



**New Jersey Department of Environmental Protection
Site Remediation Program**

**DRAFT – DELIBERATIVE MATERIAL
Guidance for Technical Assistance Grants**

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Guidance for Technical Assistance Grants (Draft 11-4-2009 version)

I. Introduction

The New Jersey Department of Environmental Protection (Department) has issued this guidance document to assist community groups and licensed site remediation professionals (LSRP) in determining who is eligible for a technical assistance grant (TAG), how to apply for a TAG, what are eligible TAG activities and the reporting requirements associated with a TAG.

With the enactment of the Site Remediation Reform Act (N.J.S.A. 58:10C), and related Executive Order #140, the Department has been directed to disperse moneys from the Remediation Guarantee Fund as TAGs to nonprofit organizations to evaluate remediation methods and monitor site conditions at specific sites of public concern in the local community in accordance with rules and regulations adopted by the Department.

TAGs provide funding to nonprofit community groups to employ independent LSRPs to perform activities designed to help improve the community's understanding of the environmental conditions at, and remediation of, a contaminated site. The community group must use TAG funds to hire an LSRP to act as a technical advisor for the purpose of interpreting and explaining technical reports, site conditions, and proposed remedial actions at a contaminated site.

II. Eligibility

TAG funds are available to community groups during the remedial investigation phase and the remedial action phase of a cleanup of a contaminated site. The Department will not award a TAG to more than one community group at any one time for any contaminated site. The Department will not award more than \$10,000 for each remedial phase. When determining eligibility, the Department will consider the availability of sufficient funds, level of community involvement and the complexity of the case.

The following is a list of eligibility requirements for community groups:

- One or more members of the community group must live in the neighborhood in which the site is located. This provision was included in the regulations to ensure that TAG funds are available only to those affected or have the potential to be affected by the contamination or remediation at a site.
- The community group must be incorporated or in the process of incorporating.
- The community group can be either a non-profit organization pursuant to the Internal Revenue Code, 26 U.S.C. § 501(c)3 or in the process of obtaining 501(c)3 status. However, the community group can also affiliate with a local organization that has obtained 501(c)3 status as a non-profit organization for the specific purpose of representing the community. Partnering with a local non-profit organization will enable the community group to apply for a TAG without the community group having to take the steps necessary to obtain 501(c)3 status, itself.
- The community group must be able to demonstrate that it has reliable procedures for record-keeping and financial accounting in managing the TAG.
- The community group must have a commercial bank account. Groups that choose to establish their own 501(c)3 must open a bank account in the name of the community group and organizations that affiliate with an established 501(c)3 must ensure that the 501(c)3 has a bank account.
- The community group must not include, or be associated with, any person responsible for conducting the remediation of the site.
- The community group must not have been established by, or presently maintained by, any person responsible for conducting the remediation of the site.
- The community group must not be affiliated with a national organization that has direct or indirect control over the community group.
- The community group must not be an academic institution.
- The community group must not be a political subdivision (example: township or municipality).

The bulk of the TAG funds must be used to hire an independent technical advisor to help interpret and comment on site-related documents. The advisor must be certified by the Department as a LSRP and must have no professional relationship with any person responsible for conducting the remediation of the site of concern. The LSRP must not be associated **in any way** with any person responsible for conducting the remediation.

III. Pre-application Process

The Department will only approve a TAG for a contaminated site for which the Department has made a finding of substantial public interest. A community group may request that the Department make a finding of substantial public interest by submitting a petition to the Department signed by 25 or more individuals who live or work within 200 feet of the site boundary, if contamination has not migrated off site, or the signatures of 25 individuals that live or work within 200 feet of the extent of contamination, if contamination has migrated beyond the site boundary.

The Department will inform the community group whether or not it has met the requirements for the Department to make a finding of substantial public interest. The Department will also notify the person responsible for conducting the remediation and post a summary of the determination on the Department's website.

Within 30 days after receiving the Department's response to the petition, a community group interested in a TAG must submit a Letter of Intent to the Department's Office of Community Relations that includes:

- name of the community group;
- description of the composition of the group;
- statement of the group's intent to apply for a TAG;
- program interest name and program interest number (preferred ID) of the contaminated site of interest; and
- name and address and daytime phone number of the contact person for the group.

The community group is required to publish a public notice in a local newspaper in the vicinity of the contaminated site informing the local community that a Letter of Intent has been submitted as part of the process to apply for a TAG. The public notice must include the program interest name and program interest number (preferred ID) of the contaminated site of concern and include the name of the community group and its contact. The public notice must include a statement that any other groups interested in applying for a TAG for the same contaminated site must submit its own Letter of Intent to the Department within 30 days of publication of the public notice. The Department may provide reimbursement for the costs associated with publishing the public notice. The Department will also post a notice on the Department's website.

If the Department receives no additional Letters of Intent within 30 days, the Department will notify the community group and advise the group that it has 60 days to file a completed application.

If the Department receives additional Letters of Intent, the Department will notify all community groups filing letters that other community groups are interested in applying for a TAG. All interested community groups will have an additional 30 days from the publication of the public notice to attempt to form a coalition. If the attempt to form a coalition encompassing any or all of the community groups that have filed a Letter of Intent is successful within the 60 days, the coalition must file a new Letter of Intent and officially withdraw their previous letters within the 60 day timeframe.

If multiple community groups apply for a grant for the same contaminated site and remedial phase, and no coalition is formed, the Department will not award a TAG.

The Department reserves the right to deny any and all TAG applications.

IV. Application for technical assistance grant

The TAG application is a form that will be available from the Department at <http://www.nj.gov/dep/srp/community> or by contacting the Department's Office of Community Relations at 609-984-3081.

The TAG application must include a description of the community group and a copy of their bylaws. The description must also include an explanation as to how the community group is organized, including officers and purpose and how the group's board of directors, technical advisors, and project manager will interact with each other. The description must also provide the name and address of a sole point of contact and his/her daytime telephone number.

The TAG application must include documentation that the community group meets all the eligibility requirements described above. A TAG application must include a financial plan that lists the total amount being requested and a budget that describes how the community group plans to spend the TAG funds. The financial plan must also include a description of the work to be performed with the LSRP and a list of project milestones with a schedule. The community group must also explain how information will be shared with the rest of the community in which the site is located.

After reviewing the application for eligibility, administrative completeness and technical acceptability, the Department will notify the contact person for the community group within 60 days, in writing, of the Department's decision. If approved, the Department will disburse one half of the amount approved at the time of application approval provided there are sufficient funds in the Remediation Guarantee Fund. The second half of the total amount approved will be disbursed after the annual progress report is received and approved by the Department or an eligible remedial phase is completed, whichever comes first, provided there are sufficient funds in the Remediation Guarantee Fund.

If the application is administratively incomplete or technically unacceptable, the Department will notify the contact person for the community group that the application is deficient and will provide a list of the deficiencies. The Department will not take action until the listed deficiencies are corrected. If the community group is not eligible for a TAG, the Department will provide the contact person for the community group with a statement of the reason(s) that they are not eligible.

A community group that has received a TAG for a site that is in the remedial investigation phase can reapply for a supplemental TAG when the remedial action is initiated using an abbreviated application form which will be available at <http://www.nj.gov/dep/srp/community> or by contacting the Department's Office of Community Relations at 609-984-3081.

The Department reserves the right to deny any and all TAG applications.

V. Eligible technical assistance grant activities

The community group must use the TAG to hire an LSRP as a technical advisor to interpret and explain technical remediation information and documents, including analytical data, in order to increase the community's understanding of the investigation and/or remediation of a site. A technical advisor can help the community group in many ways, including:

- interpreting and commenting on technical reports and analytical data prepared by the person responsible for conducting the remediation;
- participating in public meetings to help clarify information about site conditions;
- evaluating the potential impacts of the remediation on the community based on the information provided by the person responsible for the conducting the remediation;
- conducting inspections of the contaminated site and surrounding area periodically during the remediation to observe progress and provide technical updates to the community group; and
- interpreting site information that is ancillary to the remediation, including but not limited to public health and redevelopment information, if relevant.

TAG funds must not be used for the following:

- lawsuits or other legal actions, including payment of attorney fees for advice related to any kind of legal action or any activities that would result in an attorney/client relationship;
- political activity and lobbying;
- social, ceremonial or amusement activities and related costs, including meals, lodging, rentals, transportation, tips or for training or travel for any group member or the LSRP;
- generating new site specific environmental data, such as soil and water data; (Since the primary goal of the TAG program is to increase the community's understanding of the existing information, TAG funds must not be used for the collection of new environmental samples; however, TAG funds may be used to pay for the collection and analysis of split samples with prior Department approval.)
- epidemiological or health studies, such as urine or blood testing; and
- resolving disputes with the Department. (Because a thorough public notification and participation program exists for sites being investigated and remediated using public funds, TAG funds can not be used for challenging a final remediation document or a final decision document for publicly-funded sites.)

If the community group or its LSRP uses TAG funds for activities that are not identified in the approved budget and scope of work or for ineligible activities, the Department will revoke the technical assistance grant and require reimbursement of all grant monies from the community group.

The Department will issue payments upon the submission of invoices up to the amount of the TAG to the community group for documented technical assistance costs that are identified in the community group's approved budget and scope of work.

VI. Reporting Requirements

Any community group awarded a TAG will be required to submit several types of reports to the Department during the life of the TAG including: annual progress reports, electronic copies of all written product prepared by the LSRP and a final report. The community group's identified contact person will be responsible for ensuring timely submission of the required reports.

Annual progress reports are required to be submitted to the Department to demonstrate the community group's progress towards completing its TAG project according to the approved schedule. The report is used to track TAG project milestones and must identify any problems that the community group may have encountered. The annual report must include invoices associated with the service provided by the LSRP and a project summary sheet prepared in accordance with the Department's Cost Guide that will be posted on the Department's website at <http://www.nj.gov/dep/srp/community>. The annual progress report must also include financial status report to track the status of project funds by providing a detailed description of all project transactions.

The community group must submit an electronic copy of each final written product the licensed site remediation professional prepares for the community group within 30 days after the community group's receipt of the document.

The Final Report must be submitted to the Department within 180 days of the termination of the TAG. The Final Report must include a description of the project goals and objectives, the activities undertaken to achieve goals and objectives, the difficulties encountered, successes achieved, and the technical advisor's work products. The Final report must include a final financial report which must include a detailed description of how all funds were spent.

The community groups should keep TAG records for ten years from the date of the final report, unless it opts to send the records to the Department for safekeeping. After ten years, the community group may dispose of TAG records if the group receives written approval from the Department. The Department's record retention requirements are in addition to, and are not meant to replace, any Internal Revenue Service record retention requirements related to the group's 501(c)3 status or record retention requirements resulting from incorporation.