions by title, with annual salary rate and percentage of time working on the coal regulatory program.

2. Fringe Benefits. Explain how the fringe benefits were calculated.

3. Travel. List the types of trips and show how the estimated cost was calculated.

4. Equipment. List each item of equipment to be purchased and justify why the equipment is needed for the regulatory program.

5. Supplies. Enter estimated dollar amount of supplies. List the supplies by major type (e.g., office supplies, training materials, research forms, postage), and show basis for computation.

6. Contractual. List each proposed contract, the contractor if identified, the type of services to be performed, the need for the services, and the estimated cost.

7. Construction. Describe any proposed construction or renovation, why it is necessary for the program, and the estimated cost.

8. Other. List any other cost items not reimbursed as an indirect cost, such as rent, utilities, or janitorial and security services, and show how the cost was calculated.

9. Indirect Costs. Include a copy of the indirect cost agreement approved by the cognizant Federal agency.

10. If you chose not to break out the budget by regulatory program function, such as permitting or inspection and enforcement, you must explain your method for distributing total costs to the functions. You may use a percentage, a total dollar figure, or some other acceptable method.

D. Program narrative. You may use the optional OSM 51 form or provide the information in any other format. These requirements come from OMB circular at 2 CFR Part 200.

1. Objectives and Need for Assistance. Using your approved regulatory program, describe problems related to coal mining and reclamation (physical, economic, social, financial, or institutional) requiring a solution. Explain why the assistance is needed and state the primary and secondary objectives of the grant.

2. Results and Benefits Expected. Identify results and benefits of the regulatory program. For example, explain how the program will improve life for coalfield citizens.

3. Approach. Outline a plan of action explaining the scope of the program and how the proposed work will be accomplished. Explain your reasons for taking this approach as opposed to others. Describe any unusual features of this grant. Identify the kinds of data you will collect. Discuss the criteria and methodology you will use to evaluate the results and success of this program.

4. Geographic Location. No information required.

E. Signed or approved Assurances for Non-Construction Projects, form SF 424B.

F. If applicable, the Disclosure of Lobbying Activities from SF LLL.

CHAPTER 5-210
APPLICATION REVIEW AND PROCESSING FOR A REGULATORY GRANT

- **5-210-00 What does this chapter do?**
- **5-210-10 How long will we take to review your application and award your grant?**
- **5-210-20 How do we review your application?**
- **5-210-30 How do we process your grant award?**
- **5-210-40 How do we document our review and award process?**

5-210-00 What does this chapter do?

This chapter explains procedures used by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE) to receive, review, and process your application for regulatory assistance. These procedures apply to all regulatory program grant and cooperative agreement applications.

5-210-10 How long will we take to review your application and award your grant?

We will process complete regulatory grant applications within 60 calendar days of receipt.

5-210-20 How do we review your application?

The awarding office must take the following actions. Our review may draw upon OSMRE programmatic, technical, and financial staff as necessary during the review process:

A. Determine that the application is administratively complete. See Chapter 5-200 for the requirements for a complete application.

B. Confirm that the requested funds are available.

C. Make the following programmatic and financial determinations.

1. The project objectives support your approved regulatory program.

2. The proposed activities are appropriate to accomplish the specific program objectives.

3. The proposed cost of the grant reflects the amount of work needed to accomplish the objectives. This review should consider prior costs for similar program expenditures by your program or similar programs.

4. The proposed cost items and amounts are necessary and reasonable.

   a. Costs must be eligible under Office of Management and Budget (OMB) and OSMRE regulations.
   b. Costs must be essential to accomplish program objectives.
   c. Costs must be reasonable for this particular grant. Factors to consider for reasonableness may include fair market price and regional differences in cost.

d. Costs must be allocable to your regulatory program.

5. For personnel costs, determine that you have adequate human resources and facilities to accomplish the work under the grant.

a. Determine that the project personnel are qualified.

b. Consider the following questions.

(1) Are the activities to be performed eligible?
(2) Are the number and type of personnel proposed necessary?
(3) Are the personnel rates reasonable?

c. The pay rates proposed for the grant personnel must be consistent with the rates your organization pays for similar activities not supported by Federal assistance.

6. Equipment and property items must clearly demonstrate a need which cannot be met with property you already have.

a. Consider the following questions.

(1) How long will you need the property?
(2) Have you considered alternatives to purchasing property, such as rental, leasing, and sharing?

b. You must have an adequate property management system that will ensure proper use and accountability for the requested property. Your system must be capable of producing inventory reports with equipment description, acquisition cost, current condition and fair market value.

7. Travel costs must be for trips which are necessary to meet the program objectives.

8. The cost items discussed here include general questions we will consider. However, we may consider additional questions for a particular application or cost. It is important not to just look at each item as a completely separate entity, but rather to see how each item contributes to the successful operation of the program. The reviewer must use sound judgment to determine the level and type of analysis that is appropriate for the type of work and amount of funding being proposed.

E. For state regulatory Administration & Enforcement (A&E) grants, and any other agreements which require that some program costs be met with non-Federal funds, we will confirm that you will meet the match requirement.

1. The proposed amount of non-Federal funds must meet the state's required share of the proposed program cost.

2. A responsible state official must certify that the proposed non-Federal matching funds are available for expenditure by your program during this performance period.

3. If the amount certified as available is not adequate, or if we are concerned that the amount certified may not be available, our awarding office will ask you for a specific description of the source of the proposed funds and when the funds will be available.

F. Check the System for award Management (SAM) to determine whether your organization or officials are debarred, suspended, voluntarily excluded or ineligible for Federal assistance.

G. Confirm that you are in compliance with the single audit requirements in 2 CFR Part 200.

5-210-30 How do we process your grant award?

A. Our awarding office will decide to approve or disapprove your application based on our review. If we approve the application, we will award your regulatory agreement. If we disapprove it, we will send you our reasons or recommendations in writing.

B. Before the planned award, we will send information about the award to our Office of Communications for Congressional and public news release. Our awarding office must follow the notification procedure established by the Office of Communications.

C. We must enter and approve the award in our electronic grant system. Our accounting system will then update Treasury's grant payment system to make the funds available for you to request a drawdown.

D. We will send you the approved award document, either electronically or in hard copy.

5-210-40 How do we document our review and award process?

OSMRE must document its programmatic and financial findings and recommendations. The following information at a minimum must be available in the official grant file kept by the awarding office. We must include any additional supporting information as appropriate for the particular application, the recipient, the regulatory program, and the awarding office:

A. Your application as we originally received it, all subsequent revisions to it, and any other information you sent us.

B. Records of all meetings or telephone conversations with you about the application.

C. All our correspondence with you about the application or the award.

D. All our internal reviews of the application or parts of the application. We may use a checklist to document application completeness.

E. All resolutions of questions raised during the review process.

F. We must keep all records or explanations about the timing of the award process, especially for any time period when the awarding office could not process the grant award because they were waiting for actions outside our control, such as your responses or availability of funds.

CHAPTER 5-220
AMENDMENTS AND POST-AWARD CHANGES FOR A REGULATORY GRANT

- **5-220-00 What does this chapter do?**
- **5-220-10 Where do these requirements come from?**
- **5-220-20 When can you request changes to your grant?**
- **5-220-30 What changes require a grant amendment?**
- **5-220-40 What is the process for a grant amendment?**
- **5-220-50 What changes can you request in writing that require our approval?**
- **5-220-60 What changes do not require our prior approval?**

5-220-00 What does this chapter do?

This chapter explains the requirements to consider when you need to make programmatic or budget changes to your regulatory assistance agreement. It describes which changes require our approval, how you should request approval, and how we will process your request. This information applies to all regulatory program grants and cooperative agreements awarded by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE).

5-220-10 Where do these requirements come from?

The requirements for prior approvals for changes to assistance agreements are established in the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,* 2 CFR 200, subpart D.

5-220-20 When can you request changes to your grant?

A. If your change requires our written approval, you must request the change and receive our approval before you make the actual change or obligate any funds. If you incur costs before we approve the change, you take the risk that the cost may be unallowable.

B. We will not approve a request for a change, including time extensions or additional funding, which we receive after the scheduled expiration date of the assistance agreement. The only exception is if there are unforeseen circumstances not under your direct control. You must justify the extenuating circumstances to the satisfaction of our authorized awarding official.

C. You should send us a request to extend the performance period at least 30 days before the date it is scheduled to end. We will approve only one extension of the normal performance period for not more than one year, unless you adequately justify special or unusual circumstances to the authorized OSMRE official.

5-220-30 What changes require a grant amendment?

The following changes require a formal amendment to the approved agreement:

AMENDMENTS AND POST-AWARD CHANGES FOR A REGULATORY GRANT

A. Extending or shortening the performance period

B. Adding more funds

C. Deobligating unneeded funds before the end of the performance period.

D. Transferring any funds between construction and non-construction if the agreement has both construction and non-construction activities.

5-220-40 What is the process for a grant amendment?

A. An amendment may be initiated by either you or us. However, both parties must be in agreement with the amendment terms.

B. You may mail or e-mail your amendment application. The amendment application must include the following items:

1. Signed or approved form SF 424, indicating in item 8 the type of change you are requesting.

2. A program narrative explaining and justifying the requested change. You may use the optional OSM 51 form, include the explanation in your transmittal letter, or use another format of your choice.

3. If you are requesting a budget change, provide revised budget information. You may use the optional OSM 47 form or another format of your choice.

C. We will process amendments in the same way as new agreements (5-210). We will approve or disapprove your amendment request within 30 days of receiving it. We will notify the Office of Communications for Congressional and public announcement only when the amendment will increase funding by more than $100,000.

D. The amendment takes effect when approved by the authorized OSMRE official and applies to the entire agreement period unless otherwise stated. We will notify you when we have approved the amendment action in our electronic grant system and we will send you the appropriate documentation.

5-220-50 What changes can you request in writing that require our approval?

A. Some changes to the approved agreement require OSMRE prior approval, but do not require a formal amendment. The following changes are considered revisions to an approved agreement and must be requested and approved in writing:

1. A change in the scope of the program requires our formal written approval even if there is no other change in the agreement or budget. A scope change is any change in the objectives of the program or the work to be performed that is outside the plans approved in the original grant and that has the potential to affect the success of the program. For example, contracting out permitting or inspection and enforcement functions would be a scope change.

2. If OSMRE funding is over $100,000, you must request our approval before or when you transfer a cumulative total of more than 10% of the total budget between direct cost categories.

3. Office of Management and Budget (OMB) Cost Principles (2 CFR 200) say that some cost items are allowable only if we approve them in advance. Equipment is one of these cost items. If you need to incur such costs and we did not approve them when we approved your original application, you must request our approval.

B. To request our approval, you must mail or e-mail a letter requesting the change to our awarding office as soon as you determine you need it. Your request must explain and justify the proposed change. If the proposal changes the budget, your request must identify these changes.

C. Our awarding office will notify you in writing whether or not we approve your request. We will send the decision letter no later than 15 days after we receive your request. If the request is still under consideration at the end of 15 days, the awarding office must inform you in writing when a decision on the request may be expected and the reasons for the delay.

5-220-60 What changes do not require our prior approval?

A. Principles in 2 CFR Part 200 describe the changes which require prior agency approval. OSMRE may not require prior approvals for any other change.

B. Programmatic changes other than major scope changes, such as reorganizations, changes in office locations, or new administrative or accounting systems do not require a formal amendment. However, you should advise us of these changes.

C. Budget transfers that are less than 10% of the total grant amount, or for grants with less than $100,000 in OSMRE funds, do not require our approval. Also, if you have previously transferred 10% of costs with our approval, you may transfer up to an additional 10% of the budget without another OSMRE approval. However, you should document such transfers by including revised budget information with your next performance and financial reports.

CHAPTER 5-230
PERFORMANCE AND FINANCIAL REPORTING FOR A REGULATORY GRANT

- **5-230-00 What does this chapter do?**
- **5-230-10 Where do these requirements come from?**
- **5-230-20 When must you submit reports?**
- **5-230-30 How can you submit your reports?**
- **5-230-40 What information must you provide?**
- **5-230-50 Are there any alternatives to these reporting requirements?**
- **5-230-60 How will we review your reports?**

5-230-00 What does this chapter do?

This chapter explains the reports required from you, a state or tribe that received a regulatory assistance agreement from us, the Office of Surface Mining Reclamation and Enforcement (OSMRE). It describes when your reports are due, how to submit them, and what information you must report. This information applies to grants and cooperative agreements awarded under our coal regulatory program.

5-230-10 Where do these requirements come from?

The requirements for your performance and financial reports are established in the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, at 2 CFR 200 subpart D.

5-230-20 When must you submit reports?

A. You must submit performance and financial reports to OSMRE annually. These reports are due 90 days after the end of the annual grant performance period. Since the performance period of a regulatory grant is normally twelve months, the final report is the only report required if you meet the 90 day due date requirement. The reporting period is the same as your grant's performance period. You will find further guidance on regulatory grant close outs in chapter 5-240.

B. If your performance period is longer than 12 months, or if we have extended the due date of your final report, you must submit interim performance and financial reports 90 days after the end of the first 12 months of the performance period. The interim reports must end on the next calendar quarter end date: March 31, June 30, September 30, or December 31. In addition, you must submit a final performance and financial report 90 days after the end of the grant performance period or at the end of the extended reporting period.

C. If you cannot meet a due date for a required report, contact our awarding office before the report is due. We may be able to extend the due date based on your justification.

5-230-30 How can you submit your reports?

A. You may submit reports by mail. A hard copy report must have an original signature by your authorized official.

B. You may submit reports by e-mail. The forms must include the name and title of the authorized official who signed them and the date signed, and you must maintain the originally signed forms in your files.

5-230-40 What information must you provide?

A. Narrative Performance Report.

1. You may use the optional OSM 51 form, a blank page, or any narrative format for your performance report.

2. Your reports must compare actual accomplishments to the goals established for the period. If you did not meet your established goals, you must explain the reasons in your report.

3. If you can identify the output of a project or activity and can quantify it, you must report quantitative data and calculate unit costs.

B. Financial Report.

1. You must use the SF 425 Federal Financial Report.

2. You must prepare your OSMRE financial reports on a cash basis.

3. You should include or attach any other appropriate information or explanation, such as analysis and explanation of cost overruns or high unit costs in your report.

5-230-50 Are there any alternatives to these reporting requirements?

Yes. With our prior approval, you may provide grant performance to us in an alternative format or timeframe. This gives you flexibility in providing grant performance data in a manner that is more efficient and effective while still meeting our grant performance data needs. We will be as flexible as possible in approving alternative reporting formats or schedules. Please contact our awarding office to work out an alternative reporting plan acceptable to both you and us. However, if we have not approved an alternative reporting plan, you must comply with the reporting requirements outlined above.

5-230-60 How will we review your reports?

A. We will review your programmatic and financial reports. We will determine if you have met the reporting requirements and provided all the information we need. We will verify if you have complied with the following basic requirements.

1. An official authorized to act for your organization must have signed or approved the report.

2. We must receive your report by the established due date.

3. All reported activities and claimed costs must be in compliance with your approved regulatory plan, your assistance application, and Federal regulations.

4. Performance reports must compare the planned and actual accomplishments of the regulatory program.

5. Financial reports must be mathematically accurate and consistent with our financial and drawdown records.

6. All claimed costs must be supported by your accounting records and you must be able to reconcile them.

B. If any concerns are identified, our awarding office will work with you to correct the report.

C. We will prepare a monitoring Statement to document our review.

CHAPTER 5-240
CLOSING A REGULATORY GRANT

- 5-240-00 What does this chapter do?
- 5-240-10 Where do these requirements come from?
- 5-240-20 When do we close out a regulatory grant?
- 5-240-30 When is your closeout package due?
- 5-240-40 How can you submit these reports?
- 5-240-50 What information must you submit to close out a regulatory grant?
- 5-240-60 How will we review your information and close your grant?

5-240-00 What does this chapter do?

This chapter describes what you, a state or tribal recipient of a regulatory assistance agreement, and we, the Office of Surface Mining Reclamation and Enforcement (OSMRE) must do to close a regulatory grant or cooperative agreement.

5-240-10 Where do these requirements come from?

The requirements for closeout procedures come from the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, at 2 CFR 200 subpart D.

5-240-20 When do we close out a regulatory grant?

A. We normally close out regulatory agreements no later than 180 calendar days after the end of the performance period. The first 90 days allow you to report to us. The remaining 90 days allow us to complete the closeout process.

B. We may close regulatory agreements without an audit. However, we may take additional administrative action after closeout if a subsequent audit identifies any findings or questioned costs.

C. We will not close an agreement until you have paid all allowable costs and we have deobligated all unexpended funds.

D. We will not close an agreement if it is in litigation or under appeal.

E. If we terminate an agreement, we will not close it until all termination actions have been completed.

5-240-30 When is your closeout package due?

A. Your complete closeout package is due to us 90 days after the end of the performance period of the agreement.

B. If you have made every reasonable effort to send a complete closeout package within 90 days but cannot meet the due date, you may request and we may approve an extension. You must send us a written request with a justification explaining why you need the extension. You must submit interim performance and financial reports to us following the requirements in chapter 5-230. We will notify you of our approval along with any interim steps that we may require.

5-240-40 How can you submit these reports?

A. You may send hard copy reports with original signatures by mail.

B. Alternatively, you may submit reports by e-mail. The forms must include the name and title of the authorized official who signed them and the date signed, and you must maintain the original signed forms in your files.

5-240-50 What information must you submit to close out a regulatory grant?

A complete closeout package for a regulatory agreement includes the following information:

A. Final Financial Report (SF-425). See chapter 5-230 for more information on your financial report.

1. You must report all program income in accordance with the cost sharing option, using program income to meet your required non-Federal match. You may use excess program income by the addition option, increasing the budget for your regulatory program. See chapter 2-210 for more information on program income.

2. You cannot show any unliquidated Federal obligations on your final report. You must pay all obligations before we can close the grant.

B. Final performance narrative report. See chapter 5-230 for information on your program narrative report.

C. Report of government property, if you acquired or held property under this grant. Report property on the Tangible Personal Property Report (SF-428) that allows for any other inventory format acceptable to our awarding office. Your inventory must list all equipment or real property acquired under this grant or transferred into this grant from previous regulatory grants. You must notify us whether you transferred the property to the subsequent regulatory grant or disposed of the property.

D. Report of Federally-owned property, if you have any. You must provide a separate list of all Federally-owned property provided to you for use under this grant. Use the Tangible Personal Property Report (SF-428) that allows for any other acceptable property list. You must request that the property be transferred to a subsequent grant or properly disposed.

CLOSING A REGULATORY GRANT

5-240-60 How will we review your information and close your grant?

Our awarding office will review the closeout package and determine if it is complete and acceptable. If the closeout package is not acceptable, we may return it to you with an explanation of what you should do to complete or correct it, ask you for additional information, or take other actions to resolve the problems. After we receive an acceptable closeout package, the awarding office must complete the following actions within 60 days.

A. Review the closeout package and the grant.

1. Verify that we have added all known changes to the grant by appropriate revisions or amendments.

2. Resolve any grant suspensions, withholding of funds, disputes, and violations of grant clauses and assurances with you.

3. Write a brief evaluation of your performance under the grant and keep it in our official grant file.

4. Reconcile the inventory of Federally-owned property to our records, and approve the transfer to a subsequent agreement.

5. Verify that the grant and the file are complete. We will use a checklist to document this step.

B. Process the final grant action to de-obligate any unexpended funds.

C. We will send you a written notice that we consider the grant to be closed, and remind you of the record retention and access requirements in chapter 2-260.

CHAPTER 6-100
WATERSHED COOPERATIVE AGREEMENT PROGRAM

- 6-100-00 What does this chapter do?
- 6-100-10 What is the purpose of the WCAP?
- 6-100-20 Is your organization eligible for WCAP funding?
- 6-100-30 What type of project can we fund under the WCAP?
- 6-100-40 What are our project funding limitations?
- 6-100-50 What costs can you pay with WCAP funds?

6-100-00 What does this chapter do?

This chapter gives you an overview of our Watershed Cooperative Agreement Program (WCAP). It explains the objectives of the program, what kinds of groups and projects we support, and how you can use funds you receive in a WCAP agreement from us, the Office of Surface Mining Reclamation and Enforcement (OSMRE).

6-100-10 What is the purpose of the WCAP?

WCAP partners with other funding sources to assist groups such as small watershed organizations to complete local acid mine drainage (AMD) reclamation projects.

6-100-20 Is your organization eligible for WCAP funding?

You must meet the following criteria to be eligible to apply for funds under the WCAP.

A. You must be a not-for-profit organization that is tax exempt under 26 U.S.C. 501(c)(3) of the Internal Revenue Code.

B. You must have other partners, contributing either funds or in-kind services to the project. Your partners must reflect broad-based support for the project.

6-100-30 What type of project can we fund under the WCAP?

A. You may use WCAP funds only for AMD problems from abandoned coal mining operations.

B. Because WCAP money comes from the Abandoned Mine Land (AML) Fund, projects must meet AML eligibility criteria.

1. Section 404 of the Surface Mining Control and Reclamation Act (SMCRA) says that lands and water are eligible for AML funding only if they were mined for coal or were affected by such mining, and were abandoned prior to August 3, 1977, and there is no continuing reclamation responsibility under state or other Federal laws.

2. The appropriate state, or our legal authority, must issue a legal opinion that your site is eligible.

C. The project must have documented public support.

D. The state has no opposition to the project.

E. You must have written, measurable goals for the project, receiving stream and watershed. You must have a plan to address ongoing operational and maintenance needs for the project. The plan must identify how you will monitor and assess the ongoing effectiveness of the project, and respond to treatment problems. Our program personnel must review and approve your plan.

F. You should secure all other needed funding before you request funding from us. Our WCAP funding should be the final amount necessary for the project to proceed with construction.

G. If your total project costs include in-kind donations of services or materials, you must provide documentation that you properly valued those services or materials.

H. The project normally should be completed within two years of when we award funds. However, we may extend the performance period if you provide adequate justification.

I. You must secure access to the site and use of the property through a written agreement before you request funding under WCAP.

6-100-40 What are our project funding limitations?

A. Normally, our funding does not exceed $100,000 per approved agreement. We are looking for a matching ratio of at least 2.5 to 1 in dollars contributed by other project partners to WCAP dollars.

B. We may approve an exception to these funding limits if you adequately justify it. We will evaluate the following issues to determine whether to approve a higher funding amount or a lower match ratio.

1. You have made every reasonable effort to secure the additional funds from other sources.

2. The proposed project will be impacted if we do not provide the additional funds.

3. The project has a broad partnership in funding. The project has local participating individuals, companies or organizations.

4. The project has the potential for greater than usual benefits in stream and watershed improvements.

5. The project is part of a comprehensive watershed restoration plan. Other partners have a substantial investment of time and funding in this plan.

6. Our contribution is being leveraged by a substantial contribution from other partners.

7. The technology and design selected for the project have a high likelihood of success in treating the water quality and quantity without the need for frequent and expensive system renovations.

C. If your original cooperative agreement did not exceed these funding limits, but you later need more funding that would exceed the limits, you must send us an amendment application with all the information we need to make a decision on your request. When we review your application, we will evaluate the same issues for your amendment exception request as we would for a new project award, as listed above.

D. If a problem develops with a WCAP project after it has been completed and we have officially closed the cooperative agreement, you can submit a new WCAP application to cover the problem areas. Your new application must comply with all requirements placed upon other new WCAP projects, including new matching funds.

6-100-50 What costs can you pay with WCAP funds?

A. WCAP funds are for the remediation of AMD and sources of AMD. Projects can include installation of “passive” or active water treatment systems, including repairs and renovations. Projects can include reclamation of lands that are contributing sediment or acid forming materials to streams.

B. The following costs could be allowable under a WCAP agreement if they are necessary and reasonable for your approved project.

1. Administrative costs directly associated with the approved project, such as financial and program administration of the cooperative agreement, preparing reports, traveling to the project site for monitoring purposes, and supply and laboratory costs for water quality sampling. You must keep proper expense records documenting costs including staff time and salary.

2. Construction costs directly associated with the approved project.

3. Final design and design modifications associated with the actual project construction. Stand-alone project designs are not allowable.

4. Pre- and post-construction water quality and quantity monitoring of an approved project. The post-construction monitoring must not require an extension of the performance period of your cooperative agreement.

5. Contract inspection and administration.

C. The following costs are not allowable under a WCAP project.

1. Indirect costs under an approved indirect cost rate.

2. Overhead.

3. Liability insurance.

4. Public relations.

5. Project ground breakings or dedications.

6. Payments to an organization or individual that owes the Federal government money or is in violation of Federal regulations.

D. To ensure that funds you award to a contractor are allowable, you must check our Applicant Violator System (AVS) and the System for Award Management (SAM) to verify that the contractor is eligible before you award any contract. If you award a contract to any contractor listed on either system as ineligible, any Federal funds you pay them will be unallowable expenses. You must notify us of your AVS and SAM checks in your next performance report. You must document your AVS and SAM checks in your files.

E. You can find requirements for land acquisition under a WCAP project in FAM chapter 2-200.

CHAPTER 6-200
THE APPLICATION PROCESS FOR A WATERSHED COOPERATIVE AGREEMENT

- **6-200-00 What does this chapter do?**
- **6-200-10 How do you send us your application for a Watershed Cooperative Agreement?**
- **6-200-20 When should you apply?**
- **6-200-30 How much OSMRE funding can you apply for and how much other funding must you have?**
- **6-200-40 What do you need to include in your application?**
- **Exhibit 1 Budget Information format**

6-200-00 What does this chapter do?

This chapter explains how you, a watershed association or non-profit organization, can apply to us, the Office of Surface Mining (OSMRE), for Watershed Cooperative Agreement Program (WCAP) funding.

6-200-10 How do you send us your application for a Watershed Cooperative Agreement?

You may send us your application by any of the following methods.

A. E-mail your application to us. You must show the name and title of the authorized official who signed the original forms and the date signed in the signature section of the application. You must maintain the original signed documents in your files. We will confirm that we received your application within three days of receipt.

B. Mail your complete application original signatures. We will notify you that we have received your application within three days of receipt.

C. Enter your application in an approved electronic portal, such as Grants.gov.

6-200-20 When should you apply?

You must submit a complete cooperative agreement application to us at least 60 days before you intend to start the project.

6-200-30 How much OSMRE funding can you apply for and how much other funding must you have?

A. Normally our funding for a cooperative agreement does not exceed $100,000.

B. Normally you should have a ratio of at least 2.5 to 1 for contributions from other partners compared to OSMRE funding.

C. We have the flexibility to approve exceptions to these limits if you provide adequate justification. If you request more than $100,000 in OSMRE funds or if OSMRE funding would be more than one-third of the total project budget, you must answer the following questions in your application:

1. Have you made every reasonable effort to secure the additional needed funds from other sources?

2. What will be the impact on the proposed project if we do not provide the additional funds?

3. Does the project have funding or supporting partners? Is there broad local participation by individuals, companies or organizations?

4. Does the project present the potential for exceptional benefits in stream and watershed improvements?

5. Is the project part of a comprehensive watershed restoration plan? Have other partners made a substantial investment of time and funding in the watershed?

6. Would our funding be met with a substantial contribution from other partners?

7. Is it highly likely that the project's technology and design will succeed in treating the water quality without the need for frequent and expensive system renovations?

6-200-40 What do you need to include in your application?

You must include the following items within your application package.

A. Signed or approved Application for Federal Assistance document, SF-424.

B. The Program Narrative must explain the proposed project. You can use the optional OSM 51 form or plain paper. You will need to provide the following information:

1. Explain the need for the project.

2. Provide a summary of the project. Who will be responsible for the contract and oversight?

3. What are the purpose, goals and objectives of the project? Include a brief discussion on treatment goals of the project in terms of pH and chemistry, and trigger points that will initiate evaluation for operation and maintenance, expectations for chemical and biological impacts of the project on receiving stream, and how the project fits into restoration goals for the watershed.

4. Do you have the legal right of entry to the property for construction and continuing monitoring and maintenance? Provide a copy of the authorizing document.

5. Describe the technology and project design to be used, including material quantities, if available. If you select a passive treatment technology, the project must have a high likelihood of long term success, without the expectation of excessive maintenance or frequent rehabilitation. Include project design if available. Active treatment, through the use of chemical feed systems, is allowable with proper consideration of costs for chemicals and sludge removal when necessary.

6. Include all water quality and flow measurements of the discharge. Provide long-term water quality and quantity information including at a minimum: flow, pH, acidity, total and ferrous iron, and aluminum. We prefer that a minimum of twelve monthly samples be conducted. The project as constructed must have provisions to allow for continued monitoring.

7. Include a monitoring plan for the discharge, treatment outflow, and receiving stream, up and downstream. Who will be responsible for monitoring the project after construction?

8. Include a U.S. Geological Survey topographical map of the project area, with latitude and longitude.

9. Estimate how soon after the award of our funding the project will begin.

10. Include a schedule for completing the major project activities during the cooperative agreement performance period.

11. Describe the long term maintenance and renovation plan for taking care of any ongoing operational or maintenance requirements. Who will operate and maintain the completed project? How do you propose to fund any post construction operation and maintenance needs?

12. Provide required clearances including the U.S. Fish & Wildlife Service (USFWS) for endangered species, or comparable State clearance accepted by the USFWS, and state Historic Preservation Officer (SHPO). If you need assistance, our Watershed Project Coordinator can help you in securing these clearances.

13. List all permits that will be required. Provide assurance that you will have all appropriate permits prior to construction. Primary permits of interest to us are the wetlands, floodplains and stream encroachments, and any state environmental permits. Our Watershed Project Coordinator can assist you in identifying these permits.

14. Identify selected contractors and subcontractors, if any. All known contractors and

subcontractors must have an Applicant Violator System (AVS) and a Suspension and Debarment check before the award of our funds. Our Watershed Project Coordinator can perform or assist you with these checks. Document your AVS and Suspension and Debarment checks in your files.

C. Itemized Budget Estimate with a list of total project costs. At your option, you may use the Budget Information format located in Exhibit 1, or an alternative format.

1. Show the total costs by the project activity (administrative, design, construction, project inspection/monitoring, and other itemized major costs items).

2. Show the OSMRE funding you are requesting by activity.

3. Show other Federal agency funding by activity.

4. Show non-Federal funds by activity.

5. Show the monetary value of in-kind services being provided by activity.

D. Your budget justification narrative must explain each project activity included in your itemized budget estimate. Describe how you calculated the cost and why the item is needed. You must provide enough information for us to determine whether the line items included under each activity are reasonable, necessary and allowable.

E. Describe your organization briefly. Include the names and titles of your principal officers, your purposes, goals and objectives, and how long you have been established or incorporated.

F. Describe your organization's financial management system including accounting processes, systems, and internal controls.

G. Provide a copy of your organization's Internal Revenue Service (IRS) 501(c)(3) designation.

H. List partners, local support, and other resources.

1. Show the names, affiliation, roles and contributions of each participating partner. Divide your list into groups of partners providing funding, partners providing in-kind time or materials, and supporting partners who favor the project but are not providing resources.

2. Include copies of all letters from contributing partners confirming their commitment of funds and/or in-kind services.

3. Include copies of all letters of support for the project from local community groups, businesses, and individuals.

THE APPLICATION PROCESS FOR A WATERSHED COOPERATIVE AGREEMENT

I. Provide signed and dated Assurances for Construction Programs form, SF 424D.

THE APPLICATION PROCESS FOR A WATERSHED COOPERATIVE AGREEMENT

EXHIBIT 1

BUDGET INFORMATION – Construction Programs (Format)					
Project Activity/Costs	***OSMRE Funding***	***Other Federal Agency Funding***	***Non-Federal Partners Funding***	***Partners In-Kind Contrib-utions***	***Total Cost***
1. Administrative					
2. Design					
3. Construction					
4. Project Inspection/ Monitoring					
5. Other Major Costs (Itemize)					
6. TOTAL					

Optional Form

CHAPTER 6-210
APPLICATION REVIEW AND PROCESSING
FOR A WATERSHED COOPERATIVE AGREEMENT

- 6-210-00 What does this chapter do?
- 6-210-10 Who will review your application?
- 6-210-20 How long will we take to review and process your application?
- 6-210-30 How will we do our programmatic review?
- 6-210-40 How will we do our financial review?
- 6-210-50 What are our award procedures?
- 6-210-60 What information must be in our official cooperative agreement file?
- Exhibit 1 Programmatic Review Findings and Recommendations Memo
- Exhibit 2 Sample Financial Review Appointment Confirmation Letter
- Exhibit 3 On-Site Financial Review Interview and Check sheet
- Exhibit 4 Financial Review Findings and Recommendations Memo

6-210-00 What does this chapter do?

This chapter explains the programmatic and financial policies and procedures used by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE), to review your Watershed Cooperative Agreement Program (WCAP) applications. It also explains the process we use to award a cooperative agreement to you if we approve your application.

6-210-10 Who will review your application?

Our Watershed Project Coordinator and our Financial Specialist will review and process your application. They must fully coordinate and integrate all aspects of your work with us throughout the life of the project to help ensure its success.

6-210-20 How long will we take to review and process your application?

We will process all complete applications within 60 calendar days of receipt.

6-210-30 How will we do our programmatic review?

A. Your complete WCAP application will be reviewed by our state Watershed Project Coordinator, or other field or regional staff, who will perform the following actions.

1. Determine if the application is administratively complete and all figures are correct.

2. Verify if funds are available.

3. Check the System for Award Management (SAM) and our Applicant Violator System (AVS) to determine whether your organization or its officials are debarred, suspended, voluntarily excluded or ineligible to receive Federal assistance.

4. Contact the state Abandoned Mine Land (AML) program for their eligibility opinion and their input regarding the proposal.

5. Complete the National Environmental Policy Act (NEPA) review. Prepare, or include if prepared by others, necessary environmental documents. Verify receipt of necessary state Historic Preservation Officer (SHPO) and U.S. Fish and Wildlife Service (FWS) clearances.

6. Verify that project information has been entered into Abandoned Mine Land Inventory System (e AMLIS).

7. Conduct a technical evaluation of your proposed project including water quantity and quality, and treatment technology. This evaluation is to help assure the acid mine drainage (AMD) is treatable to proposed expectations, and that long term maintenance and renovation needs are known and addressed in your proposal. The Project Coordinator will work with you as needed to make technical changes to your proposed project to enhance the expected performance of the system.

8. Review your project budget and construction estimate to ensure they are necessary and reasonable to complete the proposed project objectives. The Project Coordinator may use tools such as AMDTreat to assist in evaluating the proposed cost of treating the water.

9. Determine whether your request meets the standard criteria if it exceeds the normal funding caps. This additional determination is required if you propose WCAP funding over $100,000 for an agreement, or a funding ratio of partner contributions to WCAP funding less than 2.5 to 1. Consider the following criteria:

   a. Has every reasonable effort been made to secure the additional needed funds from other sources?

   b. What will the impact be on the proposed project if the additional funds are not provided?

   c. Does the project have a broad partnership in funding and locally participating individuals, companies or organization?

   d. Does the project present the potential for exceptional benefits in stream and watershed improvements?

e. Is the project part of a comprehensive watershed restoration plan, in which there has been a substantial investment of time and funding by other partners?

f. Is our funding being supplemented by a substantial contribution from other partners?

g. Does the technology and design selected for the project have a high likelihood of success in treating the water quality and quantity without the need for frequent and expensive system renovations?

B. The reviewer will document the programmatic review and complete a Findings and Recommendations document. (See Exhibit 1 for the WCAP Programmatic Findings and Review document).

6-210-40 How will we do our financial review?

A. Our Financial Specialist, or other regional or field staff, will begin the financial review by reviewing your application.

B. If you are a first-time applicant for WCAP funding, our Financial Specialist will review your internal controls and financial management systems on-site to verify that they are adequate to manage Federal funds. We will contact you to schedule the on-site financial review. We will send you a written notice to confirm the agreed review schedule and tell you what to expect. (See Exhibit 2 for a sample confirmation letter.)

1. The reviewer will determine whether the systems are adequate, and suggest improvements where necessary. (See Exhibit 3 for the interview questions and system checklist used during this review.)

2. Below is a list of functions found in an adequate financial system. At a minimum, your system should be capable of performing the following:

a. Cash Receipts and Disbursements Journal.
b. Method for tracking project funds.
c. Method for maintaining source documents.
d. Procedures for timely recording of data.
e. Ability to summarize periodically.
f. Payment procedures.
g. Payroll, if applicable.
h. Workman's Compensation.
i. Payroll taxes.
j. Time cards or time sheets by project.

k. Job/position descriptions.
l. Procurement procedures with Standards of Conduct.
m. Property management system (must include all equipment costing at least $5,000).

3. Our Financial Specialist will use the findings and recommendations memo format in Exhibit 4 to document the financial review, all findings, and the recommendations that were provided to you.

4. If you have previously received funding from us under the WCAP, the Financial Specialist may need to update the original review. If an updated review is not necessary, we will document this determination and include a copy of the initial review in the current project's file.

6-210-50 What are our award procedures?

A. Our awarding office will decide whether to approve or disapprove your application based on our reviews. If we approve the application, we will award the cooperative agreement. If we disapprove the application, we will notify you in writing of our decision.

B. Our awarding office must take the following actions to process a cooperative agreement award.

1. Before the award, we will provide information about the planned award to our Office of Communications for Congressional and public news release. Our awarding office must follow the notification procedure established by the Office of Communications.

2. We must process our cooperative agreement award through our electronic grant system. Our accounting system will post the award to Treasury's financial assistance payment system, where it will be available for you to request funds.

3. We will send you a written cooperative agreement award document. We will also send you information about programmatic and financial reporting responsibilities, how to manage the agreement, and how to contact us.

6-210-60 What information must be in our official cooperative agreement file?

Our awarding office must maintain the following information in the official cooperative agreement file. This list is considered the minimum level of documentation. We will include additional supporting information and reports as appropriate for the particular application, the recipient, and the awarding office.

A. Your application as we originally received it, all subsequent additions and revisions, and any other information you sent us.

B. Records of all meetings or telephone conversations which provided information on the application.

C. All our correspondence with you about the application or the award decision.

D. All our internal reviews of the application or parts of the application.

E. All explanations or resolutions of questions raised during the review process.

F. All records or explanations of the timing of the award process, especially any time period when the awarding office could not process the award because it was waiting for actions outside its control, such as your responses to questions or availability of funds.

APPLICATION REVIEW AND PROCESSING FOR A WATERSHED COOPERATIVE AGREEMENT

EXHIBIT 1

REVIEW FINDINGS AND RECOMMENDATIONS MEMO
Date

Memorandum

To: Appropriate Manager

From: Watershed Project Coordinator

Subject: Watershed Cooperative Agreement Review and Findings and Recommendation

Project Name:
Applicant:

Total Project Cost: $_____
OSMRE Contribution: $ _____
OSMRE Percentage: _____%
Other Funding: $ _____
In-Kind Value: $ _____

Total Number of Partners (including OSMRE):____
Number of partners providing ONLY funding:_____
Number of partners providing ONLY in-kind services (No funding):____
Number of partners providing BOTH in-kind services and funding:_____

I. **SUMMARY OF PROPOSED PROJECT**
II. **APPLICATION PACKAGE**

The application/case file must contain the following documents to be funded.

	Yes	No	NA
• Completed/signed SF 424, application face sheet	( )	( )	( )
• Signed SF 424D, Construction Assurances	( )	( )	( )
• Program narrative statement – OSM 51(optional form)	( )	( )	( )
• Project budget	( )	( )	( )
• List of officers for AVS and Debarment check	( )	( )	( )
• List of project partners and contributions	( )	( )	( )
• AVS/Debarment checks for applicant and identified contractors/subcontractors. **(Additional AVS/Debarment checks on contractors/subcontractors added after award are the responsibility of the applicant, with the assistance of ACSP coordinator, if needed. These checks must be documented in the quarterly and final reports.)**	( )	( )	( )

• Documentation of legal right of access	( )	( )	( )
• Copy of IRS 501 (c)(3) (non-profit) designation	( )	( )	( )
• Eligibility opinion	( )	( )	( )
• Project schedule demonstrating commitment to completion within the two-year period of performance	( )	( )	( )
• Evidence of coordination with state AML authority	( )	( )	( )
• Evidence of e-AMLIS update	( )	( )	( )
• NEPA compliance (categorical exclusion or environmental assessment and Finding of No Significant Impact [FONSI]) as appropriate	( )	( )	( )
• Federally mandated clearances including USFWS for endangered species (unless delegated to state) and state Historic Preservation Officer (SHPO)	( )	( )	( )
• Identification of any permits that will be required and assurance from the applicant of compliance prior to construction. (Primary permits of interest to OSMRE are for wetlands, floodplains and stream encroachments and any state environmental permits	( )	( )	( )
• Long term water quality and quantity information including, at a minimum: flow, pH, acidity, total and ferrous iron, and aluminum. A minimum of 12 monthly samples is preferred	( )	( )	( )
• A discussion of the treatment technology to be used, and project design, including material quantities, if available	( )	( )	( )
• A discussion of the long term maintenance, and renovation expectations of the system, and the applicant's plan for addressing those needs	( )	( )	( )

III. SUMMARY EVALUATION

The project must have tangible benefits

1. Indicate benefits to be derived from completion of this project:

   ( ) Water quality improvement.
   ( ) Pollutants removed.
   ( ) Stream segments improved or restored.
   ( ) Aquatic habitat improved or restored.
   ( ) Public water supply improved.
   ( ) Fisheries improved.
   ( ) Recreation opportunities enhanced.
   ( ) Educational opportunities created.
   ( ) Aesthetic enhancement.
   ( ) Community benefits/pride generated.
   ( ) Associated land restoration.
   ( ) Health & Safety hazards eliminated.

2. Respond to the following queries about the project.

   _____ Project costs are reasonable.
   _____ There are provisions for post completion operation and maintenance of the facility.
   _____ There are provisions for post-completion water quality monitoring to enable evaluation of long-term success.
   _____ There are no outstanding or unresolved issues.
3. Discuss treatment technology and water chemistry and evaluate probability of long term success and possible maintenance issues.
4. Discuss and evaluate project construction estimate
5. Identify what organization is responsible for long term maintenance of the project, and its capabilities.

IV. SUMMARY OF FINDINGS AND RECOMMENDATIONS

EXHIBIT 2

SAMPLE FINANCIAL REVIEW APPOINTMENT CONFIRMATION LETTER

U.S. DEPARTMENT OF THE INTERIOR
Office of Surface Mining

Dear Applicant:

Your organization's Watershed Cooperative Agreement Program application dated [insert date of application] has been referred for financial review. In accordance with payment requirements outlined in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, at 2 CFR Part 200, the Office of Surface Mining Reclamation and Enforcement requires recipients to maintain financial data to provide for the safeguard and accountability of Federal funds.

To ensure [name of organization] meets these requirements, we need to review the following:

- Accounting and payroll records with supporting source documents;
- Written procedures for purchases, accounting system, and cash management; and
- Organizational structure.

Our review will begin at [time] on [date] at [location]. This confirms our telephone conversation of [date] with [contact person for the organization]. If you have any questions, please phone me at [phone number].

Sincerely,

Financial Specialist
Office Location

EXHIBIT 3

ON-SITE FINANCIAL REVIEW INTERVIEW AND CHECK SHEET

INTERVIEW

Interviewee:
Interviewer:
Date of Interview:

Applicant's Name:

1. Describe your organization, its purpose and history.

2. What type of accounting system does your organization have?
   - Cash/accrual
   - Checking account
   - Manual/computerized _____

3. Who is involved in maintaining your accounting system?
   - Your own staff/or accountant

4. What kind/type of records does your organization maintain (including source documents)?

5. Do you have Federal grants? If yes, how do you keep them separate?

6. Do you know the strings attached to Federal dollars (A110 and A-122)?

7. Do you have any non-Federal funding?

8. Have you had a program review/audit from any source?

9. Do you have written procedures for:
   - Procurement/Contracting
   - Accounting
   - Equipment Management
   - Personnel
   - Hiring
   - Salary Increases
   - Time Cards
   - Position/job descriptions

10. How did you arrive at the budget figures included with your application?

ON-SITE FINANCIAL REVIEW CHECKLIST

Reviewer:

Review Date:

Applicant's Name:

APPLICATION REVIEW AND PROCESSING FOR A WATERSHED COOPERATIVE AGREEMENT

	Y	N	NA
1. Accounting system capable of tracking OSMRE projects costs?			
- Written procedures?			
- Ability to keep OSMRE funds separate from other funds?			
- Accounting staff?			
- Checking Account?			
2. Internal Control System?			
- Separation of Duties?			
- Source documents summarized periodically?			
3. Maintain general and subsidiary records?			
4. Recent audit/program review?			
5. Written purchasing/procurement/contracting procedures?			
6. Written personnel records/procedures?			
7. Written payroll records/procedures?			
8. Written property management policies/procedures?			
9. Knowledge of OMB Circulars A-110 and A-122?			
10. Reviewed Proposed Project Budget?			
11. Knowledge of Suspension and Debarment for subcontractors?			
12. Does the organization owe the Federal government money? (A-129)			

EXHIBIT 4

FINANCIAL REVIEW FINDINGS AND RECOMMENDATIONS MEMO

UNITED STATES DEPARTMENT OF THE INTERIOR
Office of Surface Mining

Memorandum

To: Designated Official
From: Watershed Cooperative Agreement Program Financial Specialist
Subject: Financial Review

Applicant Name:

I. Summary of Findings of the Financial Review in the following areas:
   Accounting System -
   Records Management -
   Cash Management -
   Internal Controls -
   Written Procedures -

II. Summary of System Weaknesses:

III. Summary of Improvements Recommended and Communicated to the Applicant:

IV. Technical Assistance Offered:

V. Recommendation regarding Adequacy of Financial Management System:

CHAPTER 6-220
AMENDMENTS AND POST-AWARD CHANGES
FOR A WATERSHED COOPERATIVE AGREEMENT

- 6-220-00 What does this chapter do?
- 6-220-10 When should you send us your request for a change?
- 6-220-20 What changes requires an amendment?
- 6-220-30 How must you request and we approve an amendment?
- 6-220-40 How must you request and we approve a change in the scope of your program?

6-220-00 What does this chapter do?

This chapter explains our policies and procedures for amendments and changes after you have received a cooperative agreement under the Watershed Cooperative Agreement Program (WCAP) from us, the Office of Surface Mining Reclamation and Enforcement (OSMRE).

6-220-10 When should you send us your request for a change?

A. You must submit proposed changes to the official watershed cooperative agreement to us for approval before you make the actual change or obligate the funds. Costs you incurred before we approve the change may be unallowable.

B. We will not approve your request to change a watershed cooperative agreement (including a time extension) which we receive after the end of the performance period, unless there are unforeseen circumstances not under your direct control. You must provide justification for such extenuating circumstances to the satisfaction of our designated awarding office official.

C. We should receive your request for an extension of the cooperative agreement's performance period at least 30 days prior to the scheduled ending date.

6-220-20 What changes require an amendment?

You will need to submit an application for us to amend your cooperative agreement for the following changes.

A. To add or decrease funding under the agreement.

B. To revise the agreement's performance period.

6-220-30 How must you request and we approve an amendment?

A. Either you or we may initiate an amendment. However, we must both agree on the amendment terms.

B. You may send your application by regular mail or e-mail to the Watershed Coordinator or Financial Specialist at our awarding office. Your application must include the following items.

1. A signed or approved application face sheet, form SF-424, identifying the type of change you are requesting in item 8.

2. A narrative explanation and justification for the requested change. You may use the optional OSM-51 form or plain paper, or you may include the explanation in your transmittal letter.

3. If you are requesting any change to the project budget or our funding level, include a revised budget information report. See chapter 6-200 for more information.

4. If you are requesting additional funding that would raise our total funding level above $100,000, or would reduce the ratio of partners to WCAP funding to less than 2.5 to 1, you must provide adequate information to enable our Watershed Coordinator to respond to the following questions:

   a. Have you made every reasonable effort to secure the additional needed funds from other sources?

   b. What will the impact be on the proposed project if the additional funds are not provided?

   c. Does the project have a broad partnership in funding and locally participating individuals, companies or organizations?

   d. Does the project present the potential for exceptional benefits in stream and watershed improvements?

   e. Is the project part of a comprehensive watershed restoration plan, in which there has been a substantial investment of time and funding by other partners?

   f. Is our contribution being leveraged by a substantial contribution from other partners?

   g. Does the technology and design selected for the project have a high likelihood of success in treating the water quality and quantity without the need for frequent and expensive system renovations?

C. We will review your amendment application. We will process the award the same way we process a new cooperative agreement, as outlined in Chapter 6-210. We will approve the amendment within 30 days of receiving your application and notify you of our approval.

D. The amendment is effective when our designated official approves it. It applies to the entire agreement performance period unless otherwise stated. The approved amendment becomes part of the original agreement.

6-220-40 How must you request and we approve a change in the scope of your program?

A. A scope change is any change in the objectives of the program or the work to be performed that is outside the plans approved in the original grant and that has the potential to affect the success of the program. Examples of scope changes are a significant change in your partners or their contributions, or unforeseen site conditions which require you to change your reclamation approach.

B. You must get our written approval before you make a scope change. However, a scope change does not require a formal amendment to your cooperative agreement.

C. You should send a written request for our approval of a scope change to our awarding office as soon as you determine the change is needed. An authorized official of your organization must send a letter or e-mail requesting the change. Your request must include a narrative explanation and justification for the requested change, either in your letter or on the optional OSM-51 form.

D. Our awarding office will notify you in writing whether or not we approved your request. We will send the decision letter no later than 15 days after we receive your request. If the request is still under consideration at the end of 15 days, the awarding office must inform you in writing when a decision on the request may be expected and the reasons for the delay.

CHAPTER 6-230
PERFORMANCE AND FINANCIAL REPORTING
FOR A WATERSHED COOPERATIVE AGREEMENT

- 6-230-00 What does this chapter do?
- 6-230-10 When must you send us reports?
- 6-230-20 How can you submit your reports to us?
- 6-230-30 What information must you provide?
- 6-230-40 How will we review your reports?

6-230-00 What does this chapter do?

This chapter explains the reports required from you as a recipient of funds from us, the Office of Surface Mining (OSMRE), under our Watershed Cooperative Agreement Program (WCAP). It describes when your reports are due, how to submit them, and what program and financial information you must report to us.

6-230-10 When must you send us reports?

A. Watershed cooperative agreements normally have a performance period of two years. You must submit WCAP performance and financial reports every six months.

B. Interim reports are the reports you make while the cooperative agreement's performance period is ongoing. Your interim reports are due in our awarding office thirty (30) days after the end of each six month reporting period.

C. Your first interim reporting period starts on the effective date of the cooperative agreement. The reporting period for an interim report must end on a calendar quarter end date: March 31, June 30, September 30, or December 31. If your cooperative agreement starts on a date in the middle of a calendar quarter, extend your first report period to the next calendar quarter end date. For example, if your agreement started on May 1, the first six months would end October 30, but you would extend the first reporting period until December 31 and send the report to us by January 30. Depending on the effective date of your cooperative agreement, the reporting period for your first interim reports may be a little longer than the six month time frame.

D. Subsequent interim report periods start on the first day of the next calendar quarter and last for six months.

E. Your final performance and financial reports are due to us 90 days after the end of the project or the cooperative agreement's performance period. The reporting period for the final report ends on the last day of the performance period regardless of whether the last day is a calendar quarter end date. You will find further guidance on closing out your WCAP cooperative agreement in chapter 6-240.

F. If you cannot send us a report on time, you must contact us before the established due date. We may extend the due date based on your adequate justification.

6-230-20 How can you submit your reports to us?

A. You may submit paper reports by regular mail or any other delivery method. The report must have an original signature. Send your reports to the financial specialist in our awarding office.

B. You also have the option of sending your reports by e-mail. The forms must include the name and title of the authorized official who signed the original report, and the date signed. You must maintain the original signed documents in your files.

6-230-30 What information must you provide?

Your interim and final reports include two parts: a narrative performance report, and a financial report.

A. Project Performance Information. You can write your performance narrative on our optional OSM 51 form or on plain paper. Whether you use the form or a blank page, your performance report must include the following information.

1. Describe your program's accomplishments.

   a. What progress did you make toward meeting your overall project objectives?

   b. What progress did you make on the specific activities funded by WCAP, such as design, construction, etc.?

   c. If you have not yet started construction, what progress did you make toward it? You should document your receipt of permits and Applicant Violator System (AVS)/Debarment checks on contractors and subcontractors.

   d. Is the project is on schedule? If not, explain why and what changes will be made. Explain unforeseen obstacles and the impact of those obstacles.

   e. Explain any problems you resolved and how you did it.

   f. Explain any project changes needed, such as in design or treatment technology.

2. Include Partnership information within your narrative.

a. Has the participation of the partners listed in your cooperative agreement application gone according to plan?

b. Have any partners withdrawn their planned contributions to the project? List the name and explanation.

c. Have you added any new partners? List the name and their planned contribution.

d. How will losing and/or gaining these partners affect the overall objectives and accomplishments of the project?

3. Other. Your narrative reports are one of the tools you use to communicate with us. If you have any information, concerns, etc. that you would like to provide us that may not be listed in the areas noted above, please do not hesitate to include them in this section of your narrative.

4. In addition to the financial data provided on your financial report document, in your narrative you should explain any financial concerns. Have costs been in line with the project budget? Explain any significant cost under or overruns and their impact on the project.

B. Financial Report. The financial report must use the Federal Financial Report form, SF 425.

1. You must provide financial information for the same activities as reflected in your approved budget.

2. Your financial report must be prepared on a cash basis. All costs claimed from our funding must be allowable under federal regulations. You must be able to support all costs claimed and be able to reconcile them to your accounting records.

3. You should include financial information on the overall project and our WCAP funding. You should include the dollar value of in-kind contributions in the costs you report.

6-230-40 How will we review your reports?

A. We will review your reports to determine that you have included all the information we need and complied with the following basic requirements.

1. Your reports and forms must be signed or approved by your authorized representative.

2. We must receive your reports by the established report due date.

3. Your reports must be mathematically accurate.

4. Your reported activities and costs must be in compliance with the approved cooperative agreement application.

5. All costs reflected in your reports must be supported by your accounting records and must be reconcilable to them.

6. Within your report, you must compare the actual accomplishments to the planned objectives of your program.

B. If we identify any concerns, we will work with you to correct the report.

C. We will document our reviews in a report or monitoring statement and keep them in our official file.

CHAPTER 6-240
CLOSING A WATERSHED COOPERATIVE AGREEMENT

- 6-240-00 What does this chapter do?
- 6-240-10 When do we close a cooperative agreement?
- 6-240-20 When are your closeout reports due to us?
- 6-240-30 How can you get the due date for the closeout reports extended?
- 6-240-40 How can you submit your closeout reports?
- 6-240-50 What information must you provide in your closeout reports?
- 6-240-60 How will we review your reports and close your agreement?
- 6-240-70 How long do you need to keep your records?
- Exhibit 1 In-Kind Services

6-240-00 What does this chapter do?

This chapter explains how to prepare and send us your final reports on your cooperative agreement. It applies to you if you received Watershed Cooperative Agreement Program (WCAP) funding from us, the Office of Surface Mining Reclamation and Enforcement (OSMRE). This chapter also explains how we will close the cooperative agreement.

6-240-10 When do we close a cooperative agreement?

A. The closeout process begins when the performance period of your cooperative agreement ends. Normally we will complete the closeout within 180 days of the end of the agreement.

B. We will not close the cooperative agreement until you have paid out all costs and we have deobligated any funds you did not spend.

C. We will not close a watershed agreement if the agreement is in litigation or under appeal.

D. If we terminate your agreement or end it early, we will not close it until all termination actions have been completed.

6-240-20 When are your closeout reports due to us?

You must send us the complete package of closeout reports on your watershed project by 90 days after the end of the performance period.

6-240-30 How can you get the due date for the closeout reports extended?

You need to make every reasonable effort to send us a complete closeout package by the due date. However, if you will not be able to submit the closeout reports on time, you must send us a written request for an extension. The request must provide acceptable justification explaining why you need an

extension and committing to send us the reports by a revised due date that you propose. If we approve your extension request and notify you in writing, we may require you to submit interim reports.

6-240-40 How can you submit your closeout reports?

A. You can send us your closeout reports on paper through regular mail.

B. Alternatively, you may e-mail your report package to us. You must type the name and title of the authorized official who signed the original forms and the date signed in the signature section of the document. You must maintain the original signed documents in your files.

6-240-50 What information must you provide in your closeout reports?

Your closeout reports must include the following information. While we financially supported only a part of the project objectives, you should provide programmatic and financial information for the entire project, not just the activities we funded.

A. Closeout Project Performance Narrative. You can use our optional OSM-51 form or plain paper to complete the narrative.

1. This is where you describe your programmatic and financial accomplishments. Compare the goals of the project and the final actual accomplishments.

2. Provide an “as built” plan of the treatment system, if available, and quantities of materials used.

3. Provide performance information after system is operational, regarding influent (untreated water) and final effluent (treated) water flow and chemistry including date of collection, pH, ferrous and ferric iron, acidity and aluminum.

4. Explain any problems you encountered and how you resolved them.

5. Provide any explanations needed regarding project partners. Did the participation of the partners listed in the agreement go according to plan?

.

B. In-Kind Contributions of Services or Materials.

1. If the project included in-kind services or materials contributed by you or any of the other project partners that directly contributed to the completion of the project, list the following information for each organization.

a. Describe the in-kind services or materials provided.

b. Show the quantity of each service or material provided.

c. Calculate a value for each type of in-kind service or material provided. Exhibit 1 of this chapter is a format you may use to help calculate and document your in-kind contributions.

2. Calculate your total in-kind contributions and include the value in the total expenditures on your financial report.

C. Final Financial Report. You must use the Federal Financial Report, form SF- 425.

1. Your final financial report should include the same type of information as you provided in your previous interim reports.

2. Provide financial information for the whole project, not just WCAP funds.

3. Report your financial information on a cash basis.

4. All the costs you claim on the report must be allowable under WCAP and other Federal regulations. You must have accounting records supporting all the claimed costs, and you must be able to reconcile the report back to your accounting records.

D. Property Purchased with our Funds. If you acquired any equipment or real property under the cooperative agreement, you must provide a property inventory. Use the Tangible Personal Property Report (SF-428). This form allows for alternative formats.

1. If we approved any property in your application but you did not purchase it, you do not need to provide an inventory. However, you do need to explain in your program narrative why you did not buy the approved equipment.

2. You must include the following information on the inventory for all property acquired under the agreement.
   a. Description
   b. Manufacturer
   c. Manufacturer Serial Numbers
   d. Quantity of each item purchased
   e. Cost of each item
   f. Date property was received
   g. Current condition of property
   h. Location where property is stored
   I. Disposition request (to sell it, trade it in, transfer it to another project, etc.)

3. Include a brief description of how you monitor and safeguard the property.

4. If you are requesting the sale or trade-in of an item, you will need to explain how you will handle the sale or trade-in.

6-240-60 How will we review your reports and close your agreement?

A. When we receive your closeout reports, our watershed project coordinator and financial specialist will review the reports to determine that the report package is complete and acceptable. They will perform the following requirements.

1. Verify that we have added all known changes into the agreement by appropriate revisions or amendments.

2. Resolve with you any disputes, suspensions, withholdings, and violations of agreement clauses and assurances.

3. Verify that final information on the reclamation problem area has been entered into the Abandoned Mine Land Inventory System (e-AMLIS).

4. Write a brief written evaluation of your performance under the cooperative agreement and keep it in our official agreement file.

5. Advise you how to dispose of, or take appropriate safeguard on, any property purchased with our funds.

6. Verify that the agreement and our official file are complete. We will use a monitoring statement and a closeout checklist to document this step.

B If we determine that the closeout is not complete or acceptable, we may return it to you with an explanation of what must be done to make it acceptable, ask you for additional information, or take other actions to resolve the problems.

C. If there are unexpended funds remaining in the cooperative agreement, we must prepare and process an amendment to deobligate the excess funds.

D. We will send you written notification that we consider the watershed cooperative agreement closed. We will remind you of the requirements for you to keep the records of your cooperative agreement and allow us to access them. We will show the starting date for the record retention period, which will be the date you submitted to us your final financial report for the watershed cooperative agreement.

6-240-70 How long do you need to keep your records?

CLOSING A WATERSHED COOPERATIVE AGREEMENT

You must maintain financial and programmatic records for the project for three years. Our letter to you notifying you that the cooperative agreement is officially closed will show the date when this three-year period starts. See chapter 2-260 for more information on record retention requirements.

CLOSING A WATERSHED COOPERATIVE AGREEMENT

EXHIBIT 1

IN-KIND SERVICES

Sponsor Organization:	Dates Covered by Report:

SERVICE/MATERIAL	AMOUNT	VALUE
SUPPLIES		
Computers/Printers	# of months used @ cost per month	
Photocopies	# of copies @ agency rate	
Telephone	# of calls @ agency rate	
Fax	# of pages faxed @ agency rate	
Postage	Actual expense	
SUPERVISION	# of hours *x* supervisor's actual rate of pay	
TRAVEL	# of miles @ agency rate (not to exceed current government mileage rate)	
OFFICE SPACE	# of square feet *x* actual cost per month (include rationale for # of square feet used)	
VOLUNTEER WORKERS	# of hours *x* minimum wage rate	
OTHER: May include, but is not limited to:		
Prorated utilities		
Accounting		
Maintenance		
General overhead (document)		

CHAPTER 7-100
TECHNICAL STUDIES PROGRAM OVERVIEW

- 7-100-00 What does this chapter do?
- 7-100-10 Why was the Technical Studies program established?
- 7-100-20 What are the objectives of the Technical Studies program?
- 7-100-30 Where can you find out about specific assistance opportunities?
- 7-100-40 What are other applicable requirements for a Technical Studies cooperative agreement?

7-100-00 What does this chapter do?

This chapter provides a general overview of our Technical Studies program. The work performed under this program support the abandoned mine land and regulatory programs of the Surface Mining Control and Reclamation Act of 1977, as amended (SMCRA). They are performed by parties other than us at the Office of Surface Mining Reclamation and Enforcement (OSMRE) and include applied science projects, underground mine map projects, and technical investigations.

7-100-10 Why was the Technical Studies program established?

A. We work with state and tribal partners to ensure that citizens and the environment are protected during coal mining and that the land is restored to beneficial use when mining is finished. We also work with states and tribes to reclaim and restore lands and water degraded by mining operations before SMCRA was enacted. Additionally, we work with colleges and universities and other state and federal agencies to further the science of reclaiming mined lands and protecting the environment.

B. During fiscal year (FY) 2005, Congress approved our request for a program to fund proposals for applied science projects and for underground mine map projects. Our operating annual budget provides funding for these projects.

C. Addressing the need to map underground mines requires significant federal support. We developed the Underground Mine Mapping Initiative (UGMMI) as part of our Technical Studies program to meet these needs. Through the Underground Mine Map Steering Committee, we collaborated with the Interstate Mining Compact Commission (IMCC) and Western Interstate Energy Board (WIEB) to coordinate Underground Mine Map Projects. We also collaborated with the Mine Safety and Health Administration (MSHA) and various state agencies to complete underground mine map projects.

7-100-20 What are the objectives of the Technical Studies program?

The Technical Studies program supports two efforts:

A. Applied Science projects develop and demonstrate improved technologies to address public safety and environmental issues related to mining coal and reclaiming the lands affected by mining.

B. Underground Mine Map projects encourage efforts to collect, preserve and convert into digital format maps of underground coal mines. The maps provide valuable information for protecting public and miner safety, evaluating mine pools, and investigating mine subsidence.

7-100-30 Where can you find out about specific assistance opportunities?

We will announce opportunities for Technical Studies cooperative agreements in three channels. You will find additional information on specific opportunities and how to apply for them as follows:

A. We will post the announcement on Grants.gov. Grants.gov is the federal government's website to announce and accept applications for federal grant and cooperative agreement opportunities.

B. We will post the announcement on OSMRE's Technology Transfer web page.

C. We will send announcements by direct mail or electronic mail to organizations that have shown an interest in SMCRA-related activities.

7-100-40 What other applicable requirements for a Technical Studies cooperative agreement?

If you receive a cooperative agreement, the following requirements apply:

A. You must keep records in accordance with the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, at 2 CFR Part 200, Subpart D.

B. You must send us quarterly reports on your technical and financial performance under the cooperative agreement.

C. You may also be required to meet the audit requirements.

CHAPTER 7-110
APPLIED SCIENCE COOPERATIVE AGREEMENTS

- 7-110-00 What does this chapter do?
- 7-110-10 What is the objective of applied science projects?
- 7-110-20 Who is eligible for an applied science cooperative agreement?
- 7-110-30 Where can you find out about applied science opportunities?
- 7-110-40 What requirements must your proposal meet?
- 7-110-50 What costs are allowable?
- 7-110-60 How will we review and select proposals?
- 7-110-70 What happens if we select your proposal?

7-110-00 What does this chapter do?

This chapter provides guidance on how you can propose an applied science project. It explains how we, the Office of Surface Mining (OSMRE), review and select proposals, and how we award applied science cooperative agreements.

7-110-10 What is the objective of applied science projects?

Our objective is to further the science of reclaiming mined lands and protecting the environment. We request proposals for projects that develop and demonstrate improved technologies to address environmental issues related to surface coal mining and land reclamation after mining. We provide funding for selected projects through cooperative agreements.

7-110-20 Who is eligible for an applied science cooperative agreement?

Public, private, or non-profit entities are eligible. You may be a Federal, state, local, or tribal government entity, a college or university, or other qualified entity.

7-110-30 Where can you find out about applied science opportunities?

If funding is available, we will announce the opportunity for assistance. You may obtain a copy of the announcement using the sources we identified in chapter 7-100-30. Our announcement will include any high priority topics we identify for that year.

7-110-40 What requirements must your proposal meet?

Your proposal must meet the following requirements.

A. Address coal mining reclamation issues in at least one of our three regions.

B. Include a summary statement addressing the proposal's value associated with coal mining reclamation or regulation.

C. Do not propose quality control or consumer evaluations for commercial products.

D. You may include costs for salaries, fringe benefits, travel, equipment, materials, and services.

E. Do not include fees or profit.

F. Do not include Federal employee salary or compensation.

G. Your proposal must meet the "Instructions for Preparing the Proposal" in our funding opportunity announcement.

7-110-50 What costs are allowable?

A. In general, you may spend funds from the cooperative agreement for costs which are directly associated with your approved project and are reasonable and necessary to conduct it.

B. Costs must be allowable under the Office of Management and Budget's cost principles. See the applicable section in the Code of Federal Regulations (CFR), Title 2 Part 200, for more information.

7-110-60 How will we review and select proposals?

We have a multi-tiered process to review, rank and score proposals. The process was developed by the National Technology Transfer Team (NTTT), a partnership organization of representatives from our coal mining states and tribes and OSMRE.

A. Technical experts provide a detailed evaluation and pre-decisional scoring of the proposals. Then NTTT uses consensus final scoring to identify the highest ranked proposals.

B. Our technical representatives and grants staff review the proposals with the highest scores to identify other technical and financial assistance issues that might affect the award. The NTTT provides a summary of the top rated proposals to OSMRE senior management.

C. Senior management will make recommendations to the Director who will select which proposals that will receive funding.

7-110-70 What happens if we select your proposal?

A. If we select your proposal, we will contact you about the following information.

1. We will list any additional information or documents we need in order to award your cooperative agreement.

2. We will identify all of your and our relevant points of contact for this proposal.

3. We will identify specific conditions that you must meet.

4. We will define the level of substantial Federal involvement. Substantial Federal involvement is a requirement for Federal cooperative agreements.

5. We will outline specific reporting requirements.

6. We will address any questions or issues you may have.

B. Once we have gathered all of the required information, we will process your cooperative agreement. We will send you a written award document. This document will include all special conditions that apply to your cooperative agreement. We will also send you information on OSMRE contacts for your agreement, any other conditions of your award, reports, and closeout requirements.

C. Your cooperative agreement will show the start and end dates of your performance period.

1. You cannot incur costs before the start date, or after the end date, of your performance period.

2. You may begin requesting funds from the U. S. Treasury's electronic payment system on or after the start date of the performance period.

3. You may request an extension of your performance period. However, we must receive your request at least 30 days before the date the performance period is scheduled to end.

CHAPTER 7-120
UNDERGROUND MINE MAP COOPERATIVE AGREEMENTS

- 7-120-00 What does this chapter do?
- 7-120-10 What is the objective of underground mine map projects?
- 7-120-20 Who is eligible for an underground mine map cooperative agreement?
- 7-120-30 Where can you find out about underground mine map opportunities?
- 7-120-40 What requirements must your proposal meet?
- 7-120-50 What costs are allowable?
- 7-120-60 How will we review and select proposals?
- 7-120-70 What happens if we select your proposal?

7-120-00 What does this chapter do?

This chapter provides information you can use to submit a proposed underground mine map project. It explains how we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), review and select proposals and how we award underground mine map cooperative agreements.

7-120-10 What is the objective of underground mine map projects?

Our objective is to cooperate with you on projects to continue efforts to acquire, preserve, archive, and distribute underground coal mine maps. We fund these projects through cooperative agreements. Our ultimate goal is to improve protection of the public and the environment by making all maps accessible.

7-120-20 Who is eligible for an underground mine map cooperative agreement?

You are eligible if you meet all three of the following criteria:

A. You must be an agency of a state, U.S. territory or tribal government.

B. You must possess hard-copy underground coal mine maps.

C. You must be able to meet our minimum scanning requirements.

7-120-30 Where can you find out about underground mine map opportunities?

If funding is available, we will announce the assistance opportunity. You may obtain a copy of the announcement using the sources we identified in Chapter 7-100-30. Our announcement will include any high priority topics we identify for that year. Your proposal will receive additional consideration if you address one of those high priority topics.

7-120-40 What requirements must your proposal meet?

Your proposal must meet the following requirements:

A. Support activities in at least one of our three regions.

B. Include a letter of endorsement by an authorized official representing your state agency.

C. You may include costs for salaries, fringe benefits, travel, equipment, materials, and services.

D. You cannot include fees or profit.

E. You cannot include costs of Federal employee salary or compensation.

F. Your proposal must meet the "Instructions for Preparing the Proposal" in the announcement.

7-120-50 What costs are allowable?

A. In general, you may spend funds from the cooperative agreement for costs which are directly associated with your approved project, and are reasonable and necessary to conduct it.

B. For more information about allowable costs, you should refer to the cost principles established by the Office of Management and Budget. See the Code of Federal Regulations, under 2 CFR Part 200.

7-120-60 How will we review and select proposals?

A. After we receive all the proposals, a team of Underground Mine Map Steering Committee members will review and rank them. Ranking criteria include viability, innovation, proposal quality, ability to address special interest topics (if identified), and level of external financial support.

B. Our technical representatives and grants staff will review the proposals with the highest scores to identify other technical and financial assistance issues that might affect the award.

C. The OSMRE Executive Council will approve the final projects.

7-120-70 What happens if we select your proposal?

A. If we select your proposal, we will contact you about the following information:

1. Additional documents that we require.

2. We will identify all relevant Federal and recipient points-of-contact.

3. We will identify specific conditions. We will define the level of substantial Federal involvement. These are required for Federal cooperative agreements.

4. We will outline reporting requirements.

5. We will discuss any questions or issues you may have.

B. When we have all the required information, we will process your cooperative agreement. We will send you a written award document. This document will include all special conditions that apply to your cooperative agreement. We will also send you information about any other special conditions of your award, OSMRE contacts for your project, and reports and closeout.

C. Your cooperative agreement will show the start and end dates of your performance period.

1. You cannot incur costs before the start date, or after the end date, of your performance period.

2. You may begin requesting funds from the U. S. Treasury's electronic payment system on or after the start date of the performance period.

3. You may request an extension of your performance period. However, we must receive your request at least 30 days before the performance period is scheduled to end.

CHAPTER 7-210
APPLICATION REVIEW AND PROCESSING
FOR A TECHNICAL STUDIES PROGRAM COOPERATIVE AGREEMENT

- 7-210-00 What does this chapter do?
- 7-210-10 How long will we take to process your application?
- 7-210-20 What do we require to make your application administratively complete?
- 7-210-30 How will we review your application?
- 7-210-30 How will we award your cooperative agreement?
- 7-210-40 What are our records requirements?

7-210-00 What does this chapter do?

This chapter explains the procedures used by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE), to review and complete your application for a Technical Studies program cooperative agreement. It also explains how we will award your cooperative agreement if we select your proposal for funding.

7-210-10 How long will we take to process your application?

We will process all selected proposals within 60 days of the date we select winning proposals or the date we receive a complete application, whichever is later. We will use this time to obtain additional documents, agree upon our level of significant Federal involvement, and finalize any other issues about your cooperative agreement.

7-210-20 What do we require to make your application administratively complete?

We require the following documents to form an administratively complete application.

A. Signed or approved Application for Federal Assistance, form SF-424.

B. Narrative budget explanation and justification. You may use optional form OSM-47 or an alternative format.

C. Signed or approved Non-construction Assurances document, form SF424 B.

D. Signed or approved Construction Assurances document, form SF 424 D, if applicable.

E. Certifications document for compliance with Debarment and Suspension, Drug-Free Workplace, and Lobbying requirements.

F. Disclosure of lobbying activities, form SF-LLL, if applicable.

G. Indirect cost rate proposal for the year of the award approved by a Federal agency.

APPLICATION REVIEW AND PROCESSING FOR A TECHNICAL STUDIES PROGRAM COOPERATIVE AGREEMENT

7-210-30 How will we review your application?

A. We will ensure that your application package is complete. We will also validate budget information in your application. We will contact you if we need additional information.

B. We will contact you for a meeting or teleconference to accomplish the following.

   a. We will clarify all deliverables for your project.

   b. We will identify the type and extent of our involvement in the project. This includes milestones, decision points, and direct participation, where applicable.

   c. We will identify primary Federal and recipient contacts.

   d. We will discuss payment issues and financial and programmatic reporting requirements during your agreement.

C. We will develop a document with terms and conditions to supplement the cooperative agreement. This document will give specific requirements and responsibilities necessary to carry out the terms of the agreement based on our previous discussions with you. We will provide the document to you for comment and approval.

D. We will confirm availability of funds.

E. We will check the System for Award Management (SAM) to determine if you are excluded from receiving this Federal assistance.

F. We will determine if you are subject to the single audit requirement found in the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, at* 2 CFR Part 200 Subpart E. If so, we will confirm that you have met the requirement.

G. The technical and financial specialists who will work with your project must document their recommendations to proceed with the award.

7-210-30 How will we award your cooperative agreement?

A. We will enter your application data into our electronic grant system.

B. We will notify our Office of Communications of the planned award so they may issue Congressional and public news releases. Our awarding office must follow the notification procedure established by the Office of Communications.

C. Our awarding office will approve your cooperative agreement in our electronic grant system. Our accounting system will update Treasury's financial assistance payment system, which will process your cash requests.

D. We will send you the written cooperative agreement with all applicable terms and conditions.

E. If we cannot approve your cooperative agreement, we will contact you in writing. We will explain the reasons for our action, and provide corrective actions if applicable.

7-210-40 What are our records requirements?

Our awarding office must maintain the official file for the cooperative agreement. At a minimum, the official file must contain the following records.

A. Your application as originally received, all additions or revisions to it, and any other information you provided.

B. All meetings or telephone conversations about your application and/or proposal.

C. All our correspondence with you related to the application or award.

D. All of our internal reviews of your application.

E. Our approved budget authority to make an award.

F. All questions that were brought up during the review process and the resolution of those questions.

G. Explanations of any delays in the timing of the award.

H. Documentation of specific actions by the project technical point-of-contact which make up our substantial involvement in the project.

CHAPTER 7-220
AMENDMENTS AND POST-AWARD CHANGES
FOR A TECHNICAL STUDIES PROGRAM COOPERATIVE AGREEMENT

- 7-220-00 What does this chapter do?
- 7-220-10 When can you request changes to your cooperative agreement?
- 7-220-20 What changes require an application and amendment?
- 7-220-30 How must you apply for an amendment?
- 7-220-40 What changes require your written request and our approval?
- 7-220-50 How will we process your change requests?

7-220-00 What does this chapter do?

If you need to make a program or budget change to your cooperative agreement, this chapter explains which changes require our approval, how you should submit your request for a change, and how we will process your request. This chapter applies to cooperative agreements awarded to you for the Technical Studies program, including Applied Science cooperative agreements and Underground Mine Mapping cooperative agreements, by us, the Office of Surface Mining Reclamation and Enforcement (OSMRE).

7-220-10 When can you request changes to your cooperative agreement?

A. You must submit your proposed change or amendment and get our approval before you actually make the change or obligate any funds. If you incur costs prior to our approval, we may disallow those costs.

B. We will not approve any change in your agreement if we receive your request after the scheduled end date of the performance period. If you have unforeseen circumstances that are out of your control, then we will consider your explanations on a case-by-case basis.

C. If you are requesting a time extension, you must submit your request at least 30 days prior to the scheduled performance period end date. If we approve your request, we will normally approve only one extension for a period no longer than one year. If you require additional consideration, you must justify your special or unusual circumstances.

7-220-20 What changes require an application and amendment?

A. You must submit a formal application for an amendment to your cooperative agreement if you wish to change any of the following items.

1. Adding more funds to your agreement.

2. Deobligating unneeded funds before the end of your performance period.

3. Extending or shortening your performance period.

4. A material change in the level of financial contribution by other contributors to your project.

B. If you are unsure if your change requires an amendment, please contact the grant specialist in our awarding office for assistance.

7-220-30 How must you apply for an amendment?

A. You may submit your application for an amendment to our awarding office by regular mail or e-mail. You must have the capability to submit signed documents. Scanned documents are acceptable.

B. Your amendment application must include the following items at a minimum.

1. Signed Application for Federal Assistance, form SF-424.

2. A program narrative explaining and justifying the requested change. You may use our optional form OSM 51 or any format, or include the narrative in your transmittal letter.

3. Revised budget information, if you are requesting a change in the budget.

7-220-40 What changes require your written request and our approval?

A. You may request the following changes to your cooperative agreement by a written request. These changes require our prior approval but do not require a formal application and amendment.

1. Changes in key personnel working on your project.

2. Changing the scope of your project. Scope changes are changes in the goals or objectives of the agreement, or the work you will perform, from your original application that have the potential to affect the success of your program.

3. Cumulative budget transfers between direct cost categories that exceed ten percent (10%) of the approved budget.

4. Any cost item not included in the original budget that requires our approval to be allowable. An example of a cost item which is allowable only with our prior approval is equipment. You can find more information regarding these cost items in the applicable Office of Management and Budget (OMB) cost principles at 2 CFR Part 200.

B. Your written request must include a narrative justification of the requested change. If you are requesting a budget change, you must include revised budget information. You must send this request to the grant specialist in our awarding office. You may send the request by regular mail

or by e-mail.

7-220-50 How will we process your change requests?

A. We will make a decision on your request within 30 days of receiving it. If we need more time to consider your requests, we will notify you as to when we will decide.

B. If we approve your request, we will send you our approval in writing within 30 days of receiving your request. In the case of an amendment, we will process your application and approve the amendment in the same way we process new cooperative agreement applications as described in chapter 7-210.

CHAPTER 7-230
PERFORMANCE AND FINANCIAL REPORTING
FOR A TECHNICAL STUDIES PROGRAM COOPERATIVE AGREEMENT

- 7-230-00 What does this chapter do?
- 7-230-10 Where do these requirements come from?
- 7-230-20 When must you submit reports?
- 7-230-30 How can you submit reports to us?
- 7-230-40 What reports must you submit?
- 7-230-50 How will we review your reports?

7-230-00 What does this chapter do?

This chapter explains our reporting requirements for the Technical Studies program funded by the Office of Surface Mining Reclamation and Enforcement (OSMRE). It describes what reports you must complete, when they are due, and what information you must include. This information applies to you as a recipient of a cooperative agreement for an applied science project or an underground mine map project.

7-230-10 Where do these requirements come from?

The Department of the Interior has established the requirements for submission of recipient performance and financial reports in the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* at 2 CFR Part 200, Subpart D.

7-230-20 When must you submit reports?

A. You must submit interim performance and financial reports to us quarterly. Interim reports are due to us 30 days after the end of the report period. The report period for the first report begins on the effective date of your cooperative agreement. The report periods for interim reports must end on the last day of a calendar quarter: March 31, June 30, September 30, or December 31. If your cooperative agreement starts during a calendar quarter, calculate 90 days then extend your first report period to the next quarter end date. Subsequent reports are due for every three-month period.

B. You must submit the final performance and financial reports within 90 days after the end of your performance period. The reporting period for a final report ends on the last day of the performance period.

C. If you cannot submit a report by the required due date, contact us before the due date. We may extend the report due date based on your adequate justification.

7-230-30 How can you submit reports to us?

A. You may submit reports by regular mail. Paper reports must have an original signature.

B. You may also submit reports by e-mail. The forms must include the name and title of the authorized official who signed them and the date signed. You must maintain the originally signed forms in your files.

7-230-40 What reports must you submit?

You must submit the following reports.

A. Financial Report. You must submit the financial report on the SF 425, Federal Financial Report. You must submit your financial reports on a cash basis.

B. Narrative Performance Report. You may use the optional OSM 51 form, a blank page, or another acceptable format. You must include the following information in your report.

1. Your OSMRE cooperative agreement number.

2. A brief introduction of your project. You may use the same introduction for every performance report you submit on this project.

3. Task description listing the tasks that you have initiated during this report period. The descriptions must come from the statement of work.

3. Summarize this quarter's accomplishments and significant events. If any milestones have been reached or significant advances made, list them here. For Underground Mine Mapping agreements, provide details of work including the number of maps acquired, restored, preserved, scanned, georeferenced, etc.

4. List to-date accomplishments, with the percentage completion on all tasks scheduled up to this date. This section will take a broader perspective than the previous section.

5. For Applied Science agreements, discuss technical progress. This section is left to your discretion. You may embed figures and tables in the text or put them on separate pages. Note that any data must be accompanied by a thorough description, and any tables or figures need to be able to stand on their own.

6. Your plans for the next reporting period. List which tasks you will initiate, etc. List all unresolved issues.

7-230-50 How will we review your reports?

A. We will verify and determine if you have complied with the following basic requirements:

1. We will ensure that your reports are timely.

2. We will validate that your report is mathematically accurate and that it is consistent with our drawdown records.

3. We will validate your reported activities and accomplishments.

B. If we have any concerns, we will work with you to correct the reports.

C. We will prepare a monitoring statement to document the review.

D. We will update our program databases.

CHAPTER 7-240
CLOSING A TECHNICAL STUDIES PROGRAM
APPLIED SCIENCE COOPERATIVE AGREEMENT

- **7-240-00 What does this chapter do?**
- **7-240-10 Where do these requirements come from?**
- **7-240-20 When do we close out an applied science cooperative agreement?**
- **7-240-30 When is your closeout package due?**
- **7-240-40 How can you send your closeout package to us?**
- **7-240-50 What information must you provide to close your cooperative agreement?**
- **7-240-60 How will we review your reports and close your cooperative agreement?**

7-240-00 What does this chapter do?

This chapter explains to you, a recipient of an applied science cooperative agreement under our Technical Studies program, how to prepare and process your final reports. It also explains how we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), will close your cooperative agreement.

7-240-10 Where do these requirements come from?

The requirements for closeout procedures come from the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,* at 2 CFR Part 200, subpart D.

7-240-20 When do we close out an applied science cooperative agreement?

A. The closeout process begins at the end of the performance period of your cooperative agreement. We will normally close your agreement within 180 calendar days after the end of the performance period.

B. We may close your cooperative agreement without audit. However, we reserve the right to take additional administrative action resulting from the findings of a subsequent audit.

C. We will not close your cooperative agreement until you have paid all allowable costs and we have deobligated any excess funding.

D. We will not close your agreement if it is in litigation or under appeal.

E. If we terminate your agreement for any reason, we will not close it until all termination actions have been completed.

7-240-30 When is your closeout package due?

A. Your closeout package is due to us 90 days after the end of the performance period of your cooperative agreement.

B. However, you may send us a written request with justification for an extension of the due date. If we approve your request, we may require you to submit interim performance and financial reports.

7-240-40 How can you send your closeout package to us?

You may send us your closeout package by e-mail or by regular mail.

7-240-50 What information must you provide to close your cooperative agreement?

Your closeout package must include the following information.

A. Final Federal Financial Report, on the SF 425 form, as described in chapter 7-230.

B. Final narrative performance report, on the optional OSM 51 form or plain paper, as described in chapter 7-230.

C. You must include all project deliverables. Project deliverables are unique to each award. They may include a final technical report, information for a fact sheet, electronic presentations, workshop presentations, peer-reviewed papers, and technical conference presentations. We may provide formats which you must follow for your deliverable reports.

D. Report of Government Property, if you acquired or held any property under this cooperative agreement. Use the Tangible Personal Property Report (SF-428) that allows for any inventory format acceptable to our awarding office. If we provide any Federally owned property to you under this cooperative agreement, list it in your inventory separately from grant-purchased property.

E. List any in-kind services and materials you received that directly contributed to the completion of your project. Include the value of in-kind materials and services in this list and in the total expenditures on your financial report.

7-240-60 How will we review your reports and close your cooperative agreement?

A. We will ensure that you have submitted complete and acceptable deliverables and reports. We will work with you to obtain missing or revised documents.

B. We will verify that we have added all changes into your cooperative agreement by appropriate revisions or amendments.

C. We will resolve with you any disputes, suspensions, withholding of funds, and violations of agreement clauses and assurances.

D. We will include a written evaluation of your performance under the cooperative agreement in our official file for this agreement.

E. We will approve the disposition of any property you may have purchased with cooperative agreement funds.

F. If you have any Federally owned property, we will reconcile it with our records.

G. We will deobligate any excess funds from your cooperative agreement.

H. We may use a closeout checklist to document our review and closeout actions.

I. We will notify you in writing that your cooperative agreement is closed and remind you of our records retention and access requirements. See Chapter 2-260 for more information on record retention.

CHAPTER 7-250
CLOSING A TECHNICAL STUDIES PROGRAM
UNDERGROUND MINE MAP COOPERATIVE AGREEMENT

- **7-250-00 What does this chapter do?**
- **7-250-10 Where do these requirements come from?**
- **7-250-20 When do we close out an underground mine map cooperative agreement?**
- **7-250-30 When is your closeout package due?**
- **7-250-40 How can you send your closeout package to us?**
- **7-250-50 What information must you provide to close your cooperative agreement?**
- **7-250-60 How will we review your reports and close your cooperative agreement?**

7-250-00 What does this chapter do?

This chapter describes how you, a recipient of an underground mine map cooperative agreement under our Technical Studies program, should prepare and submit your final reports. It also explains how we the Office of Surface Mining Reclamation and Enforcement (OSMRE) will close your cooperative agreement.

7-250-10 Where do these requirements come from?

The requirements for closeout procedures come from the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* at 2 CFR 200, Subpart D.

7-250-20 When do we close out an underground mine map cooperative agreement?

A. The closeout process begins at the end of the performance period of your cooperative agreement. We will normally close your agreement within 180 calendar days after the end of the performance period.

B. We may close your cooperative agreement without audit. However, we reserve the right to take additional administrative action resulting from the findings of a subsequent audit.

C. We will not close your cooperative agreement until you have paid all allowable costs and we have deobligated any excess funding

D. We will not close your agreement if it is in litigation or under appeal.

E. If we terminate your agreement for any reason, we will not close it until all termination actions have been completed.

7-250-30 When is your closeout package due?

A. Your closeout package is due to us 90 days after the end of the performance period of your cooperative agreement.

B. However, you may send us a written request with justification for an extension of the due date. If we approve your request, we may require you to submit interim performance and financial reports.

7-250-40 How can you send your closeout package to us?

You may send us your closeout package by e-mail or by regular mail.

7-250-50 What information must you provide to close your cooperative agreement?

Your closeout package must include the following information.

A. Final Federal Financial Report, on the SF 425 form, as described in Chapter 7-230.

B. Final narrative performance report, on the optional OSM 51 form or plain paper, as described in Chapter 7-230. We will use your final report to promote our technology transfer efforts

C. If any deliverables were required for your project, you must include them. They may include a final technical report, information for a fact sheet, and other materials. We may provide formats which you must follow for your deliverable reports.

D. Report of Government Property, if you acquired or held any property under this cooperative agreement. Use the Tangible Personal Property Report (SF-428) that allows for any inventory format acceptable to our awarding office. If we provide any federally owned property to you under this cooperative agreement, list it in your inventory separately from grant-purchased property.

7-250-50 How will we review your reports and close your cooperative agreement?

A. We will verify that you completed the work as described in your proposal, and that it meets required quality standards.

B. We will ensure that you have submitted complete and acceptable documents. We will work with you to obtain missing or corrected documents.

C. We will verify that we have added all changes into your cooperative agreement by appropriate revisions or amendments.

D. We will resolve with you any suspensions, withholding of funds, disputes, and violations of agreement clauses and assurances.

E. We will include a written evaluation of your performance under the cooperative agreement in our official file for this agreement.

F. We will approve the disposition of any property you may have purchased with cooperative agreement funds.

G. If you have any federally owned property, we will reconcile it with our records.

H. We will deobligate any excess funds from your cooperative agreement.

I. We may use a checklist to document our files.

J. We will notify you in writing that your underground mine map cooperative agreement is closed and remind you of our records retention and access requirements.