

Memorandum

To: Judith Holm, TEC/WG Co-Chair
Judith Bradbury, PNNL

June 14, 2000

From: Tammy Ottmer, Western Governors' Association
Barbara Byron, Western Governors' Association

Re: Consolidated Grant Input

Attached please find our recommendations for allowable activities for the proposed US DOE Consolidated Grant (Attachment 1) and our suggested mechanisms and principles for allocating these grant funds (Attachment 2). These documents should replace the previous ones sent to you earlier this week.

We request that the TEC/WG Consolidated Grant Committee utilize the activity structure developed and refined in the WIPP Transportation Safety Program as a foundation for developing recommendations for allowable activities under the Consolidated Grant. There is an expectation by the WIPP corridor states that they will see the same allowable activities in the consolidated grant. The WIPP allowable activities were originally presented in two reports to Congress (1989 and 1991). These costs (activities) were formally adopted in the 1997 Memorandum of Agreement (Western Governors' Association and DOE) and the 1999 Memorandum of Agreement with the Southern States Energy Board.

Regarding deriving a formula for distributing these funds, we request that the straw man guidelines developed by the Western Interstate Energy Board High-Level Waste Committee for NWPA Section 180 (c) funds be used as straw man guidelines for the Consolidated Grant. In addition, we believe that DOE should adopt the consolidated grant approach only if it can be demonstrated that such an approach is clearly preferable to the already proven regional approach used by the WGA WIPP Transport Safety program. The WGA regional approach has worked extremely well for Western States and tribes involved with WIPP shipments. The Memorandum of Agreement between DOE and the Western Governors' Association recognizes both the activities in the Reports to Congress and negotiated work plans (\$150 K base). Other DOE transport programs now recognize the regional approach (Cesium-137, Nitric Acid, Foreign Research Reactor Spent Fuel, West Valley shipments) and DOE's protocol process. The regional forum is an effective place for resolving differences and developing compromises among states, tribes and DOE and in reaching consensus on safety issues and activities. The regional approach may be more efficient and effective in addressing issues and problems and administering grants than would a large consolidated approach involving over 40 states and many tribes.

We appreciate the opportunity to provide input into the Consolidated Grant approach. If you have any questions please phone Tammy Ottmer at 303-692-3025 or Barbara Byron at 916-654-4976.

Attachments: 2

Attachment 1

RECOMMENDATIONS FOR ALLOWABLE ACTIVITIES UNDER THE PROPOSED CONSOLIDATED GRANT

How to read this document

The WIPP Transportation Safety Program has several focus areas under which activities are categorized. The key activity areas are shown below as issues. The allowable activities are italicized.

Introductory Comments

Allowable activities in the WIPP Transportation Safety Program have already been utilized successfully in other USDOE shipping campaigns and by the southern and midwestern regions. There is an expectation that these same activities would be allowed under DOE's proposed Consolidated Grant for future nuclear waste shipping campaigns and would apply across the DOE complex.

Maintaining regional forums and activities as "allowable activities" is vital to the successful preparation for large nuclear waste shipping campaigns. For example, the Western Governors' Association WIPP Transport Advisory Group, a regional group of states, tribes, and federal agencies, including DOE, worked cooperatively to develop a model program to help ensure that shipments to WIPP are safe and uneventful. The overall success of the WIPP transport safety program can be attributed to this effective collaboration among affected states, tribes, WGA, and DOE to address transport safety issues and develop this program. The Consolidated Grant approach, if adopted, and if it can be demonstrated to be more effective than regional funding approaches, must maintain regional forums for cooperatively addressing safety issues, independently responding to federal initiatives, and assigning lead states and tribes roles for addressing areas of mutual concern. Regional groups provide the most effective means of addressing mutual state and tribal issues and reflecting state and regional input, policies, and plans as adopted by the Governors.

Regional groups have been established by the Governors and/or the State Legislators specifically to meet their states' needs. In that capacity, regional groups should be the pass through point and have monies for coordination, reports, plan development (Program Implementation Guides and review of DOE Transportation Plans), travel, computers, publication, training, et cetera. Regional groups should continue to participate in federal and professional forums such as EMAB and TEC/WG.

Focus Area 1: Accident Prevention

Issue 1: Ensuring high quality drivers and carrier compliance with regulations and contract requirements

Conduct the WGA Motor Carrier Audit Program (this is an audit program that is entirely separate from audits conducted by USDOE, its contractors, or USDOT. It is conducted by the state in which the carrier's headquarters are located).

Issue 2: Independent inspections of drivers, vehicles, and shipping containers

Participate in CVSA committee activities & provide co-instructors;
Provide training for inspectors; pay for CVSA instruction & course attendee travel expenses;
Conduct inspections at the points-of-origin, destination, and in corridor states (both required and random);
Develop inspection protocols;
Purchase radiological survey instrumentation for inspectors; provide annual calibration & maintenance.

Issue 3: Keeping shipments off the road during bad weather and road conditions

Develop protocols; incorporate into state plans and procedures and updates;
Implement protocols during shipment.

Issue 4: Safe parking during abnormal conditions

Survey potential state-designated safe parking locations; travel
Develop and maintain access protocols;
Implement protocols during shipment.

Issue 5: Advance notice of shipments and access to information on shipment status

Purchase and maintain TRANSCOM computer(s);
Reimburse TRANSCOM line charges;
Phone line access; ISP if internet based;
Maintain dual tracking system; TRANSCOM access by modem as well as by Internet until reliability of new system is proved;
Participate in TRANSCOM training including travel expenses in state or out-of-state.

Issue 6: Routing and Modal Evaluation

Assess potential routes and alternate modes to evaluate risks and safety and compare alternatives;
State designation of alternative preferred routes (costs associated with executing the alternate routing process; this is defined in state regulations and DOT code.)
Assess the relative safety of routes selected;
Develop approach for considering environmental justice issues;
Monitor carrier adherence to selected routes;
Response to DOE/carrier requests for modifications.

Issue 7: Vehicle escorts

Evaluate need for state and local law enforcement agency escort of shipments including political issues, road construction, media issues, large events, cost/benefits, alternative to providing training and equipment, distance out of jurisdiction.

Fund reasonable costs for providing escorts;

Train and maintain escort team to involve other key functions such as public information, security, incident and radiological response.

Focus Area 2: Emergency Preparedness

Issue 1: Mutual aid agreements among neighboring states and written agreements with federal agencies

*Investigate agreements in place; update or revise as needed;
Negotiate new agreements; travel.*

Issue 2: Emergency response plans and procedures

*Conduct a capabilities/vulnerabilities needs assessment for emergency preparedness; provide travel;
Write a state-specific plan; update radioactive sections;
Provide training on the plan including use of protocols; travel for instructors;
Assist in development of local and other state agency plans; travel;
Provide for costs of printing procedures;
Contribute to the overall campaign Transportation Plan.*

Issue 3: Training and retraining of emergency responders

*Evaluate emergency response assessment results;
Design needs based emergency response and medical training and exercise program;
Offer USDOE campaign specific training or other approved courses;
Investigate feasibility of consolidating campaign-specific training into state haz mat training;
Provide training either by contracting with a trainer or through state trainers;
Provide for travel expenses to DOE and other related training forums including Train-the-Trainer courses both in state and out-of-state;
Provide travel expenses for state instructors;
Provide opportunities for training through other federal agencies;
Purchase instructional props/equipment such as computer and multimedia projector, VCR, TV, et cetera;
Develop an exercise program; coordinate with exercise programs offered through other state and federal agencies;
Provide for exercise costs, props, disposables, training aids/equipment.*

Issue 4: Radiation detection and radiation protection equipment

Evaluate needs of emergency response, prehospital and medical communities; travel;
Purchase survey equipment to meet defined needs;
Establish an annual calibration and maintenance program; shipping costs and travel;
Obtain training props;
Replenish disposables: tape, paper, absorbents, Tyvex, gloves.

Issue 5: Medical preparedness

Develop and implement a planning, training, exercise, and equipment program to meet assessed needs; See Issue 3, Focus Area 2.

Focus Area 3: Public Information

Develop a speaker's bureau;
Develop public information materials; provide reproduction costs;
Conduct outreach; provide in-state travel expenses;
Provide travel to USDOE sites for tours, training, and public information; includes chartered airplanes and commercial;
Web site maintenance;
Prepare responses to public, elected and appointed officials, and respond to legislative and gubernatorial requests.

Focus Area 4: Regional Activities

Most allowable activities listed in other focus areas describe State or tribal activities. However, some "allowable activities" are best conducted in regional forums to gain the benefit of collective expertise, address mutual transport safety issues, review and respond to federal initiatives, and avoid duplication of effort. For example, lead states can be assigned responsibility for developing protocols and/or addressing transport safety issues of mutual concern to states and tribes. The allowable activities listed below are a few of these regional activities.

Attend regional association and campaign specific meetings;
Attend other related campaign forums;
Activities to be undertaken by regional forums include:

- *Program Planning: For example, using WIPP Transportation Safety Protocols and Procedures as a model, develop protocols and procedures for other DOE shipping campaigns;*
- *Review major DOE staff policy documents, proposals, objectives and initiatives; provide recommendations on prioritizing DOE transportation activities;*
- *Examine opportunities for state/tribal cooperation in preparation for shipments and emergency response;*
- *Develop and maintain regional policies, procedures, plans and programs.*

- *Review and provide input into key federal and state legislative proposals regarding nuclear waste transport safety and planning;*
- *Discuss important state and tribal activities and initiatives in nuclear waste transport;*
- *Participate in DOE, state and tribal or private (if private facility is approved) plan development and review;*
- *Convene training sessions, conferences and elected/appointed official briefings.*
- *Coordinate and execute the required federal paperwork, oversight and audits;*
- *Provide technical, fiscal, and administrative assistance – fund travel, purchase equipment.*

Focus Area 5: Administration

Personnel

Travel and Meetings

In-state/out-of-state

Specific training opportunities

Related Conferences, e.g., TEC/WG, EMAB;

Professional meetings

Direct Costs

Postage and Delivery (FedEx, UPS)

Software

Phones

TRANSCOM line charges

Rent

Vehicles

Subcontractors such as other state and local agencies or private contracts

Indirect/Overhead rate

Agency declared

Subcontractor charged

Focus Area 6: Discretionary funds

The term “discretionary” infers a subjective decision. The goal of this funding mechanism is to create an opportunity for objectivity. One way to get through the emotions of this term is to hold frank and open discussions up front in the process to eliminate misunderstandings later. The objective is to open as wide a range of menu items. It is then up to the states and tribes, at their discretion, to order from that menu of options.

The topic of equipment is most often the target of discussion. This includes everything from rad equipment, haz mat equipment, computers, cell phones, TVs, VCRs, vehicles and aircraft to public information and emergency response trailers.

Focus Area 7: Program Evaluation

The individual components of the transport safety program should be routinely and rigorously evaluated to reduce redundancy, identify areas needing improvement, and eliminate ineffective or unnecessary protocols or procedures.

Focus Area 8: Expenses Not Covered

Capital improvements, motor vehicles, aircraft.

Attachment 2

SUGGESTED PRINCIPLES AND MECHANISMS FOR ALLOCATING FEDERAL FUNDS UNDER DOE'S PROPOSED CONSOLIDATED GRANT FOR STATE AND TRIBAL PREPARATION FOR DOE NUCLEAR WASTE SHIPMENTS

May 31, 2000

Introduction

The following comments were prepared after consultation with and input received from western state representatives on the Western Governors' Association (WGA) WIPP Transport Advisory Group. After some discussion, it became clear that an overriding principle expressed by western states is that the Consolidated Grant approach should be adopted only if it can be clearly demonstrated that such an approach has clear benefits over the current, highly successful regional approach used by the WGA WIPP Transport Safety program. A series of allowable costs resulted from the DOE-Western Governors' Association Memorandum of Agreement (e.g., work plans). Two reports to Congress (1989 and 1991) defined the scope and process for this planning effort. This process was agreed to in the Memorandum of Agreement of 1997 between DOE and Western Governors.

A second overriding principle is that, in allocating federal funds for preparing for DOE shipments, a beginning strategy would be to use the "straw man" grant allocation guidelines developed by the Western Interstate Energy Board High-Level Waste Committee. These guidelines, developed over years of consultation and deliberation, were officially recommended by Western Governors for use in distributing grant funds under the Nuclear Waste Policy Act (NWPA) Section 180 (c) for state and tribal preparation for spent fuel and high-level waste shipments. The following comments provide an overview of the key principles and proposed mechanisms for allocating funds. The last section of this document addresses key federal, state, and tribal issues that are yet to be resolved.

1. General Principles

Key principles in providing assistance and funding for state and tribal preparation for shipments, as outlined in WGA Policy Resolution 99-014, include:

- It is the responsibility of the generators of spent fuel and high-level waste and the federal government, not states and tribes, to pay for all costs associated with assuring safe transportation, responding effectively to accidents and emergencies, and assuring public health and safety.

- No shipments (e.g., SNF, HLW, TRU) shall be made to storage facilities or a repository until DOE has cooperatively identified shipping routes, and funding and assistance have been made available to states and tribes at least three years prior to the start of shipments.
- Funding formulae must not be based on arbitrarily established DOE criteria, but on state and tribal specific needs assessments that are funded by DOE.
- DOE should provide flexibility for the expenditure of funds by states and tribes pursuant to provisions of each state or tribal plan.
- Regional training advisory teams of states and tribes should be established to review and coordinate plans along shipment corridors; a National Training Advisory Committee should also be established to report to DOE on progress and needed additional actions.

2. Proposed Mechanisms for Allocating Funds

- Implementation grants should be provided annually to states and tribes with 75 percent of the grant funds allocated according to the number of projected “shipment miles” in the jurisdiction (which takes into account both the number of shipments and the shipment mileage along routes) and 25 percent of the funds allocated to ensure minimum funding levels and program capabilities among impacted states and tribes.
- The TEC/WGA Consolidated Grant Topic Group should consider using WIEB’s straw man guidelines for distributing Section 180 (c) funding that recommended a base planning grant of \$150,000 per year.

3. Factors to Be Considered for Determining Impact

- Population living within ½ mile on either side of route; some states advocate widening this to beyond ½ mile to take into consideration that in some rural areas the closest jurisdiction capable of responding to an accident may be located 20-50 miles from the corridor; in addition, broadening the area will more accurately reflect actual population impacted. There is a precedence in this area for emergency planning zones around DOE fixed facilities using 5, 10, 15, 20 mile EPZ’s.
- Schedule and number of shipment –miles (number of shipments times miles along routes)
- Number of jurisdictions impacted, e.g., counties, legally recognized cities, towns and villages; fire and special districts (hospitals).

- Total shipment-miles along “substandard” roads not built to current federal interstate design standards.
- Severe changes in elevation along shipment corridors

4. Conditions or Restrictions for Expenditures

- Regional groups should collectively determine allowable expenses, including instruments;
- States need to provide a plan for preparing the local response community; states may want to consider providing funds directly to local jurisdictions to assist them in planning for shipments.

5. Provisions for Exceptional Cases and Special Needs

- There may be instances/circumstances where a state or tribe determines it is appropriate to provide escorts for shipments. We may need to establish guidelines for providing escorts as well as develop escort protocols.
- Security plans and response capability are needed in some jurisdictions to deal with civil disobedience and/or terrorist or sabotage activities directed against shipments. Law enforcement agencies in these areas would be impacted by shipments and must be assisted in developing security plans and response capability for handling these potential acts of violence directed against shipments.

6. Remaining Issues to Be Addressed by All Parties:

- Most, if not all, western states involved with preparation for WIPP shipments question eliminating the current, highly successful WGA WIPP regional approach and replacing it with a vaguely defined consolidated grant approach tied to a yet-to-be determined funding formula. While we support the TEC/WG exploring alternative options for distributing funds, we question why other potentially effective grant approaches, such as the regional approach, are not being evaluated along with the consolidated grant approach.

The WGA regional approach has worked extremely well for western states and tribes. We have developed a mutually respectful, excellent working relationship with DOE-Headquarters, DOE-Carlsbad, DOE-SRS, TSD, DOT and NRC. The regional forum is an effective place for resolving differences among states and between states and DOE, reaching consensus with DOE on safety issues and activities, and administering individual grants. This team has developed over a decade a valuable core of transport safety policy and planning expertise. The cost of eliminating this approach should be carefully weighed against the potential benefits from the proposed consolidated approach.

- The Consolidated Grant Proposal needs a clear, objective statement of purpose and description of the proposal readily understandable to Governors, Members of Congress, etc. The intent of the Consolidated Grant is broadly defined and the scope is open. We need to address the question of funding sources that will drive the program and how the funds (what portion) will be distributed among DOE, States and tribes.
- Which types of shipments will be covered under the proposed consolidated grant (SNF/HLW, TRU, LLW, SST?);
- What total level of funding will be available to states and tribes?
- How will the total dollars be divided (portion to each) among DOE-Administration, Tribal/Native Americans, and States.
- What level of emergency response preparedness for jurisdictions along corridors is our objective?
- Which states and tribes, and how many state, tribal, and local jurisdictions will be impacted by shipments under the consolidated grant? This number and the estimate of funding sources will help determine reasonable objectives and mechanisms for funding distribution.
- What criteria will be used for determining eligibility for regional groups, states, and tribes for “set-aside” funding?
- Western Governors have recommended that DOE use the WIPP transportation program as a model for transportation planning. How can the WIPP transport model most effectively be used as a baseline approach under the proposed consolidated grant approach?
- Is DOE-EM pursuing flexible funding sources and cooperative agreements from their civilian, power, and defense programs to obtain the level of support needed, assure continued funding, and support applying the WIPP transport safety program to other DOE shipping campaigns?
- Basic questions persist regarding the costs and benefits of the consolidated grant approach compared to the regional grant approach, like the one used for preparation for WIPP shipments. DOE, with state and tribal input, needs to provide a clear comparison of these two approaches.
- The loss of the already proven, highly successful and effective regional administration of DOE funds, e.g., WGA, may outweigh what can be gained through a consolidating approach, e.g., reducing redundancies and overlapping of programs.

- A disproportionate share of the national burden for nuclear waste transportation will be placed on Western states and tribes. How will this discrepancy be taken into consideration in funding distribution, including degradation of highway infrastructure?
- Although a set-aside funding may be acceptable in theory, how much funding would be set aside and how much would remain for distribution to other states and tribes? Would the remaining amount be sufficient to support meaningful transport safety and emergency response preparation programs?
- Some states, e.g., Idaho, would like DOE to explore formula grants using shipment numbers, mileage, and population, and show how the different approaches would affect different states and tribes. We need to know how many states and tribes will be impacted by these shipments. We cannot recommend a funding allocation approach until we can see these comparisons.

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