

Kansas Department of Health and Environment

Watershed Management General Grant Conditions U. S. EPA SECTION 319 Funds Kansas State Water Plan Funds July 1, 2010

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I. **Grant Disbursement** (No expenditure of funds may be made until KDHE and the EPA Technical Advisor have reviewed and approved the Project Implementation Plan).

General Disbursement -- In general, Section 319 grants will be provided a percentage of the total grant amount in advance. This is to help the project with initial project costs. A project may request that the advance payment be withheld or a project may request an advance payment of 10%, 20%, 30%, 40% or 50% (with the exception of Clean Water Neighbor Grants. Please contact Watershed Management Section Staff for more details). The remaining grant award will be paid upon expenditures reported on the Affidavit of Expenditures and Nonfederal Contributions report.

KDHE will pay the final 10% of the grant once the following conditions are met:

1. The project has satisfactorily completed the deliverables as outlined in the Project Implementation Plan.
2. A final affidavit has been submitted and approved by KDHE.
3. A project final report has been submitted and approved by KDHE.

At the end of the project, all affidavits submitted throughout the project must account for (add up to) 100% of the grant award total.

In the table below, a hypothetical project was awarded a \$50,000 grant, receiving an advance payment of 20% (\$10,000). The project submits affidavits on a quarterly basis (January - December). At the end of the project, the submitted affidavits equal the total grant award of \$50,000. This is evident in both the "Payment Request \$" and "Payment \$" columns.

Reporting Period	Date of Affidavit	Payment Request \$	Reported Contribution \$ (match)	Payment \$	Payment Date	Voucher Number
Advance	01/01/2006	0	0	10,000	01/01/2006	9999991
Jan – Mar 2006	04/01/2006	10,000	5,000	10,000	04/15/2006	9999992
Apr – Jun 2006	07/01/2006	15,000	14,000	15,000	07/15/2006	9999993
Jul – Sep 2006	10/01/2006	10,000	12,000	10,000	10/15/2006	9999994
Oct – Dec 2006	01/01/2007	15,000	30,000	5,000	01/15/2007	9999995
TOTALS		50,000		50,000		

- A. The advance payment will be initiated by KDHE upon receipt of the properly signed grant agreement and Project Implementation Plan, unless other conditions are negotiated.
- B. Affidavit of Project Expenditures and Grant Contributions - The cooperator will submit affidavit reimbursement requests on a negotiated basis via the Kansas Clean Water website at <https://kanphix.kdhe.state.ks.us/Public/KCW/> (affidavits are being accepted via email or mailed to KDHE until the KCW system is live). Affidavit information must be completed in the following categories:
 1. Personnel - The Personnel category includes all wages and salaries paid to individuals for work on this project. It also includes the value of volunteer or contributed effort towards this project, including the direct salaries and

wages paid or contributed but not the cost of fringe benefits for those individuals. This category does not include contract personnel. The costs of contract personnel should be included under Contractual Services.

2. Fringe Benefits - includes the cost of employer paid payroll taxes and benefits provided for employees. For volunteers include the cost of fringe benefits usually provided by the cooperating organization to their employees.
3. Travel - includes all costs associated with travel for this project. This would include mileage reimbursement (but not their salary while traveling); meals and lodging expenses or per diem expenses; parking and toll costs; and other expenses paid to persons who incurred travel costs in support of this project.

Mileage reimbursed from the grant or counted as match can not be greater than the mileage rate established for the State of Kansas by the Department of Administration. That rate is currently \$0.505 per mile by the most direct route. This rate is updated annually. Please visit <http://www.da.ks.gov/ar/employee/travel/default.htm> to find out the current mileage reimbursement rate.

4. Supplies - includes all costs of consumable materials purchased and utilized in support of this project (i.e. food, paper, office materials, and postage).

Food Purchases - Purchases of food and refreshments is not allowable with State Water Plan funds. Food and refreshments is allowed with the use of federal 319 funds under certain conditions. The meal must be an essential part of the project, such as a working lunch or dinner. Suggested allowable expenses are:

Refreshments - \$ 3.00 per person	Lunch \$ 10.25 per person
Breakfast - \$ 9.25 per person	Dinner \$ 19.50 per person

The necessity of a meal purchased from grant funds must be fully documented in the project implementation plan and reported in the quarterly report. Examples of acceptable instances of where meals can be provided are:

1. The event occurs at an isolated location and no other meal services are available;
2. Meal is provided to assure that an all day meeting can stay on-schedule;
3. Meal time is used as part of a continuing activity such as speaker addressing water quality or nonpoint source pollution control topics;
4. Meal time is used for small group breakout discussion for a specific topic or assignment given prior to the meal. Results of the breakout discussion are reported back to the larger group and documented with the meeting proceedings;
5. Use of meal time is the optimum time to convene certain stakeholders (farmers, teachers, etc.) and meal is essential to assure participation.

5. Equipment - means any item purchased with a useful life in excess of one year and a \$5,000 cost or more per unit. For equipment purchases, please provide a copy of the invoice with the make, model, and serial number of the item purchased.
 6. Contractual Services - includes services provided by agreement (written or unwritten) between the cooperator and service provider.
 7. Other - includes any expenses not included elsewhere.
- C. Grant Contributions ('match') - At the end of the project, the grant contributions must equal or exceed a 40% requirement. Final payment will be reduced if grant contributions do not meet the 40% requirement. Cooperators should try to meet their match requirements as the projects progresses via the quarterly affidavits of Project Expenditures and Grant Contributions, so that the match does not fall short at the end of the project.

State Water Plan Fund Match Requirements

Cooperator Contributions for SWP funds may be from federal, state or local sources. Examples may include employee time or travel, other funds granted to project, equipment or other resources donated towards project. Please note that state funds may be used to match State Water Plan WRAPS funds, however, local funding is strongly encouraged.

Section 319 Fund Match Requirements

Cooperator Contributions to match 319 funds must be from state or local sources (non-federal dollars). Please note the KS WRAPS SWP funds awarded for a project may not count as match for the 319 funds awarded. Examples of state or local sources include state or local employee time or travel, state or local funds granted to project, state or local equipment or other resources donated towards project.

1. Volunteer Services as match for both 319 and SWP - Volunteer services provided to a cooperator will be valued at rates consistent with those ordinarily paid for similar work by the cooperator. Please note that time, mileage, etc. in which a volunteer attends a meeting, seminar or tour and does not provide a service may NOT be counted as match. If the cooperator does not employ individuals in this type of work the services will be valued at rates paid for similar work in the same labor market. A reasonable amount for fringe benefits may be included in the rate. Cooperators should document how the rate for volunteers was determined and retain it with other project information. In addition, mileage volunteer's travel may be counted as match.
2. Example Volunteer Form may be found at www.kdheks.gov/nps/downloads/GrantMatchingForm.pdf
3. Value of Volunteer's Time Website: www.independentsector.org/programs/research/volunteer_time.html

- D. Grant Retainage - KDHE reserves disbursement of 10% of the total grant amount until such time as the cooperator has demonstrated satisfactory performance of deliverables as stated in the Project Implementation Plan. In addition, retainage will be withheld until a final completion report and final affidavit are submitted and are approved by KDHE.
- E. Withholding of Payment - Payment may be withheld if project status reports are not submitted in a timely manner or if project requirements and objectives set out by the project implementation plan are not being met.
- F. Receipts - Do not send copies of receipts with the affidavits, except for equipment purchases. Receipts must be retained in the cooperator's files for three years in preparation of possible future audits (with the exception of equipment, see section I.B.5).
- G. Additional Payment Request - Payments in excess of the amount expended can be made under special conditions. If a large expense to the grant is expected in the next quarter, the cooperator can request payment in advance of the expense by explaining the situation and provided the expense is in the project implementation plan (PIP) budget.

II. Reporting Requirements

- A. Project Status Reports - The cooperator will submit project status reports, through the Kansas Clean Water website, no later than 15 days after the end of the negotiated reporting period regardless of the starting date of the grant, even if no activity or expenditures have occurred. If the cooperator has entered into sub-agreements for completion of work under this grant, the cooperator will secure appropriate project status reports from the sub-agreement vendor and include said reports with the cooperator's report. If the project is behind schedule, the cooperator will describe the actions to be taken to correct the deficiency in the project status or justify why achievement of the task is not feasible.
 - 1. The format for project status reports is provided on the Kansas Clean Water website.
- B. Final Report- the Cooperator will submit a final report to KDHE for the grant period upon completion of the project. The final report is due 30 days after the funds are expended or the end of the project period. The final report should detail activities and accomplishments of the project as identified in the Project Implementation Plan. The project final report must be comprehensive enough so that any reader may determine (1) the location, scope, goals, objectives, and accomplishments of the project; (2) where and why the money was spent; (3) lessons learned, successes and failures; (4) how any aspect of the project may have been done differently; (5) additional work needed and your recommendations to address needs.
 - 1. Please see "Watershed Management Section Project Completion Reports" via www.kdhe.state.ks.us/nps/resources/final_reports.pdf

2. A listing of any consumable supplies remaining at the project ending date and all equipment purchased entirely or partially with grant funds and an estimate of the value of the equipment must be provided. If the cooperator would like to retain the equipment, include a statement of future plans for the equipment and a certification that the equipment will be used for future water quality activities. In the event the cooperator does not complete the project, all equipment purchased for the project through grants funds will be returned to KDHE.
 3. Submit two unbound copies suitable for reproduction and one bound copy. In addition, the final report should be submitted as an email attachment or a mailed CD.
- C. Use of Project Data and Work Products - KDHE may use the data and other information produced through this project for succeeding reports, publications, or other purposes without notice or additional payment. The cooperator will provide KDHE with a copy of all water quality data (including raw monitoring data), survey data, or other statistical information, fact sheets, work products, etc., obtained under this grant, in paper as well as electronic format, if available.
- D. For projects requesting future grants – No Project Implementation Plans are to be approved unless all reporting requirements for any previously funded projects are met. This includes status reports, affidavits, grant amendments, and Final Reports for any grant between KDHE and the Sponsoring Organization.

III. Project Activity

- A. Assignment / Sub-agreements - Prior to entering into a sub-agreement financed with grant funds not identified in the approved project implementation plan, the cooperator must secure written approval from KDHE. This grant agreement, the subject matter, or any portion thereof may not be sold, transferred, or assigned in any manner by the cooperator without first obtaining written permission from KDHE.
- B. Notification of Project Meetings and Activities - The cooperator will provide KDHE project officer written notices of project meetings, workshops, and other activities sufficiently in advance so the KDHE project officer has reasonable time to arrange to attend. Thirty days is usually sufficient notice. Representatives of KDHE may attend project meetings and activities.
- C. Notification of Personnel Changes - The cooperator will keep the KDHE project officer updated when personnel changes occur. Project managers must notify KDHE in writing or by email that personnel have left or been replaced. Included in the notification must be current contact information for the project representative responsible for reports and project work.
- D. Amendments to Project Implementation Plan - All work performed under this grant will be performed in accordance with the approved project implementation plan. Any

deviations from the approved project implementation plan will be requested in writing via a grant amendment. These must be completed on the Kansas Clean Water System and approved by KDHE, prior to the cooperator acting on the deviation.

1. Requested Changes to the PIP Budget - KDHE recognizes that as projects are implemented changes to the budget may be necessary. Budget changes totaling less than \$2,500 do not require project officer approval, however, the change must be documented the affidavit's comment field. For example, if a project needs to move \$1500 from supplies to personnel, an email or letter to the project officer explaining the reasoning for the change is all that is necessary.

In the event the cooperator wishes to adjust the original budget by \$2,500 or more, a grant amendment must be completed via the Kansas Clean Water System. Please note the budget change does require project officer approval prior to the cooperator acting on the deviation. The budget change is not authorized until the project officer has reviewed and approved the grant amendment.

- E. Operation and Maintenance - The recipient will assure continued proper operation and maintenance of all nonpoint source management practices that have been implemented for projects funded under this agreement. Such practices shall be operated and maintained for an appropriate number of years in accordance with commonly accepted standards. The recipient shall include a provision in every applicable sub-agreement (sub-grant or contract) awarded under this agreement requiring that the management practices for the project be properly operated and maintained. An example maintenance agreement is attached to this document.
- F. A QAPP is a written document that outlines the procedures a monitoring project will use to ensure that samples, data, and subsequent reports are of high enough quality to meet project objectives. All work performed or funded by EPA that involves the acquisition of environmental data must have an approved Quality Assurance Project Plan including KS-WRAPS, Service Provider, 319, or CWN grants. QAPP's are required for both 319 and State Water Plan funded projects to ensure that project objectives are met. For guidance on preparing a QAPP please visit <http://www.kdheks.gov/nps/QAPPGuidance.pdf>.

IV. Financial Conditions

- A. Accounting - The cooperator will establish and maintain an accounting system that meets the requirements of generally accepted accounting principles for the recording and reporting of receipts, disbursements, and the maintenance of asset and liability balances and adequate internal control.
- B. Procurement – When securing goods and services needed to execute the project, the cooperator will secure the good or service at the least possible cost to the project through competitive bidding or comparison shopping. At a minimum three cost estimates will be secured. Documentation on procurement efforts will be retained by

the cooperator and be available for review by KDHE, the U.S. Environmental Protection Agency, Kansas Legislative Post Audit, or other individuals or organizations authorized by the Kansas Department of Health and Environment.

- C. Project Revenues - The cooperator will identify, record, and report any revenues received related to this project. The cooperator will retain such income to be used to further the objectives of the project. Any sale of a work product produced through efforts of this grant shall be identified in the project implementation plan approved by KDHE. Any such income received during the grant period may be used as grant contributed resources (i.e. matching funds). If revenues are received after the project, the cooperator is not required to report those revenues to KDHE, but will continue to utilize the funds to further the objectives of the project and will maintain records indicating such.
- D. Unspent Grant Funds - Any unspent grant funds remaining at the end of the project period will be returned to KDHE unless KDHE has approved an extension and possibly a revised project implementation plan.
- E. Financial Resources - The recipient will be expected to have available financial resources to allow activity to continue for approximately four months while awaiting payments from KDHE.
- F. Audits - Non-Federal entities that *expend* \$500,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of this part. A copy of the audit report must be submitted to KDHE within 30 days of receipt. If the cooperator must perform an audit for some other purpose not related to this project, the cooperator may submit the specifications of the alternative audit procedures to KDHE to determine if the procedures will satisfy the intents and purposes of audits required for this grant.

Program-specific audit election: When an audited expends Federal awards under only one Federal program (excluding R&D) and the Federal program's laws, regulations, or grant agreements do not require a financial statement audit of the audited, the audited may elect to have a program-specific audit conducted in accordance with OMB Circular A-133.235. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a sub recipient, approves in advance a program-specific audit.

Non-Federal entities that expend less than \$500,000 a year in Federal awards are exempt from Federal audit requirements for that year but records must be available for review for three years by appropriate officials of the Federal agency, pass-through entity, General Accounting Office, KDHE, the U. S. Environmental Protection Agency, Kansas Legislative Post Audit, or other individuals or organizations authorized by the Kansas Department of Health and Environment.

1. For additional information on OMB Circular A-133 visit:
<http://www.whitehouse.gov/omb/circulars/a133/a133.html>

2. Special audit requirements for projects sponsored by County Conservation Districts. The County Conservation District shall comply with the audit requirements established by the State Conservation Commission as contained in the Kansas Conservation District Handbook and other publications that may be issued by the State Conservation Commission.

V. Records

- A. Records Retention - The cooperator will retain financial and programmatic records, supporting documents, and statistical records for three years from the latter of: (1) the date the project completion report is submitted, or (2) the date of any final resolution of any issues arising from litigation, claims, negotiation, audit, or other action involving the project.
- B. Access to Records - The cooperator will afford access, upon written request, to representatives of the Secretary of Health and Environment or Kansas Division of Legislative Post Audit to any cooperator's documents and other records necessary to verify compliance with state agency grant award agreements, Kansas or Federal statutes, and Federal Grant regulations.

VI. Miscellaneous Conditions

- A. Acknowledgments - Subject to the conditions listed below, the cooperator will include the appropriate acknowledgment statement in all reports and publications, correspondence, press releases, and presentations.

“The Kansas Department of Health and Environment has provided financial assistance to this project through EPA Section 319 Nonpoint Source Pollution Control Grant # (see signature page for grant number) or Kansas Water Plan Funds.”

- B. Project Signs for Demonstration Projects - Demonstration projects are cooperative projects receiving grant funds for the purpose of testing and evaluating innovative nonpoint source pollution control technology, demonstrating watershed management practices, etc.

Where appropriate, the cooperator will post signs at such demonstration sites with or contributing toward the completion of the grant-funded project. The signs will be worded in a manner which will (1) make the general public aware of the project, (2) to acknowledge the contributions of the Kansas Department of Health Environment, the U. S. Environmental Protection Agency 319 Funds, or the State Water Plan Funds (3) to identify the water quality protection practice or activity being demonstrated.

1. Signs will be posted at initiation of the activity or practice being demonstrated and maintained for at least 90 days following completion of the activity.
2. Signs will be of a size and location to maximize viewing from a public roadway.

VII. EPA Administrative & Programmatic Conditions

- A. Sub recipients agree to comply with the standards in Section 210(a)-(d) of OMB Circular A-133 and will not be used to acquire commercial goods or services for the recipient;
- B. Sub recipients that are 501(c) (4) organizations agree to not involve lobbying activities;
- C. Sub recipients who request or receive from the grant recipient a sub grant, contract, or subcontract exceeding \$100,000, at any tier under a federal grant shall comply with the Anti-Lobbying Act, Section 319 of Public Law 101-121, and file an Anti-Lobbying Certification form, and the Disclosure of Lobbying Activities form, if required, to the next tier above.";
- D. Sub recipients agree to comply with all applicable regulations, statutes, and terms and conditions which flow down in the sub-award;
- E. Recipient agrees to fully comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Responsibilities of Participants Regarding Transactions." Recipient must ensure that any lower tier covered transaction, as described in Subpart B of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. Recipient agrees to include a similar term or condition in any subsequent lower tier covered transactions. Recipient agrees that failing to disclose the required information in 2 CFR 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

Recipient may access the Excluded Parties List System at www.epls.gov.

- F. GENERAL COMPLIANCE, 40 CFR, Part 33 - The recipient agrees to comply with the requirements of EPA's Program for Utilization of Minority and Women's Business Enterprises (MBE/WBE) in procurement under assistance agreements, contained in 40 CFR, Part 33.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D - A recipient must negotiate with the appropriate EPA award official, or his/her designee, Fair share objectives for MBE and WBE participation in procurement under the financial assistance agreement.

Current Fair Share Objective/Goal - The dollar amount of this assistance agreement is \$250,000, or more; or the total dollar amount of all of the recipient's assistance agreements from EPA in the current fiscal year is \$250,000, or more. The Kansas Department of Health and Environment (KDHE) has negotiated the following, applicable MBE/WBE fair share objectives/goals with EPA as follows:

Kansas MBE WBE
Supplies 0.8% 4.1%
Equipment 1.2% 3.9%
Services 5.6% 35%
Construction 4.1% 6.9%

Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404 - If the recipient has not yet negotiated its MBE/WBE fair share objectives/goals, the recipient agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The recipient agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA will respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C - Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- (a) Ensure Disadvantaged Business Enterprises (DBEs) are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State, and local government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.

- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- (e) Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce in finding DBEs.
- (f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

MBE/WBE REPORTING, 40 CFR, Part 33, Sections 33.502 and 33.503 - The recipient agrees to complete and submit EPA Form 5700-52A, "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" beginning with the Federal fiscal year reporting period the recipient receives the award, and continuing until the project is completed.

Only procurements with certified MBE/WBEs are counted toward a recipient's MBE/WBE accomplishments. The reports must be submitted semiannually for the periods ending March 31 and September 30.

The reports are due within 30 days of the end of the semiannual reporting periods (April 30 and October 30). Reports should be sent to ATTN: Grant Assistant. Final MBE/WBE reports must be submitted within 90 days after the project period of the grant ends. Your grant cannot be officially closed without all MBE/WBE reports.

EPA Form 5700-52A may be obtained from the EPA Office of Small Business Program's Home Page on the Internet at www.epa.gov/osbp.

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

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

- G) The Recipient agrees that none of the funds provided under this agreement may be used for subawards/subgrants or contracts to the Association of Community Organizations for Reform Now (ACORN) or any of its subsidiaries. Congress has

prohibited the EPA from using its FY 2010 appropriations to provide funds to ACORN or its subsidiaries. Recipients should direct any questions about this prohibition to the EPA Grants Management Specialist listed on the first page of this award document.

Non-Point Source Pollution Control Practice Landowner Maintenance Requirements

This contract is entered into between the [*Sponsor Organization*] and the undersigned landowner(s) on site [*Legal Property Description*]. By signing below, the landowner understands and agrees that upon his/her signature this contract will become effective. The landowner agrees, as soon as practicable after his/her signature, to implement the contract and provide certification of completion (i.e. invoices and/or receipts) to the [*Sponsor Organization*]. Furthermore, the undersigned landowner agrees to the terms set forth herein to include:

1. I understand that as a condition of receiving financial assistance, I have not begun construction or installation of this practice prior to the grant start date as stated in the agreement between the Kansas Department of Health & Environment and the Sponsoring Organization.
2. All program participants receiving payments for structural or management practices are required to follow NRCS Standards and Specifications or other standards and specifications accepted by the Kansas Department of Health and Environment. The contents and terms stated in adopted practices shall be considered part of this agreement and shall be carried out by the landowner as a condition of receiving payment.
3. As a condition of accepting financial assistance, I agree to maintain the practice according commonly accepted standards with a minimum of 10 years. Destruction of a practice(s) by an act beyond the control of the landowner is exempt from this provision. I also agree to permit access to land where the practice was applied for the [*Sponsoring Organization*] to inspect maintenance of the conservation practice(s) and for public information and education purposes.
4. Should I fail to maintain the practice according to approved Standards and Specifications, it is understood that I will be required to repay funds received.
5. The project shall be completed no later than the grant end date as stated in the agreement between the Kansas Department of Health & Environment and the Sponsoring Organization (unless a previous date is negotiated between the Sponsoring Organization and the undersigned landowner).
6. All Livestock Waste Systems shall comply with all applicable regulations of the Kansas Department of Health and Environment, Bureau of Water, Livestock Waste Management Section (<http://www.kdheks.gov/feedlots/index.html>). All Livestock Waste Systems which require site relocation, shall follow reclamation policies adopted by the State Conservation Commission prior to payment of cost-share assistance. All Livestock Waste System relocation policies shall be considered part of this agreement and shall be carried out by the applicant as a condition of receiving funding assistance. Failure to implement all the requirements of the relocation policies may require repayment of funds received. The owner of the livestock facility is responsible for proper operation and maintenance and, if needed, modification of the facility or other actions to assure continuous satisfactory operation at landowner expense.
7. A landowner will not be reimbursed more than 100% of the landowner actual cost for a project.

8. When a change of ownership occurs on land, it is the responsibility of the original landowner to obtain, in writing, a contract with the new owner to transfer the maintenance obligations as stated in this contract to the new landowner. A copy of the transferred contract shall be provided to the [*Sponsor Organization*]. If such a contract is not made, this contract shall remain binding with the original landowner who received the financial assistance.

9. If records indicate you have a debt owed to the state of Kansas, a Kansas municipality or a District Court, the debt must be paid in accordance with K.S.A.75-6201 et seq. The amount owed may be deducted from the financial assistance amount by the Accounts Receivable Setoff Program administered by the State of Kansas Department of Administration, Division of Accounts and Reports.

Landowner signature/date: _____

SAMPLE DOCUMENT

**U.S. ENVIRONMENTAL PROTECTION AGENCY
 MBE/WBE UTILIZATION UNDER FEDERAL GRANTS, COOPERATIVE
 AGREEMENTS, AND INTERAGENCY AGREEMENTS**

PART 1. (Reports are required even if no procurements are made during the reporting period.)

1A. FEDERAL FISCAL YEAR 200_____	1B. REPORTING PERIOD (Check ALL appropriate boxes) <input type="checkbox"/> 1 st (Oct-Dec) <input type="checkbox"/> 2 nd (Jan-Mar) <input type="checkbox"/> 3 rd (Apr-Jun) <input type="checkbox"/> 4 th (Jul-Sep) <input type="checkbox"/> Annual <input type="checkbox"/> Check if this is the last report for the project (Project completed).				
1C. REVISION OF A PRIOR REPORT? Y or N Year: _____ Quarter: _____	BRIEFLY DESCRIBE THE REVISIONS YOU ARE MAKING:				
2A. EPA FINANCIAL ASSISTANCE OFFICE ADDRESS (ATTN: DBE Coordinator)		3A. RECIPIENT NAME AND ADDRESS			
2B. EPA DBE COORDINATOR Name: E-mail:	2C. PHONE: Fax:	3B. RECIPIENT REPORTING CONTACT: Name: E-mail:	3C. PHONE: Fax:		
4A. FINANCIAL ASSISTANCE AGREEMENT ID NUMBER (SRF State Recipients, refer to Instructions for Completion of blocks 4A, 5A and 5C.)		4B. FEDERAL FINANCIAL ASSISTANCE PROGRAM TITLE or CFDA NUMBER:			
5A. TOTAL ASSISTANCE AGREEMENT AMOUNT (SRF State Recipients, refer to Instructions for Completion of blocks 4A, 5A and 5C.) EPA Share: \$ _____ Recipient Share: \$ _____		5B. If NO procurement and NO accomplishments were made this reporting period, check and skip to Block No. 7. (Procurements are all expenditures through contract, order, purchase, lease or barter of supplies, equipment, construction, or services needed to complete Federal assistance programs. Accomplishments, in this context, are procurements made with MBEs and/or WBEs. <input type="checkbox"/>			
5C. Total Procurement and MBE/WBE Accomplishments This Reporting Period (Only include amount not reported in any prior reporting period)					
Were sub-awards issued under this assistance agreement? Yes ___ No ___ Were contracts issued under this assistance agreement? Yes ___ No ___					
Total Procurement Amount \$ _____ (Include total dollar values awarded by recipient, sub-recipients and SRF loan recipients.)					
Actual MBE/WBE Procurement Accomplished: (Include total dollar values awarded by recipient, sub-recipients, SRF loan recipients and Prime Contractors.)					
	<u>Construction</u>	<u>Equipment</u>	<u>Services</u>	<u>Supplies</u>	<u>Total</u>
\$MBE:	_____	_____	_____	_____	_____
\$WBE:	_____	_____	_____	_____	_____
6. COMMENTS: (If no MBE/WBE procurements were accomplished during the reporting period, please explain what steps you are taking to achieve the MBE/WBE Program requirements specified in the terms and conditions of the Assistance Agreement.)					
7. NAME OF RECIPIENT'S AUTHORIZED REPRESENTATIVE			TITLE		
8. SIGNATURE OF RECIPIENT'S AUTHORIZED REPRESENTATIVE			DATE		

MBE/WBE PROCUREMENTS MADE DURING REPORTING PERIOD
EPA Financial Assistance Agreement Number: _____

1. Procurement Made By			2. Business Enterprise		3. \$ Value of Procurement	4. Date of Award MM/DD/YY	5. Type of Product or Services _A (Enter Code)	6. Name/Address/Phone Number of MBE/WBE Contractor or Vendor
Recipient	Sub-Recipient and/or SRF Loan Recipient	Prime	Minority	Women				

Type of product or service codes:

1 = Construction

2 = Supplies

3 = Services

4 = Equipment

Note: Refer to Terms and conditions of your Assistance Agreement to determine the frequency of reporting. Recipients are required to submit MBE/WBE reports to EPA beginning with the Federal fiscal year quarter the recipients receive the award, continuing until the project is completed.

Instructions:

A. General Instructions:

MBE/WBE utilization is based on Executive Orders 11625, 12138, 12432, P.L. 102-389 and EPA Regulations Part 30 and 31. EPA Form 5700-52A must be completed by recipients of Federal grants, cooperative agreements, or other Federal financial assistance which involve procurement of supplies, equipment, construction or services to accomplish Federal assistance programs.

Recipients are required to report 30 days after the end of each federal fiscal quarter or annually, per the terms and conditions of the financial assistance agreement. Submission dates are January 30, April 30, July 30, and October 30. The submission date for annual reports is October 30. MBE/WBE program requirements, including reporting, are material terms and conditions of the financial assistance agreement.

B. Definitions:

Procurement is the acquisition through contract, order, purchase, lease or barter of supplies, equipment, construction or services needed to accomplish Federal assistance programs.

A *contract* is a written agreement between an EPA recipient and another party (also considered "prime contracts") and any lower tier agreement (also considered "subcontracts") for equipment, services, supplies, or construction necessary to complete the project. This definition excludes written agreements with another public agency. This definition includes personal and professional services, agreements with consultants, and purchase orders.

A *minority business enterprise* (MBE) is a business concern that is (1) at least 51 percent owned by one or more minority individuals, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more minority individuals; and (2) whose daily business operations are managed and directed by one or more of the minority owners.

U.S. citizenship is required. Recipients shall presume that minority individuals include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, or other groups whose members are found to be disadvantaged by the Small Business Act or by the Secretary of Commerce under section 5 of Executive order 11625. The reporting contact at EPA can provide additional information.

A *woman business enterprise* (WBE) is a business concern that is, (1) at least 51 percent owned by one or

more women, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more women and (2) whose daily business operations are managed and directed by one or more of the women owners.

Business firms which are 51 percent owned by minorities or women, but are in fact managed and operated by non-minority individuals do not qualify for meeting MBE/WBE procurement goals. U.S. Citizenship is required.

The following affirmative steps for utilizing MBEs and WBEs must be documented. Such documentation is subject to EPA review upon request:

1. Include of MBEs/WBEs on solicitation lists.
2. Assure that MBEs/WBEs are solicited once they are identified.
3. Divide total requirements into smaller tasks to permit maximum MBE/WBE participation, where feasible.
4. Establish delivery schedules which will encourage MBE/WBE participation, where feasible.
5. Encourage use of the services of the U.S. Department of Commerce's Minority Business Development Agency (MBDA) and the U.S. Small Business Administration to identify MBEs/WBEs.
6. Require that each party to a subgrant, subagreement, or contract award take the affirmative steps outlined here.

C. Instructions for Part I:

- 1a. Specify Federal fiscal year this report covers. The Federal fiscal year runs from October 1st through September 30th (**e.g. November 29, 2005 falls within Federal fiscal year 2006**)
- 1b. Check applicable reporting box, quarterly or annually. Also indicate if this is the last report for the project.
- 1c. Indicate if this is a revision to a previous year or quarter, and provide a brief description of the revision you are making.
- 2a-c. Please refer to your financial assistance agreement for the mailing address of the EPA financial assistance office for your agreement.

The "EPA DBE Reporting Contact" is the DBE Coordinator for the EPA Region from which your financial assistance agreement was originated. For a list of DBE Coordinators please refer to the EPA OSDBU website at www.epa.gov/osdbu. Click on "Regional Contacts" for the name of your coordinator.

- 3a-c. Identify the agency, state authority, university or other organization which is the recipient of the Federal financial assistance and the person to contact concerning this report.
- 4a. Provide the Assistance Agreement or Interagency Agreement number assigned by EPA. A separate report must be submitted for each Assistance Agreement or Interagency Agreement.

***For SRF recipients:** In box 4a list numbers for ALL open Assistance Agreements. SRF recipients will report activity for all Agreements on one form.

- 4b. Refer back to Assistance Agreement document for this information.

- 5a. Provide the total amount of the Assistance Agreement which includes Federal funds plus recipient matching funds and funds from other sources.

***For SRF recipients only:** SRF recipients will not enter an amount in 5a. Please leave 5a blank.

- 5b. Self-explanatory.

- 5c. State whether or not sub-awards and/or subcontracts have been issued under the assistance agreement by indicating "yes" or "no".

Provide the total dollar amount of all contracts/procurements awarded this reporting period by the recipient and all sub-recipients, and SRF loan recipients. For example: Actual dollars for procurement from the procuring office; actual contracts let from the contracts office; actual goods, services, supplies, etc., from other sources including the central purchasing/ procurement centers).

Where requested, also provide the total dollar amount of all MBE/WBE procurement awarded during this reporting period by the recipient, sub-recipients, SRF loan recipients, and prime contractors in the categories of construction, equipment, services and supplies. These amounts include the Federal, State and local shares in the procurement awards.

***For SRF recipients only:** In 5c please enter the total procurement amount for the quarter under all of your SRF Assistance Agreements. The figure reported in this section is **not** directly tied to an individual Assistance Agreement identification number. **(SRF state recipients report state procurements in this section)**

6. If there were no MBE/WBE accomplishments this reporting period, please briefly explain what steps you are taking in furtherance of the MBE/WBE requirements specified in the terms and conditions of the Assistance Agreement.
7. Name and title of official administrator or designated reporting official.
8. Signature and month, day, year report submitted.

D. Instructions for Part II:

For each MBE/WBE procurement made under this assistance agreement during the reporting period, provide the following information:

1. Check whether this procurement was made by the recipient, sub-recipient/SRF loan recipient, or the prime contractor.
2. Check either the MBE or WBE column. If a firm is both an MBE and WBE, the recipient may choose to count the entire procurement towards EITHER its MBE or WBE accomplishments. The recipient may also divide the total amount of the procurement (using any ratio it so chooses) and count those divided amounts toward its MBE and WBE accomplishments. If the recipient chooses to divide the procurement amount and count portions toward its MBE and WBE accomplishments, please state the appropriate amounts under the MBE and WBE columns on the form. **The combined MBE and WBE amounts for that MBE/WBE contractor must not exceed the "Value of the Procurement" reported in column #3**
3. Dollar value of procurement.
4. Date of award, shown as month, day, year. Date of award is defined as the date the contract or procurement was awarded, **not** the date the contractor received payment under the awarded contract or procurement, unless payment occurred on the date of award. **(Where direct purchasing is the procurement method, the date of award is the date the purchase was made)**

5. Using codes at the bottom of the form, identify type of product or service acquired through this procurement (eg., enter 1 if construction, 2 if supplies, etc).
6. Name, address, and telephone number of MBE/WBE firm.

**This data is requested to comply with provisions mandated by: statute or regulations (40 CFR Part 30 and 31); OMB Circulars; or added by EPA to ensure sound and effective assistance management. Accurate, complete data are required to obtain funding, while no pledge of confidentiality is provided.

The public reporting and recording burden for this collection of information is estimated to average 1 hour per response annually. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclosure or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2136), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460. Include the OMB Control number in any correspondence. Do not send the completed form to this address.

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 1-01), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the _____ day of _____, 20_____.

- 1. Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated.
- 2. Agreement With Kansas Law:** All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.
- 3. Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
- 4. Disclaimer Of Liability:** Neither the State of Kansas nor any agency thereof shall hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
- 5. Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Parties to this contract understand that the provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting state agency cumulatively total \$5,000 or less during the fiscal year of such agency.
- 6. Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
- 7. Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation shall be allowed to find the State or any agency thereof has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the State of Kansas shall not agree to pay attorney fees and late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.
- 8. Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
- 9. Responsibility For Taxes:** The State of Kansas shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
- 10. Insurance:** The State of Kansas shall not be required to purchase, any insurance against loss or damage to any personal property to which this contract relates, nor shall this contract require the State to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the vendor or lessor shall bear the risk of any loss or damage to any personal property in which vendor or lessor holds title.
- 11. Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
- 12. The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."