

Environmental Protection Agency

§ 35.4055

§ 35.4030 Can I be part of a TAG group if I belong to an ineligible group?

You may participate in your capacity as an individual in a group receiving a TAG, but you may not represent the interests of an ineligible entity. However, we may prohibit you from participating in a TAG group if the “award official” determines you have a significant financial involvement in a PRP.

§ 35.4035 Does EPA use the same eligibility criteria for TAGs at “Federal facility” sites?

Yes, EPA uses the same criteria found in § 35.4020 in evaluating the eligibility of your group or any group of individuals who may be affected by a release or a threatened release at a Federal facility for a TAG under this subpart.

§ 35.4040 How many groups can receive a TAG at one Superfund site?

(a) Only one TAG may be awarded for a site at any one time. However, the recipient of the grant can be changed when:

(1) EPA and the recipient mutually agree to terminate the current TAG or the recipient or EPA unilaterally terminates the TAG; or

(2) The recipient elects not to renew its grant even though it is eligible for additional funding.

(b) In each of the situations described in paragraph (a) of this section the following information applies:

(1) If you are a subsequent recipient of a TAG, you are not responsible for actions taken by the first recipient, nor are you responsible for how the first recipient expended the funds received from EPA; and

(2) The process for changing recipients begins when an interested applicant submits a Letter of Intent (“LOI”) to the Agency expressing interest in a TAG as described in § 35.4105. We will then follow the application procedure set forth at §§ 35.4105 through 35.4165.

YOUR RESPONSIBILITIES AS A TAG RECIPIENT

§ 35.4045 What requirements must my group meet as a TAG recipient?

Your group, including those groups which form out of a coalition agreement, must incorporate as a nonprofit corporation for the purpose of participating in decision making at the Superfund site for which we provide a TAG. However, a group that was previously incorporated as a nonprofit organization and includes all individuals and groups who joined in applying for the TAG is not required to reincorporate for the specific purpose of representing affected individuals at the site, if in EPA’s discretionary judgment, the group has a history of involvement at the site. You must also:

(a) At the time of award, demonstrate that your group has incorporated as a nonprofit organization or filed the necessary documents for incorporation with the appropriate State agency; and

(b) At the time of your first request for reimbursement or advance payment, submit proof that the State has incorporated your group as a nonprofit organization.

§ 35.4050 Must my group contribute toward the cost of a TAG?

(a) Yes, your group must contribute 20 percent of the total cost of the TAG project unless EPA waives the match under § 35.4055.

(b) Under 40 CFR 30.23, your group may use “cash” and/or “in-kind contributions” (for example, your board members can count their time toward your matching share) to meet the matching funds requirement. Without specific statutory authority, you may not use Federal funds to meet the required match.

§ 35.4055 What if my group can’t come up with the “matching funds?”

(a) EPA may waive all or part of your matching funds requirement if we:

(1) Have not issued the “Record of Decision” (“ROD”) at the last “operable unit” for the site (in other words, if EPA has not already made decisions on the final cleanup actions at the site); and

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(2) Determine, based on evidence in the form of documentation provided by your group, that:

- (i) Your group needs a waiver because providing the match would be a financial hardship to your group (for example, your local economy is depressed and coming up with in-kind contributions would be difficult); and
- (ii) The waiver is necessary to help your community participate in selecting a remedial action at the site.

(b) If your group receives a waiver of the matching funds after your initial award, your grant agreement must be amended.

HOW MUCH MONEY TAGS PROVIDE

§ 35.4060 How much money can my group receive through a TAG?

The following table shows how much money your group can receive through a TAG:

If your group is . . .	Then your initial award will . . .
(a) the first recipient of a TAG at a site or a subsequent recipient at a site where the initial recipient spent the entire award amount.	not exceed \$50,000 per site.
(b) a subsequent recipient at a site with remaining funds from an initial \$50,000 award.	be the unspent amount remaining from an initial from the initial award (for example, if the Agency awarded the first recipient \$50,000 but that recipient only spent \$27,000, then your group's initial award would be \$23,000).

§ 35.4065 How can my group get more than \$50,000?

(a) The EPA regional office award official for your grant may waive your group's \$50,000 limit if your group demonstrates that:

- (1) If it received previous TAG funds, you managed those funds effectively; and
- (2) Site(s) characteristics indicate additional funds are necessary due to the nature or volume of site-related information. In this case, three of the ten factors below must occur:
 - (i) A Remedial Investigation/Feasibility Study ("RI/FS") costing more than \$2 million is performed;
 - (ii) Treatability studies or evaluation of new and innovative technologies are required as specified in the Record of Decision;
 - (iii) EPA reopens the Record of Decision;
 - (iv) The site public health assessment (or related activities) indicates the need for further health investigations and/or health promotion activities;
 - (v) EPA designates one or more additional operable units after awarding the TAG;

(vi) The agency leading the cleanup issues an "Explanation of Significant Differences" (ESD);

(vii) A legislative or regulatory change results in new site information after EPA awards the TAG;

(viii) EPA expects a cleanup lasting more than eight years from the beginning of the RI/FS through construction completion;

(ix) Significant public concern exists, where large groups of people in the community require many meetings, copies, etc.; and

(x) Any other factor that, in EPA's judgment, indicates that the site is unusually complex.

(b) Your group can also receive more than \$50,000 if you are geographically close to more than one eligible site (for example, two or more sites × \$50,000 = grant of \$100,000) and your group wishes to receive funding for technical assistance to address multiple eligible sites.