

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS-00319; FRL-6796-5]

Solicitation of Applications for Lead-Based Paint Program Grants; Notice of Availability of Funds**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: This notice announces EPA's intent to enter into cooperative agreements with States, Territories, eligible Indian Tribes and Intertribal Consortia, and the District of Columbia to provide financial assistance for purposes of developing and carrying out EPA-authorized lead-based paint programs. These programs and this financial assistance are authorized by section 404(g) of the Toxic Substances Control Act (TSCA). In order for Indian Tribes and Intertribal Consortia to be eligible for financial assistance under this program, the Indian Tribes and Intertribal Consortia must demonstrate that they meet the criteria for treatment as a State. The total amount of FY 2001 funding to be awarded to States, Territories, eligible Indian Tribes and Intertribal Consortia, and the District of Columbia for development and implementation of EPA-authorized lead-based paint programs, and for EPA's direct implementation of such programs for those States, Territories, eligible Indian Tribes and Intertribal Consortia, and the District of Columbia that do not have EPA-authorized programs is \$12.5 million. For FY 2001, the Agency is allocating up to \$1.5 million of these funds for the Indian Tribes and Intertribal Consortia.

DATES: Applications submitted by States, Territories, and the District of Columbia for financial assistance, identified by docket control number OPPTS-00319, must be received by EPA Regional staff on or before September 10, 2001. Applications submitted by Indian Tribes and Intertribal Consortia for financial assistance, identified by docket control number OPPTS-00319, must be received by EPA Regional staff on or before September 24, 2001.

ADDRESSES: Applications may be submitted by mail, or in some instances electronically. Please follow the detailed instructions provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS-00319 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: *For general information contact:* Barbara

Cunningham, Acting Director, Environmental Assistance Division (7401), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554-1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: The appropriate Regional Lead Coordinator listed in Unit I.C. of the **SUPPLEMENTARY INFORMATION**.

SUPPLEMENTARY INFORMATION:**I. General Information***A. Does this Action Apply to Me?*

This action is directed to States, Territories, eligible Indian Tribes and Intertribal Consortia, and the District of Columbia to develop and carry out authorized lead-based paint programs under TSCA section 404(g). In order for Indian Tribes and Intertribal Consortia to be eligible for financial assistance under this program, the Indian Tribes or Intertribal Consortia must demonstrate that they meet the criteria at 40 CFR 35.693 for treatment as a State (Refs. 3 and 4). In order for Intertribal Consortia to be eligible for financial assistance under TSCA section 404(g), they must also meet the requirements at 40 CFR 35.504. These eligibility requirements for Indian Tribes and Intertribal Consortia are in addition to the general eligibility requirements discussed in Unit I.D.3. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

You may obtain electronic copies of this document from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register—Environmental Documents**." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

You may also access this document on the Home Page for the Office of Pollution Prevention and Toxics (OPPT) at <http://www.epa.gov/opptintr/lead>. Select "What's New." Hard copies of this document are available from the appropriate Regional Lead Coordinator listed in Unit I.C.

C. How and to Whom Do I Submit an Application?

You may submit an application through the mail, or in some instances electronically, to the Regional Lead Coordinator in the appropriate EPA Regional Office. (Note: On a trial basis, some EPA Regional Offices are allowing submission of applications electronically at this time. Please consult with the Regional Lead Coordinator in the appropriate EPA Regional Office to confirm if electronic submission of your application is permitted.) The mailing addresses and contact telephone numbers for these Offices are listed in this unit. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS-00319 in the subject line on the first page of your response.

Region I: (Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, and Vermont), Regional Contact—James Bryson, U.S. Environmental Protection Agency (USEPA) Region I, One Congress St., Suite 1100 (CPT), Boston, MA 02114-0203; telephone number: (617) 918-1524; e-mail address: bryson.james@epa.gov.

Region II: (New York, New Jersey, Puerto Rico, and the Virgin Islands), Regional Contact—Lou Bevilacqua, USEPA Region II, MS-225, 2890 Woodbridge Ave., Edison, NJ 08837; telephone number: (732) 321-6671; e-mail address: bevilacqua.lou@epa.gov.

Region III: (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia), Regional Contact—Roberta Riccio, USEPA Region III (3WC33), 1650 Arch St., Philadelphia, PA 19103-2029; telephone number: (215) 814-3107; e-mail address: riccio.roberta@epa.gov.

Region IV: (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee), Regional Contact—Rose Anne Rudd, USEPA Region IV, 61 Forsyth St., SW., Atlanta, GA 30303; telephone number: (404) 562-8998; e-mail address: rudd.roseanne@epa.gov.

Region V: (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin), Regional Contact—David Turpin, USEPA Region V (DT-8J), 77 W. Jackson Blvd., Chicago, IL 60604; telephone number: (312) 886-7836; e-mail address: turpin.david@epa.gov.

Region VI: (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas), Regional Contact—Jeffrey Robinson, USEPA Region VI, 1445 Ross Ave., 12th Floor, Dallas, TX 75202; telephone number: (214) 665-7577; e-mail address: robinson.jeffrey@epa.gov.

Region VII: (Iowa, Kansas, Missouri, and Nebraska), Regional Contact—

Mazzie Talley, USEPA Region VII, ARTD/RALI, 901 North 5th, Kansas City, KS 66101; telephone number: (913) 551-7518; e-mail address: talley.mazzie@epa.gov.

Region VIII: (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming), Regional Contact—David Combs, USEPA Region VIII, 999-18th St., Suite 300, Denver, CO 80202; telephone number: (303) 312-6021; e-mail address: combs.dave@epa.gov.

Region IX: (Arizona, California, Hawaii, Nevada, American Samoa, and Guam), Regional Contact—Patricia Norton, USEPA Region IX (CMD-4-2), 75 Hawthorne St., San Francisco, CA 94105; telephone number: (415) 744-1069; e-mail address: norton.patricia@epa.gov.

Region X: (Alaska, Idaho, Oregon, and Washington), Regional Contact—Barbara Ross, USEPA Region X, Solid Waste and Toxics Unit (WCM-128), 1200 Sixth Ave., Seattle, WA 98101; telephone number: (206) 553-1985; e-mail address: ross.barbara@epa.gov.

D. What Should I Consider as I Prepare My Application for EPA?

1. *Purpose and scope.* EPA awards non-matching cooperative agreements under TSCA section 404(g) to States, Territories, eligible Indian Tribes and Intertribal Consortia, and the District of Columbia to develop and carry out authorized lead-based paint programs. The term "Territory" includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other Territory or possession of the United States. Also, hereinafter, the term "States" includes the "District of Columbia." In the past, recipients of the grants have used the funds to assist in program development and to prepare for program authorization. EPA intends to continue to support the development and authorization of these programs as well as implementation of authorized programs as budget constraints allow. This Notice has been developed based on the knowledge that some States have received authorization and that several States and Indian Tribes are continuing to develop their programs. This Notice addresses the criteria EPA will consider when evaluating the grant proposals submitted to the Agency.

Under TSCA section 404, EPA authorizes States, Territories, Indian Tribes, and Intertribal Consortia to administer lead-based paint programs in lieu of the corresponding Federal program. These lead-based paint programs are intended to reduce the incidence of childhood lead poisoning by ensuring that individuals conducting

lead-based paint activities are properly trained and certified and that renovation contractors provide lead-hazard information to building owners and residents. EPA issued regulations to establish these lead-based paint programs under the authority of TSCA sections 402 and 406. See 40 CFR part 745. The procedures for authorizing States, Territories, Indian Tribes, and Intertribal Consortia to implement lead-based paint programs are found at 40 CFR part 745, subpart Q.

2. *Goal and objectives.* Pursuant to Title IV of TSCA, EPA encourages States, Territories, Indian Tribes, and Intertribal Consortia to seek authorization of their own lead-based paint programs. EPA's goal is to have authorized programs in all States and a large number of Territories, and on a large number of Indian Tribal lands. EPA therefore recommends that parties seek funding through the TSCA Title IV section 404(g) assistance program, which is now being implemented to assist with development and implementation of lead-based paint programs.

Since 1994, EPA has been offering financial assistance under TSCA section 404(g) in the form of cooperative agreements without matching-fund requirements. In the upcoming funding cycle (which is the eighth year of awarding Federal assistance pursuant to TSCA section 404(g)), the Agency will continue to work with eligible applicants to develop cooperative agreements consistent with the objectives critical to the ultimate success of implementation of a national lead program, with the emphasis on State, Territorial, Indian Tribal, and Intertribal Consortia programs. Although EPA's goal is to have authorized programs in all States and a large number of Territories, and on a large number of Indian Tribal lands, the Agency and Congress anticipated that there would be a number of States, Territories, and Indian Tribes that would not seek program authorization. Consistent with authority granted in the Agency's FY 1998 Appropriation Act (Ref. 7), and the provisions contained within, EPA is authorized to use TSCA section 404(g) funds to implement a Federal lead-based paint program for non-authorized States, Territories, and Indian Tribes. See 40 CFR 35.116, effective April 9, 2001, and 40 CFR 35.516, effective April 17, 2001 (Refs. 1, 2, 3, and 4). (Note: Where the Agency has direct implementation responsibilities, EPA cannot provide financial assistance under this grant program to non-authorized States, Territories, Indian Tribes, or Intertribal

Consortia to assist the Agency in implementing and enforcing a Federal program under TSCA section 404(h).)

The cooperative agreements must be used to develop and implement authorized programs. States, Territories, Indian Tribes, and Intertribal Consortia that do not have authorized programs may receive cooperative agreement funding, but only for the continued development of lead-based paint programs which will meet the requirements of TSCA Title IV. To receive continued funding, States, Territories, Indian Tribes, and Intertribal Consortia without an authorized program must be making progress toward an authorized program. Therefore, the Regional Offices, as part of their grant oversight responsibilities, will work with the grantees to determine the appropriate amount of continued funding based upon the amount of developmental work to be completed as the grantee makes progress towards authorization. Eligible parties may utilize this grant support in a way that complements and does not duplicate activities for which they already receive or could receive financial assistance from other Federal sources (i.e., the Centers for Disease Control and Prevention (CDC) and the U.S. Department of Housing and Urban Development (HUD)).

This Notice is one of three notices that announce the availability of funds for Indian Tribes and Intertribal Consortia conducting various lead-based paint activities. The specific details regarding the companion notices are described in separate notices published elsewhere in this **Federal Register** issue. The notices are entitled:

a. *Baseline Assessment of Existing Exposure and Risks of Exposure to Lead Poisoning of Native American Children and*

b. *Lead Awareness (Educational) Outreach for Native American Tribes.* As stated in this unit, Indian Tribes and Intertribal Consortia, as well as all grantees, will not be awarded funds to fund the same activities from more than one source. Although an Indian Tribe may apply to receive grant funding from all three notices, they each have very distinct objectives. The grant program opportunities described in the companion notices may serve as precursors to, but not as an equivalents or supplements to, the TSCA section 404(g) lead-based paint grant program described in this Notice. The TSCA section 404(g) lead-based paint grant program for which funding is provided in this Notice involves infrastructure development for the anticipated implementation of a lead program and

does not include activities (testing for lead in blood, paint, dust, or soil samples, or general outreach and education activities) listed in the companion notices.

Under TSCA, States are required to collect fees to cover certain costs incurred by the program. These fees are considered "program income," which is defined as "gross income received by a grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period." See 40 CFR 31.25(b). It includes income from fees for services performed by the recipient. Program income generated by activities supported under TSCA section 404(g) grants may include fees that a State, Territory, Indian Tribe, or Intertribal Consortium charges for training, accreditation, certification, licensing, or other services performed by the lead training and certification programs, as well as fees that are collected which provide for enforcement of standards and regulations. Consequently, States, Territories, Indian Tribes, and Intertribal Consortia must comply with the rules governing "program income," found at 40 CFR 31.25, and use the funds generated by grant supported activities to assist with program operation costs.

3. *Eligibility.* States, Territories, Indian Tribes, and Intertribal Consortia are eligible to apply for financial assistance under this program if they are either implementing an EPA authorized program pursuant to 40 CFR part 745, subpart Q or if they are developing a program that may be authorized in the future. However, funds will be awarded based upon the progress made by the applicant in developing an acceptable program, including implementing regulations. Failure to make satisfactory progress toward program authorization may result in a State, Territory, Indian Tribe, or Intertribal Consortium not receiving funding. The EPA Regional Offices, as part of their grant oversight responsibilities, will have discretion with respect to determining whether sufficient progress is being made by a given State, Territory, Indian Tribe, and/or Intertribal Consortium toward the development and implementation of a program under TSCA Title IV.

States, Territories, Indian Tribes, and Intertribal Consortia may choose to combine TSCA section 404(g) grant funds with other environmental program grants as part of a performance partnership grant (PPG) if the requirements in 40 CFR 35.130 through 35.138 (applies to States) and 40 CFR 35.530 through 35.538 (applies to Indian Tribes and Intertribal Consortia) are

adhered to by the grantee. The final rules which promulgated these provisions were published in the **Federal Register** on January 9, 2001 (Ref.1), effective April 9, 2001 (Ref. 2) and January 16, 2001 (Ref. 3), effective April 17, 2001 (Ref. 4).

4. *Authority.* The TSCA Title IV lead-based paint program is a cooperative agreement program administered by EPA under the authority of TSCA section 404(g). Regulations governing these cooperative agreements are found at 40 CFR part 31 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments). Regulations which supplement the EPA general assistance regulations found in 40 CFR part 31 are found at 40 CFR part 35, subpart A (Ref. 1), effective April 9, 2001 (Ref. 2), and subpart B (Ref. 3), effective April 17, 2001 (Ref. 4). Contained within 40 CFR part 35 are specific sections which govern grants and cooperative agreements for the lead-based paint program under TSCA section 404(g); 40 CFR 35.270 through 35.273 (applicable to States, Territories, and the District of Columbia) (Ref. 1), effective April 9, 2001 (Ref. 2), and 40 CFR 35.690 through 35.693 (applicable to Indian Tribes and Intertribal Consortia) (Ref. 3), effective April 17, 2001 (Ref. 4). The EPA Regional Offices administer the TSCA section 404(g) cooperative agreements pursuant to a delegation of authority which permits the 10 EPA Regional Administrators to enter into cooperative agreements with States, Territories, Indian Tribes, and Intertribal Consortia.

5. *Activities to be funded.* This Notice was developed by OPPT in cooperation with the Agency's 10 Regional Offices, to set forth in more detail the required elements of grant agreements funded under TSCA section 404(g), to describe some of the eligible activities that will be considered for funding, and to facilitate and support Regional administration of this program as they work closely with the States, Territories, Indian Tribes, and Intertribal Consortia to develop work plans that reflect both EPA and State, Territory, and Tribal program priorities. EPA's list of eligible grant activities includes activities that are outlined as required elements of authorized lead-based paint programs, including development of enabling legislation and regulations, enforcement components, as well as other items associated with performance reporting. The elements are specified in 40 CFR 745.325 through 745.327, and are repeated in this unit to assist with the development of applicant work plans. This year's list of activities was updated

to account for the following regulation changes which will directly impact the authorized programs.

EPA promulgated its final TSCA section 403 lead hazard standards on December 22, 2000. A rule was published in the **Federal Register** on January 5, 2001 (Ref. 5). The TSCA section 403 standards amend the work practice standards for lead-based paint activities found at 40 CFR 745.227. The TSCA section 403 standards amend the TSCA section 402 regulations by establishing clearance standards for dust; limiting reuse of abated soil; adding a requirement for interpreting composite dust clearance samples; and changing risk assessment and clearance sampling requirements to ensure compatibility between sampling results and the TSCA section 403 hazard standards and section 402 clearance standards. Authorized State, Territory, Indian Tribe, and Intertribal Consortium lead-based paint activities programs are required to develop lead hazard standards and clearance standards that are as protective of human health and the environment as the Federal standards pursuant to 40 CFR 745.324, and, as specified in the January 5, 2001, **Federal Register**, these amendments must occur by February 5, 2003, for grantees to maintain their authorization. Therefore, TSCA section 404(g) funds can be utilized by authorized States, Territories, Indian Tribes, and Intertribal Consortia to develop and/or adopt lead hazard standards and clearance standards for lead in soil, dust, and paint.

Another potential regulatory change should be considered by applicants. Pursuant to TSCA section 402(c)(3), EPA is developing a proposed regulation to govern the conduct of renovation and remodeling activities that create lead-based paint hazards. If promulgated, this regulation will amend the existing TSCA section 402 rules for lead-based paint activities. EPA has developed a model renovators training curriculum entitled *Minimizing Lead-Based Paint Hazards During Renovation, Remodeling, and Repainting* (Ref. 6). EPA plans to make this course available, and publicly encourage its use until the renovation and remodeling rule is effective. As in the existing EPA lead-based paint program regulations, States, Territories, Indian Tribes, and Intertribal Consortia will be given the opportunity to seek authorization for a renovation and remodeling activities program. While it will be several years before the regulation is finalized, States, Territories, Indian Tribes, and Intertribal Consortia are encouraged to

begin considering the need for such an authorized program in their jurisdiction. TSCA section 404(g) funds can be utilized to assist in this process.

Although the list is not exhaustive, the following activities are eligible for funding under TSCA section 404(g) if they are in support of developing and implementing lead-based paint programs authorized pursuant to 40 CFR part 745, subpart Q. In addition, the Agency will consider for funding other activities which focus on the development and implementation of authorized programs, such as:

a. Developing and/or adopting lead hazard standards and clearance standards for lead in soil, dust, and paint;

b. Developing and/or enacting enabling legislation;

c. Adopting implementing regulations;

d. Developing a system to document certification of inspectors, risk assessors, supervisors, workers, and project designers;

e. Adjusting or enhancing the appropriate infrastructure to accommodate additional program responsibilities;

f. Maintaining, improving, and/or developing the appropriate infrastructure to successfully administer and enforce a program to ensure that individuals engaged in lead-based paint activities are properly trained, that training programs are accredited, that contractors and firms engaged in such activities are certified;

g. Maintaining, improving, and/or developing the appropriate infrastructure to successfully administer and enforce a program to ensure that renovation contractors provide lead-hazard information to building owners and residents;

h. Overseeing the conduct of certified contractors engaged in lead-based paint activities to ensure that they are conducting their activities according to all applicable regulations, including monitoring inspection, risk assessment, and abatement activities per the authorized program;

i. Overseeing accredited training programs per the authorized program;

j. Developing and/or revising, as needed, work practice standards for the conduct of lead-based paint activities associated with inspections, risk assessments, and abatement;

k. Monitoring compliance with work practice standards or regulations for the conduct of abatement per the authorized program;

l. Implementing the timely training of enforcement inspectors;

m. Implementing lead-based paint compliance assistance programs;

n. Implementing compliance and enforcement inspection sampling techniques;

o. Adopting or developing specific lead-based paint hazard values or standards;

p. Maintaining, improving, and/or developing specific procedures and supporting documentation to carry out the enforcement program as described in an authorized program. Typical activities could include development of administrative or civil action procedures and the associated warning letters, notices of noncompliance, or the equivalent;

q. Maintaining, improving, and/or developing specific procedures and supporting documentation to carry out the tracking of tips and complaints as described in the authorized program. Typical activities could include development of methods of recording the receipt of complaints, referring lead-based paint complaints to appropriate State or local agencies, tracking the follow-up investigation, tracking any enforcement action associated with the complaint, and notifying citizens of the disposition of their complaints;

r. Preparing a report per 40 CFR 745.327(d) and/or 40 CFR part 31, grant reporting requirements, on the applicant's program progress and performance;

s. Developing and/or revising, as needed, the lead-based paint programs, including regulations or procedures for decertification, suspension, revocation or modification of approvals, and certificates;

t. Developing and/or revising, as needed, requirements for the administration of a third-party certification exam;

u. Developing and/or revising, as needed, the lead-based paint programs' authority to enter, for purposes of inspection, and other relevant enforcement authorities;

v. Developing and/or revising, as needed, enforcement remedies, procedures, etc.;

w. Maintaining, improving, and/or developing techniques for targeting lead-based paint activities' inspections;

x. Improving the timeliness of the processing and follow-up of inspection reports and other information generated through enforcement related activities associated with a lead-based paint program;

y. Enhancing the capacity to improve compliance with Lead Program laws, and effectively develop and issue enforcement remedies/responses to violations;

z. Fostering activities that would increase the efficiency of an applicant's program to ensure that individuals engaged in lead-based paint activities are properly trained; that training programs are accredited; and that contractors engaged in such activities are certified. These activities could include initiatives to develop local capacity in low-income and rural areas, to promote increased competition in the regulated community through agreements which permit entities recognized by an outside jurisdiction to operate in the grantees jurisdiction (referred to as "reciprocity"), and similar efforts.

6. *Award and distribution of funds.* EPA currently expects that up to \$12.5 million of FY 2001 appropriated funds will be available during the FY 2001 funding cycle for financial assistance under TSCA section 404(g) for awards to States, Territories, Indian Tribes, and Intertribal Consortia for development and implementation of EPA-authorized lead-based paint programs, and for EPA's direct implementation of programs in States, Territories, and Indian Tribes that do not have EPA authorized programs. Additional TSCA section 404(g) carry-over funds from previous years may also be available from some Regions. For FY 2001 funding, the Agency is setting aside \$1.5 million of the \$12.5 million for eligible Indian Tribes and Intertribal Consortia. The remaining \$11 million plus any available carry-over dollars will be used to fund State, Territorial, and Federal lead-based paint programs. Because of the timing of this Notice, it is likely that the TSCA section 404(g) funds will be not be awarded until late in FY 2001 or early FY 2002.

a. *Financial assistance to Indian Tribes and Intertribal Consortia.* Each Indian Tribe and Intertribal Consortium that submits a qualifying proposal and is making sufficient progress toward the development and/or implementation of an acceptable lead-based paint program, as determined by the EPA Regional Offices, may receive base funding of \$50,000. Though Indian Tribes and Intertribal Consortia may submit qualifying proposals, the award of funds will be based upon the applicants progress in developing an acceptable program, including implementing regulations and seeking program authorization from EPA. Failure to make satisfactory progress toward program authorization may result in the Indian Tribe or Intertribal Consortium receiving reduced or no funding. The Regional Offices will have the discretion, as part of their grant oversight responsibilities, to determine

if the progress being made toward program authorization is sufficient to warrant funding. Further distribution of the Indian Tribal and Intertribal Consortia set-aside funds will be dependent upon the number of applicants, the progress that the grantee is making in developing a program, the status of expenditures of previously awarded funds, population, and the relative strength of the proposal. After the closing date for submittal of Indian Tribe and Intertribal Consortium applications specified in this Notice, EPA Headquarters and Regional Offices will consider each of the proposals, and make decisions about the level of funding to be awarded to each of the applicants. Following those decisions, EPA Headquarters will transfer the funds to the Regional Offices for award to the Indian Tribes and Intertribal Consortia. Because of the timing of this Notice, it is likely that the FY 2001 TSCA section 404(g) funds will not be awarded until FY 2002. Indian Tribal and Intertribal Consortia set-aside funds will not be included in the formula funds pool for States and Territories discussed in Unit I.D.6.b.

b. *Financial assistance to States and Territories.* The process used by EPA for determining award funding levels for States and Territories involves two steps. EPA Headquarters first determines, based on various factors discussed in this unit, the funding level that will be made available to each of the EPA Regional Offices for grantee awards in the respective regions. Following distribution of the funds to the EPA Regional Offices, the Regional Offices then make decisions on the actual funding level to be received by each of the grantees.

The Agency currently uses a three-tiered system to implement the process for deciding the amount of FY 2001 cooperative agreement funds that will be distributed to the EPA Regional Offices. This system is designed to provide a base funding level for each qualified applicant and to provide funding for EPA Headquarters and Regional Offices to address direct program implementation responsibilities, while providing funds targeted to areas with the greatest potential lead burden. The system accomplishes this first by providing a discretionary funding set-aside that is used to fund special needs among the grantees; second by providing a base funding set-aside for every potential State and Territorial applicant; and third by providing funding based on a formula that considers the relative lead burden estimated to exist within a State or Territory.

The discretionary funding set-aside involves setting aside \$200,000 of funds for each of the 10 EPA Regional Offices (total \$2.0 million) for discretionary funding of grantee activities as well as the Regional direct implementation activities. These funds are primarily intended to provide each Region with the means of awarding funds to States and Territories based upon the progress that the grantee is making in developing a program, the overall quality of the program, and/or identified needs. The EPA Regional Offices will also have the discretion to use these dollars to help support the Federal program within the Region.

The base funding set-aside provides a base level of funds for every potential State and Territorial applicant, and where it is necessary for EPA to implement lead-based paint programs in various States and Territories, it provides funds to help support Federal program implementation. Each State that submits a qualifying proposal and is making sufficient progress toward development and implementation of an authorized lead-based paint program may receive a base funding allotment of \$100,000. Each Territory that submits a qualifying proposal and is making sufficient progress toward implementation of an acceptable program may receive a \$50,000 base. However, base level funding for non-authorized States and Territories may be reduced by the Regional Offices depending on progress made toward the development and/or implementation of acceptable programs. A base level funding of \$50,000 for each State and Territory within the given Region which does not submit an application and/or receive a grant under this funding program will be set aside for EPA use to help implement these programs in non-authorized program areas. The base funds set-aside for non-authorized and/or non-participants in the program are apportioned to EPA Regional and EPA Headquarters Offices based upon direct implementation funding needs, and are intended to ensure that EPA has adequate funds to directly implement the lead-based paint programs in non-authorized States, Territories, and Indian Tribes.

Once base and discretionary funding set-asides are accounted for, the remaining State and Territorial funds are set aside for distribution through the third tier of the process which involves allocating funds for every potential State and Territorial applicant based on a formula that considers the relative lead burden estimated to exist within States and Territories. States and Territories whose funding requests exceed their

base allotments can be given additional funds ("formula funds") based upon their relative lead burden, and for this exercise, all 50 States, the District of Columbia, and the Territories are used to calculate the formula distribution. Formula funds determined for all non-authorized States and Territories will be set aside for Federal program implementation, and will also be apportioned to EPA Headquarters offices and EPA Regional Offices based upon direct implementation funding needs.

In calculating the lead burden for the formula rankings, EPA uses readily available data derived from the 1990 Census of Population and Housing (new data is expected out sometime in calendar year 2001 or 2002), along with other data from HUD. The formula uses four factors to generate an estimate of the potential lead problem, or "lead burden," in each State and Territory. Two of these factors, the number of housing units with lead-based paint and the number of children under age 6, express the potential magnitude of the lead problem. The remaining two factors, the percentage of young children in poverty and the percentage of low-income housing units with lead-based paint, express the potential severity of the problem.

In determining formula rankings, each State and Territory is scored independently for each factor, and the four individual factor scores for each of the States and Territories are then summed to obtain an overall score for that applicant (a combined factor score). The combined factor scores of all States and Territories applying for formula funds are then summed, and the percentage of the total sum represented by the individual State's or Territory's score is then identified. The applicant's formula allotment is determined by multiplying the total formula funding by the percentage scores of the individual State or Territory.

After funding levels (base, discretionary, and formula set-asides) are determined for each State and Territory, the funds will be pooled for each Region and transferred in bulk to the respective Regional accounts. This distribution includes formula and base set-aside funds determined for all non-authorized States and Territories, which are apportioned to EPA Headquarters and Regional Offices based upon direct implementation funding needs, and used by the Agency to support the administration and enforcement of lead-based paint programs in all non-authorized areas including Indian Tribal areas. Prior to the Regional distribution, any formula and base funds set-aside for

Federal program implementation which exceed Regional and Headquarters needs will be re-apportioned to the Regional pots of money using information developed as part of the formula process, for distribution to State and Territories.

Following distribution of the funds to the Regional Office accounts, then the second step in the distribution process occurs; Regional Offices determining the actual funding level to be received by each of the grantees. Funding levels per grantee will be determined by the Regional Offices based on the application submitted and may be decreased or increased based on performance and/or by fiscal need which may include an evaluation of the progress that the grantee is making in developing a program, an evaluation of the performance of the grantee in implementing a program, an evaluation of expenditures of previously awarded funds, and/or an evaluation of future funding needs.

7. *Submission requirements.*

Applicants are directed to 40 CFR part 35, subpart A (Ref. 1) and subpart B (Ref. 3) for details on the submission requirements for grant applications. To be considered for funding, each application must include the following components listed in 40 CFR 35.104 (applicable to States and Territories) (Ref. 1) or 40 CFR 35.505 (applicable to Indian Tribes and Intertribal Consortia) (Ref. 3):

- a. Meet the requirements in 40 CFR part 31, subpart B;
- b. Include a proposed work plan that meets the requirements in 40 CFR 35.107 (for States and Territories) or 40 CFR 35.507 (for Indian Tribes or Intertribal Consortia); and
- c. Specify the environmental program and the amount of funds requested.

For TSCA section 404(g) funding for Indian Tribes, EPA is soliciting pre-application grant proposals prior to the submittal of the forms and certifications listed in this unit. This pre-application procedure entails the applicants initially submitting only a work plan and a budget. The Agency will use the applicants' work plans and budgets to select programs to be funded under this grant program. After EPA conducts a review of all submitted pre-applications, successful applicants will be contacted and requested to submit the other required documents listed in this unit, such as the "Application for Federal Assistance Form" (Standard Form 424 or SF424), and the "Budget Information: Non-Construction Programs Form" (SF424A). In addition, as part of the pre-application, Indian Tribes and/or Intertribal Consortia must include all

appropriate information to demonstrate that they meet the criteria at 40 CFR 35.693 (Ref. 3) for treatment as a State. In order for Intertribal Consortia to be eligible for financial assistance under TSCA section 404(g), they must include all appropriate information to demonstrate that they meet the requirements at 40 CFR 35.504 (Ref. 1) concerning eligibility.

The following forms and certifications, which are contained in EPA's "Application Kit for Assistance," must be included in all applications:

- a. Standard Form 424 (Application for Federal Assistance);
 - b. Standard Form 424A (Budget Information-Non-Construction Programs);
 - c. Standard Form 424 B (Assurances-Non-Construction Programs);
 - d. Standard Form LLL (Disclosure of Lobbying Activities);
 - e. Certification Regarding Debarment and Suspension;
 - f. EPA Form 4700-4 (Compliance Review Report Form); and
 - g. Quality Assurance Statement.
- Application Kits for Assistance are available from any of EPA's 10 Regional Offices or may be accessed at <http://www.epa.gov/region4/grants/grants.htm>.

The following regulations may also be helpful to the applicants as they prepare their financial assistance applications: 40 CFR part 7 (Nondiscrimination in Programs Receiving Federal Assistance From the Environmental Protection Agency); 40 CFR part 12 (Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Environmental Protection Agency); 40 CFR part 29 (Intergovernmental Review of Environmental Protection Agency Programs and Activities); and 40 CFR part 32 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants); Clean Air Act and Clean Water Act Ineligibility of Facilities in Performance of Federal Contracts, Grants and Loans).

Where a single State or Territorial agency has been designated as responsible for coordinating lead activities, EPA encourages that agency to apply for funding under TSCA section 404(g). Coordination of federally funded lead activities by a single agency is viewed as conducive to achieving integration of lead activities. Early consultations are recommended between prospective applicants and their EPA Regional Offices. Because TSCA grants will be administered at the Regional level, these consultations can be critical to the success of a project or

program, and can also contribute substantially to efficient program operations. As part of the work plan, EPA Regional Offices may ask for additional information that will be useful in evaluating the program such as the status of enabling legislation, a detailed line-item budget with sufficient information to clearly justify costs, a list of work products or deliverables, a schedule for their completion and application for program authorization under TSCA, and a description of any financial assistance received from other Federal sources concerning the lead program. Applicants must also include all appropriate information on program income in accordance with 40 CFR 31.25.

Work plans are to be negotiated between applicants and their Regional Offices to ensure that both EPA, State, Territorial, and Tribal priorities are addressed. Any application from a State, Territory, Indian Tribe, or Intertribal Consortium that is not making sufficient progress toward implementation of an acceptable program will not be funded. Also, any applicant proposing the collection of environmental or health related measurements or data generation must adequately address the requirements of 40 CFR 31.45 relating to quality assurance/quality control. EPA issued final guidance that provides details about EPA's requirements for the preparation of "quality management plans." The finalized document is entitled *EPA Requirements for Quality Management Plans* (EPA QA/R-2, March 2001), and is available from each Regional Office.

8. *Application procedures.*

Applications must be submitted to the appropriate EPA Regional Office in duplicate; one copy to the Regional lead program branch and the other to the Regional grants management branch. In the case of electronic applications, if allowed by a particular EPA Regional Office, the applicant should follow the procedures required by the Regional Office for submission of electronic applications. After the formula funding calculations are determined and the funds are transferred to the appropriate EPA Regional account, the Regional Office lead contact person will contact the applicant and discuss the final award allotment. EPA Regional Offices may request the applicant to modify its proposed work plan and cooperative agreement based upon the final cooperative agreement allotment. For Tribal applicants, final negotiations for the award of the grants, including the completion of a final work plan and budget, will be completed after the determination of successful applicants.

9. *Reporting.* Pursuant to 40 CFR 31.40, grantees shall, at a minimum, submit annual performance reports to the appropriate EPA Regional Office. These requirements were approved by the Office of Management and Budget (OMB) under OMB Control Number 2030-0020 (General Administrative Requirement for Assistance Programs). The individual Regional Offices may require that these reports be submitted on a quarterly or semi-annual basis, but not more frequently than quarterly. The specific information contained within the report will include, at a minimum, a comparison of actual accomplishments to the objectives established for the period. Regional Offices may ask for the inclusion of specific data (e.g., providing to EPA-specific address information associated with the abatement notifications that are received by the grantee) as part of the annual performance report from the grantees which may be useful for Agency reporting under the Government Performance and Results Act. It is assumed that any data that is requested to be submitted by the grantee will already have been collected pursuant to the grantee's work plan.

II. What Action is the Agency Taking?

EPA is soliciting applications from States, Territories, Indian Tribes, and Intertribal Consortia for financial assistance for purposes of developing and carrying out EPA-authorized lead-based paint programs. Approximately \$12.5 million dollars is available to fund cooperative agreements with States, Territories, Indian Tribes, and Intertribal Consortia for development and implementation of EPA-authorized lead-based paint programs.

III. Statutory Authority and Regulations

EPA is authorized under TSCA section 404(g) to make grants to develop and carry out authorized lead-based paint programs. Regulations governing these cooperative agreements are found at 40 CFR part 31 (http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr31_00.html) and part 35 (http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr35_00.html).

IV. References

- USEPA, Grants Administration Division. Environmental Program Grants—State, Interstate, and Local Government Agencies; Final Rule. **Federal Register** (66 FR 1726, 1737, January 9, 2001).
- USEPA, Grants Administration Division. Environmental Program

Grants—State, Interstate, and Local Government Agencies; Final Rule; Delay of Effective Date. **Federal Register** (66 FR 9202, February 7, 2001).

3. USEPA, Grants Administration Division. Environmental Program Grants for Tribes; Final Rule. **Federal Register** (66 FR 3782, 3805, January 16, 2001).

4. USEPA, Grants Administration Division. Environmental Program Grants for Tribes; Final Rule; Delay of Effective Date. **Federal Register** (66 FR 9661, February 9, 2001).

5. USEPA, OPPT. Lead; Identification of Dangerous Levels of Lead; Final Rule. **Federal Register** (66 FR 1206, January 5, 2001) (FRL-6763-5).

6. USEPA, OPPT. Model Training Course; Minimizing Lead-Based Paint Hazards During Renovation, Remodeling, & Painting. Instructor Manual (EPA 747-B-00-005); Student Manual (EPA 747-B-00-06) (September 2000).

7. Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, Public Law 105-65, 111 Stat. 1374.

V. Submission to Congress and the Comptroller General

Grant solicitations such as this are considered rules for the purpose of the Congressional Review Act (CRA). The CRA, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally provides that, before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects

Environmental protection, Grants, Lead, Training and accreditation.

Dated: August 1, 2001.

Susan B. Hazen,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 01-20130 Filed 8-9-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[OPPTS-00320; FRL-6796-8]

Baseline Assessment of Existing Exposure and Risks of Exposure to Lead Poisoning of Native American Children; Notice of Funds Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is soliciting applications from Indian Tribes for grants to support an Indian Tribe's baseline assessment of existing exposure and risks of exposure to lead poisoning of Tribal children. EPA is awarding grants which will provide approximately \$1.5 million to Indian Tribes to support these activities. This Notice describes eligibility, activities, application procedures and requirements, and evaluation criteria. **DATES:** All grant applications must be received on or before October 9, 2001.

ADDRESSES: Applications may be submitted by mail. Please follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: *For general information contact:* Barbara Cunningham, Acting Director, Environmental Assistance Division (7401), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554-1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Darlene Watford, Program Assessment and Outreach Branch, National Program Chemicals Division (7404), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260-3989; e-mail address: watford.darlene@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to federally recognized Indian Tribes or Tribal Consortia only. For the purposes of this Notice, a partnership between two or more federally recognized Indian Tribes is considered a consortium. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.