

CHAPTER 1-130 ASSISTANCE AGREEMENT CONDITIONS AND AWARD DOCUMENTS

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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 (OSM). 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 names of the recipient and OSM.
- 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.

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- F. The award must incorporate the following conditions by reference:
1. The Surface Mining Control and Reclamation Act of 1977 (SMCRA), 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 OSM policy directives which apply to this agreement, including this *Federal Assistance Manual* and;
 5. All terms, conditions, or agreement clauses that are required by Departmental, OSM, or program policies.

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

- A. The following conditions are incorporated into every OSM 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 OSM 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. The recipient must obtain prior OSM approval to transfer funds to agencies other than those identified in the approved application.
 4. The recipient must submit financial reports, performance reports, and other reports according to the timing, content, and format as required by OSM. The recipient must report program outlays and program income on a cash basis.

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5. For nonconstruction agreements, transfers of funds between total direct cost categories require prior OSM approval when such transfers exceed ten percent of the total budget. For agreements that fund both construction, and non-construction activities, budget transfers between nonconstruction and construction subaccounts require prior OSM approval.
6. The recipient must transfer to OSM 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. The recipient must take necessary action to collect promptly all monies due, and to cooperate with OSM in any claim or suit in connection with amounts due.
7. The recipient must comply with the requirements, as applicable, of the *Grants Common Rule*, adopted by the Department of the Interior at 43 CFR Part 12, Subpart C, regarding administrative procedures; the Cash Management Improvement Act and 31 CFR Part 205 on financial procedures; the appropriate OMB cost principles at 2 CFR 215, 220, 225 or 230, and OMB Circular A-133 on audit requirements.
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. The recipient must comply with all requirements and regulations established by OSM 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, the recipient must ensure that all applicable Federal, state and local permits, and clearances are obtained.
10. The recipient 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. The recipient must comply with the Federal procurement requirements in 43 CFR Part 12, including the requirements of the Buy American Act in Subpart E.
12. The recipient is free to copyright any original work developed in the course of or under the agreement. OSM 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 OSM financial support, and a statement that the publication does not necessarily reflect OSM's views.

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13. No subsequent assistance agreements or amendments will be approved unless all overdue financial or performance reports have been submitted to the appropriate OSM office. Only the OSM Regional Director or his designate can approve exceptions to this policy.
 14. OSM reserves the right to transfer equipment acquired with assistance agreements to the Federal government or a third party. [Note: In order to invoke this provision, OSM also must notify the recipient in writing of the specific item of equipment to be transferred. Equipment must meet the definition in the *Grants Common Rule*.]
 15. This agreement takes effect at the time of approval by the Director of OSM or his authorized delegate. The recipient accepts the agreement including the terms, and conditions by starting work or making its first request for Federal funds approved under this 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, the recipient 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.

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The recipient 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 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?

OSM may add specific conditions to your award document 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 us are more likely to succeed than unilaterally imposed specific conditions, that may disrupt your processes and plans. Therefore, OSM reserves 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 OSM contacts for your program, financial and payment questions. We will also provide any other information which may assist you in managing the agreement.