

MEMORANDUM

SUBJECT: FY2005 Grants to Support Public Water System Supervision Programs on Tribal Lands – DRAFT Guidance

FROM: Evelyn Washington, Chief
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TO: Regional Drinking Water Program Managers
Regions I, II, and IV - X

Attached for your information and use are proposed guidance and the tentative allotments for the FY2005 Grants to Support Public Water System Supervision Programs on Tribal Lands. The President's budget request was \$105,100,000 for the entire PWSS program. We would reserve \$6,764,500 of this amount for grants to support PWSS program activities on Tribal Lands. This memorandum proposes direction for the use of these funds and addresses:

- the total amount of FY2005 PWSS Grant funds that would be available to support the PWSS program on Tribal Lands;
- the individual Tribal PWSS primacy, primacy development, and other program development grants such as *Direct Implementation Tribal Cooperative Agreements* (DITCAs) to be set aside for FY2005;
- the program areas identified as priorities for the Tribal support program for FY2005;
- the allotment targets for each of the identified program priorities; and
- other information, authorities, or limitations specific to FY2005.

Please provide any comments and suggestions about the draft guidance to Rick Naylor by July 5, 2004. If you have any questions, please call Rick at 202-564-3847.

Attachment

**FY2005 Annual Guidance for
EPA's Grants to Support Public Water System Supervision
Programs on Tribal Lands**

DRAFT

A. Amount of Funds Reserved:

Based on the President's FY2005 budget request of \$105,100,000 for the PWSS Grant Program, we will reserve a total of \$6,764,500 for the PWSS Tribal Support Program. The reserve is 6.436% of the total amount available for the PWSS program -- the same percentage as has been set-aside for the past several years.

B. PWSS Primacy, Primacy development, and other program development grants to be set aside for the year

From the \$6,764,500 we will allocate:

- \$465,100 to Region 9 for the Navajo Nation's Primacy grant;
- \$80,000 to Region 8 for a *Direct Implementation Tribal Cooperative Agreement* (DITCA) to the Standing Rock Sioux Tribe; and
- \$100,000 to Region 10 to support the Region's Alaska Native Village program.

C. Contingency Funds or Projects of National Scope to be Managed at HQ

We plan on distributing the entire FY2005 tribal reserve to the Regional offices. Approximately \$240,000 of PWSS Tribal support funds that had been reserved a few years ago for Tribal PWSS Primacy Workshops is still available, and will likely not be used for the workshops. This surplus can serve as a contingency fund for FY2005.

In addition, in FY2005 there will be \$500,000 that will be granted to selected Tribal Operator Certification providers to start new or amend existing certification programs. The request for applications will be published in the *Federal Register* by the end of FY2004, and HQ will establish a review panel with interested Regions to make award decisions. Each Region would manage the operator certification provider grant within their area, and HQ would manage any national provider grants that get awarded.

D. Program Priority Areas for FY2005

For FY2005 we have identified the same program areas that have been the priorities for the past few years. They are:

- Tribal PWSS Program Capacity Development,
- Tribal Operator Certification Program support,
- Tribal Source Water Protection Program support,
- Assistance to the Tribes in administration of the Drinking Water Infrastructure Grants - Tribal Set-Aside Program (DWIGTSA), and
- Support for Regional Direct Implementation Programs

Although these are the nationally identified priority areas for FY2005, each Region has the authority to direct a portion of the Tribal PWSS program grant allotment that it receives toward other PWSS program Tribal activities, if the Region believes that is appropriate for its Tribal program needs. *(As in the past, funds must be used for PWSS program Tribal activities. Using funds for non-PWSS program Tribal activities will result in a decrease in the Region's PWSS program Tribal allotment in a subsequent program year.)*

In addition to these historical program priority areas, you need to ensure that any use of the funds, including any program plans and grant agreements made between the Region and the Tribes are directed toward achieving the public health objective presented in EPA's *Strategic Plan for 2003-2008* <http://www.epa.gov/ocfo/plan/2003sp.pdf> and the Office of Water's final *National Program Guidance* <http://www.epa.gov/water/waterplan/#guidance> . The National Program Guidance is being issued in concert with Goal 2 of the Strategic Plan, and the subsequent subobjectives, strategic targets, and performance activity measures.

The PWSS Program strategic targets (related to Tribes) for FY2005 are

- 90% of the population served by community water systems in Indian country will receive drinking water that meets all applicable health-based drinking water standards;
- Number of households on Tribal lands lacking access to safe drinking water (reduced by 50% by 2015. There is no FY2005 Draft Target)

And the PWSS program activity (related to Tribes) for FY2005 is

- Beginning in December 2004, 80% of all Tribal community water systems will have undergone a sanitary survey within the past 3 years. *(By FY2008 the goal is 100% of all Tribal community water systems.)*

While we recognize the need to provide flexibility to Regions and Tribes, we believe that all Tribal and Regional DI Programs should be focused on ensuring that the gains of the previous years' efforts are preserved and built upon. The overall objective of the PWSS program grant is to protect public health by ensuring that:

- drinking water systems, of all types, and of all sizes, that are currently in compliance, remain in compliance;
- drinking water systems, of all types, and of all sizes, that are not currently in compliance, achieve compliance;
- drinking water systems, of all types, and of all sizes, are preparing to comply with the new drinking water regulations that will be taking effect in FY 2005.

Also, even though we have made progress toward improving the national drinking water data quality, we still have significant work to do in this area. Improving data quality should be an integral component of any project or activity funded with PWSS Tribal support money, and Regions can also designate a portion of their PWSS grant for data management to ensure that data quality and other data problems are being addressed by Tribal and Regional DI programs. Specifically that:

- Tribal water system compliance determinations are consistent with the Federal regulations; and
- the required Tribal water system inventory, compliance, and enforcement data being provided to EPA HQ is accurate and complete.

E. Program Area Allotment Targets for FY2005

The national and Regional proposed target allotments for FY2005 are:

	Direct Impl	Operator Cert	1420 Cap Dev	1453 SWAP	DWIG TSA	Regional Totals *
1	\$60,600	\$18,600	\$18,600	\$18,600	\$6,400	\$122,800
2	\$60,600	\$18,600	\$18,600	\$18,600	\$6,500	\$122,800
4	\$128,200	\$36,800	\$36,100	\$36,100	\$10,300	\$246,700
5	\$391,800	\$96,600	\$94,400	\$94,400	\$17,900	\$694,800

*Tentative Guidance
FY2005 Grants to Support PWSS Programs on Tribal Lands*

6	\$335,800	\$104,200	\$109,600	\$109,600	\$26,200	\$685,700
7	\$60,600	\$18,600	\$18,600	\$18,600	\$7,100	\$123,700
8	\$584,800	\$139,200	\$134,600	\$134,600	\$25,100	\$1,026,500
9	\$1,009,300	\$402,100	\$407,700	\$407,700	\$90,300	\$2,315,100
10	\$397,700	\$95,300	\$91,800	\$91,800	\$110,200	\$781,300

****Note - the Regional totals shown here do not include the Primacy, DITCA, and ANV support described in Section B.**

F. Allotment Formulae:

As was done in FY2004, the Regional allotment targets for each of the five program priority areas were calculated using slightly modified versions of the three formulae contained in the May 28, 2002 general Tribal program grant guidance. The modifications consist of the incorporation of a “safety-net” similar to that used in the formula which calculates the PWSS State Grant Allotments. The safety-net assures that no Region’s formula allotment will be less than 95% of its prior year allotment. This provision was added to the PWSS State Allotment formula several years ago in an effort to ensure some stability in each State’s allotment from year to year, regardless of changes in a State’s population or the number of public water systems that it regulates. We believe that stability is just as critical in the Regions’ PWSS Tribal Program and have added the “safety-net” to the each of the Tribal program formulae.

G. Allotment Formulae Factors

Five categories of data, or factors, are used in the formulae that allot the Direct Implementation, Operator Certification support, Capacity Development support, and Source Water Assessment support funds among the Regional offices. Those factors are:

- the number of Indian Land community water systems (for which the Region is the Primacy Agent)
- the number of Indian Land nontransient noncommunity water systems (for which the Region is the Primacy Agent)
- the number of Indian Land transient noncommunity water systems (for which the Region is the Primacy Agent)
- the Indian Land population within the Region, and

- the Indian Land geographical area within the Region.

The numbers of public water systems have been, and will continue to be, obtained from, SDWIS/FED. The information on populations and geographical areas comes from the US Census Bureau via the "Census 2000". Until a more current set of data becomes available, we will use the *Census 2000* as the source of the population and geographical data in calculating the PWSS Tribal Program grant allotments.

H. Authorities and Limitations for FY2005

1. Generic -- *(restated from the May 28, 2002 General Guidance)*
 - All of the PWSS Tribal funds must be used to support the Region's Tribal PWSS Program. Funds may not be used for any non-tribal project or activity.
 - Funds allotted to Regions in response to their requests for tribal Primacy (Navajo), Primacy development (Region 8), and Alaska Native Village support (Region 10) must be used for the requested purposes, or must be reprogrammed to Headquarters for redistribution among all Regions.
 - Regions may not supplement their Tribal direct implementation program allotment with funds targeted for any of the other program area allotments. Regions may, however, use allotments targeted for their direct implementation program to support work in any of the other priority areas.
2. FY2005 Specific
 - Regions are asked to contact the Office of Ground Water and Drinking Water before any funds targeted for SWAP are used for other purposes. Please remember that all source water assessments are to be completed before other program areas are considered. If assessments for Tribes are complete, Regions should use the SWAP funds to work with Tribes to develop and implement source water protection strategies to minimize the risks posed by the sources of contamination found in the assessments. The current OGWDW contact for Tribal SWAP activities is Jori Copeland (202 564-3876).