

(8/12/99)  
EPA Region 9 Policy and Guidelines:  
Informal Process for Resolving Disputes  
Regarding Assistance Agreements with Indian Tribes

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The Environmental Protection Agency (EPA) administers several programs under which grants and other forms of assistance are provided to Indian Tribes. From time to time, disputes may arise regarding EPA assistance agreements with Tribes. Recognizing that one purpose of EPA program grants and other assistance is to enable Tribes to exercise sovereignty, self-governance and self-determination consistent with EPA's trust responsibility to Tribes, it is the policy of EPA Region 9 to resolve disputes with Tribal grantees as quickly as possible, and to do so on a government-to-government basis. The purpose of the following guidelines is to implement this policy<sup>1</sup>:

- A. If a dispute arises regarding an assistance agreement between EPA and an Indian Tribe, every effort should be made to resolve the dispute at the lowest possible level. If a Tribe chooses to, it may follow the following process:
1. Tribal personnel and the EPA Project Officer and/or Grant Specialist should communicate in an attempt to resolve the dispute. This communication may take place over the telephone, in face-to-face meetings or, if the Tribe so desires, in writing (written communication may be via U.S. mail, fax or e-mail).
  2. When a Tribe presents a written statement summarizing the nature of the dispute and the Tribe's position, the EPA Project Officer and/or Grant Specialist shall make every effort to respond in writing within 15 calendar days of receipt of the Tribe's written statement. This written response should summarize the position of the Project Officer and/or Grant Specialist regarding the issue(s) in dispute.
  3. If the dispute is not resolved at that level, Tribal personnel should provide written documentation of the dispute to the Supervisor of the EPA Project Officer and/or Grant Specialist.
  4. The EPA Supervisor shall make every effort to respond, via telephone or

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<sup>1</sup> These guidelines shall have no effect on a Tribal grantee's rights under 40 C.F.R. Sections 31.70 (Uniform Administrative Requirements for Grants and Cooperative Agreements - Disputes), which should be consulted by any Tribal grantee dissatisfied with results under this informal dispute resolution process; nor shall it affect any rights under the Administrative Procedure Act, 5 U.S.C. Sections 551-559, where applicable.

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- face-to-face meeting and in writing, summarizing his or her decision and the reason(s) therefor, within 15 calendar days of contact by the Tribe.
5. If the dispute is not resolved at that level, Tribal personnel should next contact the EPA Assistant Regional Administrator/media Division Director, and provide copies of all written documentation to that person.
  6. The EPA Assistant Regional Administrator/Division Director shall make every effort to respond, via telephone or face-to-face meeting and in writing, within 15 calendar days of contact by the Tribe.
  7. If the dispute is not resolved at that level, Tribal personnel should next contact the Regional Administrator, and provide copies of all written documentation regarding the dispute to that person.
  8. The Regional Administrator shall make every effort to respond, via telephone or face-to-face meeting and in writing, summarizing his or her decision and the reasons therefor, within 15 calendar days of contact by the Tribe.
- B. Although this process provides for informal dispute resolution between Tribal and EPA personnel in stages, the Tribe and/or EPA personnel may, and are encouraged to, request that higher level EPA personnel become involved at any stage.
  - C. Face-to-face meetings between EPA and Tribal personnel are encouraged, as such meetings may aid in the dispute resolution process.
  - D. EPA personnel shall make every effort to ensure that no more than 60 calendar days pass between initial receipt of the Tribe's written statement regarding a dispute and written response from the highest level of EPA personnel to be involved in this informal process. This period may be extended by mutual agreement.
  - E. A Tribal grantee may seek to negotiate for inclusion in a cooperative agreement with EPA, such as a Tribal Environmental Agreement, other or more specific dispute resolution procedures with respect to a particular EPA program or division.