

**ADMINISTRATIVE APPEAL OF SEPTEMBER 20, 2017 DECISION BY U.S.
ENVIRONMENTAL PROTECTION AGENCY TO TERMINATE GRANT
#CB-96342701 TO BAY JOURNAL MEDIA, INC.**

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INTRODUCTION

Bay Journal Media, Inc. (“Bay Journal Media”) appeals the unlawful termination of its six-year grant awarded in January 2016. Bay Journal Media publishes the *Bay Journal*, an award-winning, highly respected publication that provides the public with critical information on the ecological health of the Chesapeake Bay and the ongoing efforts to improve the conditions in the Bay. The *Bay Journal* has long enjoyed bipartisan support and acclaim from state and local officials, members of Congress, and U.S. Environmental Protection Agency (“EPA” or “the Agency”) leadership.

As set forth below, the termination of the grant is unlawful in multiple respects. The purported basis for the termination (a supposed shift in priorities) is not an allowable reason under applicable law, and, even if it were, the stated basis is unsupported and contradicted by the factual record. There has been no shift in priorities. Moreover, EPA (i) failed to follow proper procedures, (ii) failed to consult with other members of the Chesapeake Executive Council who very much support the continuation of the grant, (iii) acted contrary to the evaluations of the EPA office that oversees the Chesapeake Bay Program, and (iv) ignored the critical role performed by the *Bay Journal* in the Chesapeake Bay Program. The termination was an ill-conceived and poorly executed political decision that may well have been made because of the content of what the *Bay Journal* published. If so, the termination violates not only the Clean Air Act, EPA regulations, and the grant contract, but also the First Amendment to the U.S. Constitution.

Submitted herewith are the documents and supporting materials presently available to Bay Journal Media that support and demonstrate the unlawfulness of the termination. As discussed below, Bay Journal Media believes that there may be other materials relating to the termination that further support its appeal, but which have not been timely provided by EPA in

response to Bay Journal Media’s request for such materials under the Freedom of Information Act (“FOIA”). Accordingly, Bay Journal Media reserves the right to supplement the record for this appeal with any relevant information subsequently provided by the Agency or otherwise made available to Bay Journal Media. Relevant information currently in EPA’s possession concerning the reasons for the grant termination is and should be made a part of the administrative record for this appeal despite the fact that such information has not been provided to Bay Journal Media.

BACKGROUND

I. STATUTORY AND REGULATORY FRAMEWORK FOR GRANTS AWARDED AS PART OF THE CHESAPEAKE BAY PROGRAM.

Efforts to restore and preserve the Chesapeake Bay have been ongoing for more than three decades. In 1983, the Governors of Maryland, Virginia, and Pennsylvania, as well as the Mayor of the District of Columbia, the chairman of the Chesapeake Bay Commission, and the EPA Administrator, signed the first Chesapeake Bay Agreement, a coordinated federal-state effort to reduce pollution and restore the Bay. That agreement has been renewed on a periodic basis and remains in effect today. *See* Chesapeake Bay Watershed Agreement (2014).¹

In 1987, Congress amended section 117 of the Clean Water Act (“Act”) to “ratif[y] the Chesapeake Bay Program, [as] a voluntary partnership among several watershed states and the EPA” that “supported cleanup efforts [of the Bay] by a program of grants and study.” *Am. Farm Bureau Fed’n v. U.S. Env’tl Protection Agency*, 792 F.3d 281, 308 (3d Cir. 2015) (citing 33 U.S.C. § 1267); *see also* Water Quality Act of 1987, Pub. L. No. 100–4, § 117, 101 Stat. 10 (1987). Pursuant to section 117, EPA must maintain a Chesapeake Bay Program Office that is charged, among other things, with “*developing and making available, through publications,*

¹ The Chesapeake Bay Watershed Agreement (2014) is *available at* https://www.chesapeakebay.net/documents/FINAL_Ches_Bay_Watershed_Agreement.withsignatures-HIres.pdf.

technical assistance, and other appropriate means, information pertaining to the environmental quality and living resources of the Chesapeake Bay ecosystem” and “*implementing outreach programs for public information, education, and participation* to foster stewardship of the resources of the Chesapeake Bay.” *See* 33 U.S.C. §§ 1267(a)(5), (b)(2) (emphasis added). As is relevant to this appeal, section 117(d) of the Act further provides for “technical assistance[] and assistance grants” to be administered by the EPA Administrator “[i]n cooperation with the Chesapeake Executive Council,” which is composed of the signatories of the Chesapeake Bay Watershed Agreement. *See* 33 U.S.C. § 1267(d).

EPA has adopted regulations that govern grants awarded pursuant to section 117 and by the Agency more broadly. The regulation governing termination, 2 C.F.R. § 200.339(a), allows termination of a grant by the Agency only in three circumstances:

- (1) if the grantee “fails to comply with the terms and conditions of a Federal award,” *id.* § 200.339(a)(1);
- (2) “for cause,” *id.* § 200.339(a)(2); or
- (3) “with the consent of the [grantee], in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated,” *id.* § 200.339(a)(3).

See also 2 C.F.R. § 1500.1 (Adoption of 2 C.F.R. Part 200); 2 C.F.R. § 200.338 (Remedies for noncompliance) (discussing actions EPA may take if a grantee “fails to comply with Federal statutes, regulations or the terms and conditions of a Federal award,” including “[w]holly or partly suspend or terminate the Federal award” and “[w]ithhold further Federal awards for the project or program”).

The Director of the Chesapeake Bay Program Office has also issued guidance that governs grants awarded pursuant to section 117. *See* U.S. Environmental Protection Agency Chesapeake Bay Program Office 2017 Grant and Cooperative Agreement Guidance

(“Guidance”) (Nov. 8, 2016).² The Guidance provides the “framework to attain successful assistance agreements that work toward achieving the goals set forth in the first Chesapeake Bay Agreement of 1983 and subsequent agreements” and is revised “periodically to incorporate legislative, regulatory, programmatic and/or other relevant changes.” *Id.* at 6. The most recent revision of the Guidance occurred in November 2016.

The Guidance discusses the various types of grants that may be issued pursuant to section 117 and sets forth the applicable legal authorities. The Guidance provides that for grant awards under section 117(d), “EPA policy requires the competitive process be fair and impartial, all applicants be evaluated only on the criteria stated in the announcement, and no applicant receive an unfair competitive advantage.” Guidance at 14. Once a section 117(d) grant is awarded, if the Agency “determines the recipient is not making sufficient progress, EPA may decide to exercise federal actions in accordance with Sub-section I, Post-award Requirements, and/or to not add additional funds to the grant.” *Id.* at 16. Sub-section I, in turn, provides that, in the event of non-compliance by a grantee, the agency may “[w]ithhold” funding or “terminate” the grant. Guidance at 54 (citing 2 C.F.R. § 200.338); *see id.* (EPA may “terminate an award in whole or in part if the recipient fails to comply with the terms and conditions of an award or for cause”) (citing 2 C.F.R. 200.339(a)(1) and (2)).

Neither EPA’s regulations nor the Guidance permit EPA to terminate a section 117(d) grant due to an asserted “shift” in agency priorities.

² The Guidance is available at <https://www.epa.gov/sites/production/files/2016-01/documents/2016cbpograntguidance.pdf>.

II. GRANT CB-96342701 TO BAY JOURNAL MEDIA.

A. The Solicitation Process and Award of Grant CB-96342701 to Bay Journal Media.

The *Bay Journal* is an award-winning independent regional newspaper founded in 1991 with nearly 100,000 print and online readers that has received grants and other funding from EPA since its inception. The newspaper's mission is "to produce and expand high quality, in-depth reporting on environmental issues affecting the Chesapeake Bay watershed, maximizing opportunities to inform our audience and inspire people to protect, restore, and preserve the region's natural and cultural heritage."³ The *Bay Journal's* highly experienced editorial staff objectively covers important scientific issues such as climate change, conservation, pollution, fisheries, energy sources, and politics and policy pertaining to the Bay.

On June 18, 2015, EPA issued a Request for Proposals for a six-year grant award for "publishing the *Bay Journal*, a monthly periodical published to inform the public about issues and events that affect the Chesapeake Bay." EPA, Chesapeake Bay Program Office Fiscal Year 2015 Request for Proposals for *Bay Journal* Support ("RFP") (June 18, 2015) at 1 (attached hereto as Tab 1). The RFP provided that applicants for the grant award "should develop products in a manner consistent with industry standard journalistic practices"; and that the paper "will be developed independent of federal agency input as to editorial content or review except as required for accuracy of information regarding established policies or existing published data." *Id.* at 1, 3-4.

The RFP explained that the Chesapeake Bay Program partnership is "guided at the direction of the Chesapeake Executive Council . . . , which, through its leadership, establishes the policy direction for the restoration and protection of the Chesapeake Bay." *Id.* at 2. To that end,

³ <http://www.bayjournal.com/chesapeakemediaservice>.

the RFP required grant applicants to address the partnership's goal of creating Engaged Communities, as set forth in the 2014 Chesapeake Bay Watershed Agreement. *Id.* at 4. The RFP further provided for the review and evaluation of grant proposals based on multiple criteria by a panel of EPA reviewers in conjunction with other Chesapeake Bay Program partner organizations. *Id.* at 18.

In describing the funding for the award, the RFP explained that the "activity is a multi-year project (up to six years), and the proposal should have a work plan and budget for the first year and an estimated budget detail for each of the subsequent five years." *Id.* at 4. The RFP continued: "Funding for the activity listed above is approximately \$300,000 to \$350,000 annually for Fiscal Year 2016 through Fiscal Year 2021, depending on funding availability, satisfactory performance, and other applicable considerations." *Id.* at 7. The RFP made clear that if the Agency "decides to partially fund a project," it would do so in a manner that does not "prejudice the applicant" and would "therefore maintain[] the integrity of the competition and selection process." *Id.* at 8.

There was no provision in the RFP that would permit EPA to terminate the grant award due to an asserted "shift" in the Agency's priorities.

In January 2016, following the competitive process outlined in the RFP, Bay Journal Media⁴ was awarded a \$1.95 million, six-year grant from EPA, with an additional \$1.5 million to be matched by other grants to Bay Journal Media from non-EPA sources. *See* Cooperative Agreement (Jan. 20, 2016) at 3 (attached hereto as Tab 2). Under the Cooperative Agreement, an initial \$350,000 was slated for distribution in February 2016, with the remaining \$1.6 million

⁴ The grant was awarded to Chesapeake Media Service Inc., which has since changed its name to Bay Journal Media, Inc.

“contingent upon *availability*.” *Id.* at 1 (emphasis added).⁵ The Cooperative Agreement underscores that this contingency is due to the funding of the grant through a Congressional appropriation whose availability may fluctuate and that “[i]n the event that additional Federal funds are not *made available*, the recipient agrees that each of the object class amounts in the approved budget shall be prorated.” *Id.* at 4 (emphasis added). It is within this context that the Cooperative Agreement states that the Agency’s funding of the grant is “contingent upon satisfactory progress, as certified by the EPA Project Officer, the availability of funds, and EPA priorities. It is understood that the scope of work will be renegotiated to reflect the amount awarded, *if additional funds are not available*.” *Id.* at 5 (emphasis added).

Congress has continued to appropriate funds for the Chesapeake Bay Program and its grants, and the funding level has remained unchanged since the award of the grant to Bay Journal Media in January 2016. EPA made two distributions of \$350,000 to Bay Journal Media, the first in February 2016 and the second in February 2017.

B. EPA’s Repeated, Glowing Evaluations of Bay Journal Media’s Grant Performance.

Bay Journal Media has received two evaluations from EPA, on November 7, 2016, and April 5, 2017, of its performance under the 2016 grant. Both times, the Agency commended the “[c]ontinued outstanding work in producing independent editorial and news content” as well as “[e]xcellent production in meeting the grant requirements and establishing the standard for coverage of Chesapeake Bay related issues.” *See* EPA Project Officer Post-Award Evaluation Protocol (Nov. 7, 2016) (“November 2016 Evaluation”) at 5, 12 (attached hereto as Tab 4); EPA Project Officer Post-Award Evaluation Protocol (Apr. 5, 2017) (“April 2017 Evaluation”) at 5,

⁵ The budget furnished to EPA as part of the grant award process provided that Bay Journal Media would receive the following amounts from the Agency over time: \$350,000 (2016); \$350,000 (2017); \$325,000 (2018); \$325,000 (2019); \$300,000 (2020); \$300,000 (2021). *See* Narrative Proposal: Response to EPA-R3-CBP-15-06 at 5 (attached hereto as Tab 3).

12 (attached hereto as Tab 5). Both evaluations likewise found that Bay Journal Media had satisfied all statutory and regulatory requirements, explaining that the grant is “in support of the 2014 Chesapeake Bay Watershed Agreement – Water Quality – to reduce pollutants to achieve the water quality necessary to support the aquatic living resources of the Bay and its tributaries and protect human health; as well as all of the remaining goals outlined in the agreement.” *See* November 2016 Evaluation at 10; April 2017 Evaluation at 9.

Following the latest grant evaluation, Bay Journal Media received an email from the Agency’s grant officer on July 25, 2017, “to confirm, based on your 5-year budget detail, \$325k is your expectation for funding starting in Feb 2018. Then again \$325k in Feb 2019 and \$300k in Feb 2020 and Feb 2021.” *See* Email correspondence between Tom Wenz (EPA) and Karl Blankenship (Bay Journal Media) regarding 2018-2019 Funding (July 25-26, 2017) (attached hereto as Tab 6). The next day the grant officer went further, emailing Bay Journal Media to say EPA is “in the process of forward funding your ’18 funds prior to the end of this fiscal year.” *Id.* By all appearances, on July 26, 2017—less than one month before EPA notified Mr. Blankenship that the grant was being terminated—EPA was going so far as to set funds aside to ensure the *Bay Journal* was to be funded in 2018.

C. EPA’s Termination of Grant CB-96342701.

On August 23, 2017, EPA advised Bay Journal Media by a three-sentence email that it was terminating the grant “[d]ue to a shift in priorities.” *See* Email from Diana Esher (EPA) to Karl Blankenship (Bay Journal Media) regarding Notification of Funding Decision on Grant Award (Aug. 23, 2017) (attached hereto as Tab 7). EPA’s three-sentence email did not set forth Bay Journal Media’s appeal rights. On September 20, 2017, following notice by Bay Journal Media that it would contest the termination through the Agency’s administrative appeals process, EPA provided Bay Journal Media with an Agency Decision, stating once again that it was

terminating the grant “because of a change in Agency priorities,” but without any explanation of what that change was or how it was legally permissible. *See* Email from Diana Esher (EPA) to Karl Blankenship (Bay Journal Media) regarding Appeal Notice re: Grant CB-96342701 (Sept. 20, 2017) (attached hereto as Tab 8). The Agency Decision went on to explain that it was *not* a termination for “failure to comply with the terms of [the] grant” and that, consequently, “there will be no adverse effect on Chesapeake Media’s consideration for future Federal funding.” *Id.*

Notwithstanding EPA’s consistent glowing evaluations of Bay Journal Media and the *Bay Journal*, an EPA spokesperson stated that the Agency was “focused on ensuring taxpayer funds are spent responsibly on programs that yield tangible results to protect clean air, land, and water.” *See* Email from Amy Graham (EPA) to Lara Lutz (Bay Journal Media) regarding Re: Comments requested for the Bay Journal - on deadline for 6 p.m. today (Sept. 22, 2017) (attached hereto as Tab 9).

D. EPA Had Charged a Political Appointee with Reviewing Grants.

In a sharp departure from past practice, EPA had charged a political appointee in the Office of Public Affairs, John Konkus, with reviewing the Agency’s grants, including the *Bay Journal*’s grant. The *Washington Post* reported in September 2017 that Trump administration appointees in the Office of Public Affairs have reviewed every EPA grant and grant solicitation and have canceled almost \$2 million worth of grants to nonpartisan research universities and nonprofits.⁶ *See* Juliet Eilperin, “EPA now requires political aide’s sign-off for agency awards, grant applications,” *Wash. Post* (Sept. 4, 2017) (attached hereto as Tab 10). Troubled by this evidence of political interference in the grant-making process, the Center for American Progress and the Union of Concerned Scientists requested that the EPA inspector general investigate

⁶ https://www.washingtonpost.com/politics/epa-now-requires-political-aides-sign-off-for-agency-awards-grant-applications/2017/09/04/2fd707a0-88fd-11e7-a94f-3139abce39f5_story.html?utm_term=.b8d6bfd29141.

EPA’s grant-making process in order to determine, among other things, whether Mr. Konkus and other EPA staff were making decisions in the grant-making processes consistent with statutory requirements and EPA’s own policies, and whether political criteria had impermissibly been used in grant decisions.⁷ *See* Letter from Kathleen Rest (Union of Concerned Scientists) and Christy Goldfuss (Center for American Progress) to Arthur A. Elkins, Jr. (EPA) (Sept. 14, 2017) (attached hereto as Tab 11).

In an earlier letter to EPA Administrator Scott Pruitt, Senator Tom Carper, ranking member of the Environment and Public Works committee, asked for detailed information about the ways in which EPA grants are being solicited and reviewed. *See* Letter from Tom Carper (U.S. Senate) to Scott Pruitt (EPA) (Aug. 24, 2017) (attached hereto as Tab 12). Senator Carper raised the concern that involving a political appointee in the grant-making process “raises concerns that EPA may be planning to politicize the types of grants EPA awards or the recipients thereof.” *Id.* To our knowledge, EPA has not issued a response to the Senator’s letter.

E. The Chesapeake Bay Program, the Bay, and the *Bay Journal* Necessarily Remain Clear Priorities for EPA.

EPA cannot have “change[d] its priorities” with respect to the *Bay Journal*, because there has been no change to EPA’s statutory obligations, to the priorities of the Chesapeake Executive Council, or to the 2014 Chesapeake Bay Watershed Agreement. As explained above, Congress amended the Act to create the Chesapeake Bay Program as a unique partnership between EPA, the watershed states, and the Chesapeake Bay Commission. Congress imposed certain obligations on the Agency, including that EPA’s Chesapeake Bay Program Office “through *publications*” provide information to the public related to the “environmental quality and living resources of the Chesapeake Bay ecosystem.” *See* 33 U.S.C. §§ 1267(a)(5), (b)(2) (emphasis

⁷ https://cdn.americanprogress.org/content/uploads/2017/09/13155826/EPA-IG-Letter-re-grantmaking_final.pdf.

added). The statute also requires that EPA administer the Chesapeake Bay Program “[i]n cooperation” with the Chesapeake Executive Council. *Id.* at § 1267(b)(1). These statutory obligations are unchanged.

Further, the priorities of the Chesapeake Executive Council, with which EPA is required to “cooperat[e],” have not changed. Multiple entities on the Chesapeake Executive Council have written to EPA Administrator Pruitt to protest the termination of the grant to Bay Journal Media. The Chesapeake Bay Commission, which is a member of the Chesapeake Executive Council, wrote that it was “unaware of any change in priorities” and that “there was no consideration of this decision by the Bay Program Partnership.” *See* Letter from Garth D. Everett, Tawanna Gaines, and L. Scott Lingamfelter (Chesapeake Bay Commission) to Scott Pruitt (EPA) (attached hereto as Tab 13). The Commission’s letter, which was signed by a bipartisan group of state legislators from Maryland, Virginia, and Pennsylvania (watershed states that are also members of the Chesapeake Executive Council), described the *Bay Journal* as “the gold-standard for objective, science-based information about the Bay for all of us, leaders and stakeholders alike” that is an “independent source of information [that] has provided objectivity and called for accountability at all levels;” and requested that EPA reconsider its “unilateral decision” to terminate the grant. *Id.* The Local Government Advisory Commission of the Chesapeake Executive Council echoed these sentiments in another letter to Administrator Pruitt, praising the *Bay Journal* as a “vital resource for unbiased information about the Chesapeake Bay watershed” and requesting that the grant be restored. *See* Letter from Bruce R. Williams (Local Government Advisory Committee) to Administrator Pruitt (EPA) (Sept. 5, 2017) (attached hereto as Tab 14).

The 2014 Chesapeake Bay Watershed Agreement is also unchanged. That agreement calls on the signatories to connect with environmental stewards and encourage future local

leaders to keep the restoration effort moving forward. As EPA itself has said, “The *Bay Journal* plays an integral part through its products by raising public awareness of issues and fostering an emotional connection within the communities of the Bay watershed.” RFP at 4.

In October 2017, Maryland’s Senators Ben Cardin and Chris Van Hollen wrote a letter to EPA Administrator Pruitt asking the Agency to reverse its decision to terminate the *Bay Journal* grant. The Senators opined that the journal has “done a sterling job of delivering returns on investments,” and that there was “no legitimate cause to deprive the residents of the Chesapeake Bay watershed of such a vital source of information.” *See* Letter from Benjamin L. Cardin and Chris Van Hollen (U.S. Senate) to Scott Pruitt (EPA) (Oct. 18, 2017) (attached hereto as Tab 15).

ARGUMENT

I. EPA ACTED CONTRARY TO STATUTE AND IN EXCESS OF ITS STATUTORY AUTHORITY UNDER THE ACT BY UNILATERALLY TERMINATING THE GRANT.

Section 1267 of the Act unequivocally requires the Administrator to act “[i]n cooperation with” the Chesapeake Executive Council in continuing the Chesapeake Program, of which the *Bay Journal* publication is a part, and in “provid[ing]” federal assistance grants to nonprofit organizations. 33 U.S.C. §§ 1267(b)(1), (d).⁸ By requiring “cooperation” with the Chesapeake Executive Council, the statute necessarily deprives EPA of the authority to act unilaterally in these matters, without consulting with the Council. In interpreting a federal statute, each word

⁸ Section 1267(d) provides that “[i]n cooperation with the Chesapeake Executive Council,” the Administrator may provide grants to nonprofit organizations “subject to such terms and conditions as the Administrator considers appropriate.” This provision, which allows the Administrator to impose “terms and conditions” on grants to nonprofits, does not mean the Administrator can ignore the other requirements of the statute requiring cooperation, nor does it give the Administrator free rein to terminate grants for any reason whatsoever.

must be given effect, and unless otherwise indicated, the plain, ordinary definition of the terms of the statute must be applied.⁹

In this case, EPA failed to even notify—much less “cooperate” with—the Chesapeake Executive Council prior to deciding to terminate the *Bay Journal*’s grant. See Tab 13. Although section 1267(d) mentions “provid[ing]” grants and not “terminating” them, to the extent these are considered distinct actions, there is nothing to suggest that cooperation is required in the case of the former but not the latter. Indeed, a contrary reading would conflict with the cooperative federalism approach Congress adopted to protect the Bay. The requirement that EPA must “cooperat[e]” with the Council in providing grants would be completely gutted were EPA to have the authority after cooperating with the Council to provide the grant to then terminate that grant without so much as notifying the Council. That interpretation also would fly in the face of EPA’s broader duty to cooperate with the Council to support the Chesapeake Bay Program as a whole. Accordingly, by making the decision unilaterally, EPA plainly acted in excess of its statutory authority governing grants for the Chesapeake Bay Program under the Act. EPA’s termination of the grant is unlawful and should be revoked.

Finally, without the *Bay Journal*, EPA will fail to meet its statutory obligations under section 1267(b)(2)(B)(ii) of the Act to “develop[] and mak[e] available, through publications, technical assistance, and other appropriate means, information pertaining to the environmental quality and living resources of the Chesapeake Bay ecosystem.” 33 U.S.C. § 1267(b)(2)(B)(ii).

⁹ See *Reiter v. Sonotone Corp.*, 442 U.S. 330, 339 (1979) (explaining that when “construing a statute we are obliged to give effect, if possible, to every word Congress used”) (citations omitted). In addition, courts generally adopt the dictionary definitions of statutory or regulatory terms to establish their plain meaning. See e.g., *Cuomo v. Clearing House Ass’n, L.L.C.*, 557 U.S. 519, 539 (2009) (reasoning that when a statute “does not define [a term] . . . the ordinary meaning of the words chosen by Congress provides the starting point for interpreting the statute”); *Asgrow Seed Co. v. Winterboer*, 513 U.S. 179, 187 (1995) (“When terms used in a statute are undefined, we give them their ordinary meaning.”). The ordinary, dictionary definition of cooperate is to “to act or work with another or others.” Merriam Webster, <https://www.merriam-webster.com/dictionary/cooperate>.

II. EPA’S POSITION THAT THE REGULATIONS PERMIT A TERMINATION OF A FEDERAL AWARD BASED ON A “SHIFT IN PRIORITIES” IS WITHOUT A LEGAL BASIS.

The regulations governing the termination of EPA grants, 2 C.F.R. § 200.339(a), allow termination in only three circumstances: (1) where the grantee fails to comply with the conditions of the award; (2) where the grantee consents to termination; and (3) for cause. EPA expressly stated the termination was not for Bay Journal Media’s failure to comply with the terms of the grant (Tab 8), and, of course, Bay Journal Media did not consent to the termination. That leaves only the third circumstance—“for cause”—as justification for the termination. The term “for cause” is not defined in the regulations, however, any reasonable definition of “cause” does not include a “shift in priorities.”

A. As a Preliminary Matter, EPA Misinterprets and Misapplies the “Shift in Priorities” Language in the Cooperative Agreement.

EPA’s stated reason for the termination—an alleged “shift in priorities”—is presumably drawn from section 5 of the Cooperative Agreement, which provides that the Agency “will consider funding the balance of the budget request contingent upon satisfactory progress, . . . the availability of funds, and EPA priorities.” Cooperative Agreement at 5. EPA plucks that phrase—“EPA priorities”—out of context and gives it a meaning belied by the Cooperative Agreement when read as a whole and by the regulations.

The “EPA priorities” language must be read in the context of the incremental funding of the grant and the contingent availability of future federal money. Under the Cooperative Agreement, an initial \$350,000 was slated for distribution in February 2016, with the remaining \$1.6 million “contingent upon *availability*,” with the contingency being a Congressional appropriation that may fluctuate. *Id.* at 1, 4 (emphasis added). In the section that immediately follows, the Cooperative Agreement provides that the grant is “contingent upon satisfactory

progress, as certified by the EPA Project Officer, the availability of funds, and EPA priorities,” concluding that “[i]t is understood that the scope of work will be renegotiated to reflect the amount awarded *if additional funds are not available.*” *Id.* at 5 (emphasis added). In interpreting the terms of a contract, attention must be paid to the context in which the terms appear. *See, e.g., Hartford Fire Ins. Co. v. Clark*, 562 F.3d 943, 946 (8th Cir. 2009) (explaining that courts “must consider the context in which contract terms are used to ascertain their meaning and determine whether they are ambiguous”). And furthermore, an interpretation that nullifies portions of the agreement will not be given effect. *See, e.g., CP III Rincon Towers, Inc. v. Cohen*, 666 F. App’x 46, 51 (2d Cir. 2016) (noting that it “is well-established that we disfavor readings of a contract that render provisions of an agreement superfluous”).

The phrase “EPA priorities” does not allow termination, much less provide a blanket, standalone basis for grant termination at the whim of the Agency. To the contrary, there must be some connection to the availability of funds for the continuation of the award. And EPA has not suggested that such connection exists here.

B. EPA’s Interpretation That Its Regulations Permit the Agency To Terminate a Grant Based on a “Shift in Priorities” is Erroneous.

EPA’s interpretation that its regulations permit the agency to terminate the *Bay Journal* grant based on a “shift in priorities”—as EPA interprets that phrase—is erroneous and inconsistent with the regulations EPA has adopted to govern its awards. The regulations, 2 C.F.R. § 200.339, set forth only three grounds for termination—for cause, by consent, or for the grantee’s failure to comply with the grant’s conditions—none of which apply here.

EPA’s interpretation that the Agency can terminate an award at will, for any reason apart from the three laid out in the regulation, where there has been no change in the availability of funding that has been appropriated by Congress, renders meaningless the regulations on

termination that EPA has adopted. If EPA could terminate a grant because it is no longer a “priority” for the Agency to fund those activities, there would be no need for the provision allowing the Agency to terminate for cause or by consent.

EPA’s termination of the grant is also inconsistent with its own guidance document. In discussing remedies available to EPA for non-compliance, the Guidance notes that the Agency may “terminate an award in whole or in part if the recipient fails to comply with the terms and conditions of an award or for cause.” Guidance at 54 (citing 2 C.F.R. 200.339(a)(1) and (2)). But the Guidance likewise says nothing about termination because of a shift in priorities.

III. EPA’S TERMINATION WAS UNLAWFUL BECAUSE THE AGENCY PROVIDED NO EXPLANATION FOR ITS DECISION.

EPA’s termination of the *Bay Journal* grant was unlawful because the Agency “failed to provide any coherent explanation for its decision.” *Fox v. Clinton*, 684 F.3d 67, 69 (D.C. Cir. 2012). On August 23, 2017, Diana Esher with EPA Region 3 sent Mr. Blankenship a four-line email that stated, “Due to a shift in priorities, EPA has decided not to provide funds for your project.” Tab 7. On September 20, 2017, Ms. Esher sent a follow-up email to Mr. Blankenship that Ms. Esher stated constituted the Agency Decision to terminate the grant. Tab 8. The September 20 email provided the same reason for the grant termination as stated in the August email—“the reason for the Agency Decision not to provide incremental annual funding for this grant is because of a change in Agency priorities.” *Id.*

EPA provided no further explanation for its decision to terminate the grant other than the vague and conclusory statement that EPA has shifted its priorities. EPA did not explain how or why the *Bay Journal* grant is no longer a “priority” for the Agency or what new “priorities” have supplanted the activities of the *Bay Journal*. Because the Agency action to terminate the grant is

without any reasoned or coherent explanation beyond a vague and conclusory statement about changing priorities, it is arbitrary and unlawful.

In *International Union, United Mine Workers of America v. United States Department of Labor*, the D.C. Circuit found the decision of the Mine Safety and Health Administration to withdraw a proposed air quality rule to be arbitrary and capricious because the agency had said its decision to withdraw the rule “was the result of changes in agency priorities,” without any further explanation. 358 F.3d 40, 42-44 (D.C. Cir. 2004). The Court explained that the agency “must provide an explanation that will enable the court to evaluate [its] rationale *at the time of the decision.*” *Id.* at 44 (emphasis added) (internal quotation marks omitted). The agency had not done so and its purported “explanation” was “not informative in the least.” *Id.* The same is true here.

To the extent the Agency provided any non-perfunctory explanation of the termination, it came after-the-fact, from a public relations spokesperson. In response to a press inquiry by the *Bay Journal* specifically asking EPA to “provide a more detailed explanation of the priorities that have changed,” EPA spokesperson Amy Graham stated by email dated September 22, 2017 that, “[w]e are focused on ensuring taxpayer funds are spent responsibly on programs that yield tangible results to protect clean air, land, and water, and as part of that effort, funding for the Bay Journal will now go back into the Chesapeake Bay program to fund other Chesapeake Bay grants.” Tab 9. As a threshold matter, this post-hoc explanation for the termination—that the *Bay Journal* does not “yield tangible results to protect clean air, land, and water”—cannot cure the arbitrariness of the Agency Decision, which itself is bare of any explanation beyond the “shift in priorities” language. *See International Mine Workers*, 358 F.3d at 44. *See City of*

Kansas City, Mo. v. Dep't of Hous. & Urban Dev., 923 F.2d 188, 194 (D.C. Cir. 1991) (“a post hoc rationalization for agency action” is not “evidence of reasoned decisionmaking”).

Furthermore, the statement by the EPA spokesperson that the *Bay Journal* does not “yield tangible results” is unsupported. Tab 9. Where is the evidence that the dissemination of scientific and educational information concerning the Chesapeake Bay does not produce “tangible results”? EPA reached the opposite conclusion recently in April 2017, for example, when the Agency credited the *Bay Journal* with “inspir[ing] effective action by individuals, groups, organizations, and all levels of government to restore, protect, and preserve the cultural and natural heritage of the Chesapeake Bay region.” April 2017 Evaluation at 2. Congress also recognized the importance to the Bay’s health of providing information about the Bay to the public, by requiring EPA’s Chesapeake Bay Program Office to undertake the task of “developing and making available, through publications, technical assistance, and other appropriate means, information pertaining to the environmental quality and living resources of the Chesapeake Bay ecosystem.” 33 U.S.C. § 1267(b)(2)(B)(ii).

IV. EPA’S STATED REASON FOR TERMINATING THE GRANT—“SHIFT IN PRIORITIES”—IS UNSUPPORTED AND CONTRADICTED BY THE RECORD.

EPA’s decision to terminate the grant is illegal because its only stated reason in the Agency Decision—“shift in priorities”—is contradicted by the record. *See, e.g., City of Kansas City*, 923 F.2d at 189 (HUD’s decision to terminate grant funding to the City of Kansas was not based on a “reasoned interpretation” of the applicable law and was “arbitrary and capricious” because “the record . . . [showed] no reasoned decision-making justifying HUD’s termination” of the grant); *Clark Cnty., Nev. v. Fed. Aviation Admin.*, 522 F.3d 437, 441-42 (D.C. Cir. 2008) (vacating an Federal Aviation Administration informal adjudication decision where the “record available to this Court actually support[ed] the *opposite* conclusions”).

There has been no shift in priorities. There has been no congressional action or change to the statutory requirement that EPA’s Chesapeake Bay Program Office “develop[] and mak[e] available, through publications, . . . information pertaining to the environmental quality and living resources of the Chesapeake Bay ecosystem” and “implement[] outreach programs for public information, education, and participation.” *See* 33 U.S.C. § 1267(b)(2)(B)(ii), (B)(v). Further, there have been no meetings, discussions, or decisions by and between the various bodies participating in the Chesapeake Bay Program concerning the *Bay Journal* no longer being a “priority” for the Agency. Indeed, the Chesapeake Bay Commission, a member of the Chesapeake Executive Council, has written to EPA that it was “unaware of any change in priorities” and that “there was no consideration of this decision by the Bay Program Partnership.” Tab 13 at 1. Finally, EPA continues to link to the *Bay Journal*—and not any other publications—on its website as a means to “Connect with the Bay.” *See* <https://www.epa.gov/aboutepa/epa-region-3-mid-atlantic> (last visited Nov. 20, 2017); <https://www.epa.gov/chesapeake-bay-tmdl> (last visited Nov. 20, 2017).

V. EPA UNLAWFULLY IGNORED RELEVANT AND IMPORTANT FACTORS IN TERMINATING THE GRANT.

As discussed above, EPA’s decision to terminate the grant is unlawful because a “shift in priorities” is not a factor that may properly be considered by the Agency in terminating a Program grant. EPA also failed to consider a number of other, relevant and important factors, in its decision. *See* U.S. *Dep’t of State v. Coombs*, 482 F.3d 577, 581 (D.C. Cir. 2007). For example, EPA did not consider or address any of the following:

- The impact of its decision on the Chesapeake Bay Program;
- The views of the Chesapeake Executive Council;
- The impact of its decision on the ability of signatories to the Chesapeake Bay Watershed Agreement to meet their obligations under that agreement;

- The views of the EPA Chesapeake Bay Program Office, which is charged by statute with “implementing outreach programs for public information, education, and participation to foster stewardship of the resources of the Chesapeake Bay” (33 U.S.C. § 1267(b)(2)(B)(v));
- The performance of the *Bay Journal* to date; and
- The relationship and importance of the *Bay Journal* to the Chesapeake Bay Program.

EPA’s failure to acknowledge—much less consider—the vital role the *Bay Journal* plays in the Chesapeake Bay Program provides yet another basis for revoking the termination.

VI. TO THE EXTENT EPA’S TERMINATION OF THE GRANT WAS POLITICALLY MOTIVATED AND CONSTITUTED UNLAWFUL RETALIATION AGAINST THE *BAY JOURNAL*, IT VIOLATED THE FIRST AMENDMENT.

Because EPA has not timely responded to the pending FOIA request, Bay Journal Media cannot be privy to the entirety of the actual reasons for the termination. However, given the absence of a reasoned explanation for the decision and the fact that the stated reason of “shift in priorities” is both insufficient under applicable regulations and factually unsupported, it is fair to ask, “what is the real reason?” And given that this matter involves an independent newspaper whose grant was unilaterally terminated (i) without any reasons that are even remotely supported by the facts, (ii) in a decision that according to reports was made by a political appointee, (iii) against the views of the Chesapeake Bay Program Office itself, and (iv) without consultation with, and against the wishes of other members of the Council, it is also fair to ask, “was it because of the content the *Bay Journal* published?” If so, the termination is not only arbitrary and capricious, but also unconstitutional.

It is axiomatic that state action designed to retaliate against and chill political expression strikes at the heart of the First Amendment. Once the initial showing is made that the protected conduct was a “substantial” or “motivating” factor in the actor’s decision, the burden shifts to the

actor to establish by a preponderance of the evidence that it would have reached the same decision even in the absence of the protected conduct. *Mt. Healthy City Sch. Dist. Bd. of Educ. v. Doyle*, 429 U.S. 274, 287 (1977). The First Amendment protects government contractors whose contracts are terminated in retaliation for their exercise of freedom of speech. *See Bd. of Cnty. Comm'rs, Wabaunsee Cnty., Kan. v. Umbehr*, 518 U.S. 668, 678-79 (1996).

The publication of the *Bay Journal* is a protected activity under the First Amendment and if its content was a substantial or motivating factor in the decision by EPA to terminate the grant, the Agency violated the First Amendment. Indeed, it may have been the only factor because there is no other reasonable explanation for why EPA would abruptly terminate funding for a journal that the Agency has funded for more than 25 years, where Congress has appropriated the money, EPA has given the grantee only the highest marks for its performance, and the Agency office charged with administering the Chesapeake Bay Program supported the grant.¹⁰

VII. EPA'S FAILURE TO TIMELY PRODUCE DOCUMENTS RESPONSIVE TO A PENDING FOIA REQUEST NECESSITATES SUPPLEMENTATION OF THE RECORD.

On September 22, 2017, the *Bay Journal* submitted a FOIA request (EPA-HQ-2017-011741) seeking documents related to EPA's termination of the *Bay Journal's* grant. *See* Letter from Karl Blankenship (Bay Journal Media) to National Freedom of Information Officer (EPA) (Sept. 22, 2017) (attached hereto as Tab 16). The request identified a small number of specific search terms and was limited to only six custodians. Pursuant to statute, the Agency's response was due 20 days later.

¹⁰ To the extent the content of the *Bay Journal* was not a motivating factor behind EPA's decision to terminate the grant, but the decision was still made for political reasons or was the result of political influence on the grant-making process, the decision is no less unlawful. In such circumstance, EPA's decision to terminate the grant, while not unconstitutional, would be arbitrary and capricious.

On October 31, 2017, counsel for the *Bay Journal* contacted EPA's Office of General Counsel to inquire about the Agency's response to the September 22 FOIA request. Counsel was told that the request had been routed to EPA's Office of Public Affairs for processing and that they should contact an individual in that office for further information regarding the request. Following a number of voice and email correspondence to the individual at EPA, the EPA representative suggested—and then withdrew—November 6 and November 8 as dates for calls to discuss the request. On November 7, 2017, after counsel advised the EPA representative by email of the journal's need for the documents due to the upcoming November 20 deadline in the grant termination administrative appeal, the EPA representative wrote to say that the Agency was “drafting correspondence regarding next steps” and offered to “set up a time to discuss” following receipt of that correspondence. *See* Email from Candace White (EPA) to Erika D. Norman (Arnold & Porter Kay Scholer LLP) and Karl Blankenship (Bay Journal Media) regarding RE: Bay Journal FOIA (Nov. 7, 2017) (attached hereto as Tab 17). By November 13, 2017, no correspondence had been received from the Agency, and Bay Journal Media filed a FOIA lawsuit against EPA. *See* Complaint for Injunctive Relief, *Bay Journal Media, Inc. v. U.S. Env't'l Protection Agency*, No. 1:17-cv-02441 (D.D.C. Nov. 13, 2017) (attached hereto as Tab 18). As of the date of the filing of this administrative appeal, no further correspondence has been received from the Agency concerning the FOIA request.

Bay Journal Media fully expects that documents responsive to its September 22 FOIA request will provide further information in support of the arguments made in this appeal. It would be fundamentally unfair to allow EPA to withhold production of the information past the statutory deadline and then deny Bay Journal Media the right to use it later. By law, the information should have been produced weeks ago. Accordingly, Bay Journal Media fully

intends to seek to amend and supplement this administrative appeal in a timely manner following the production of documents in response to Bay Journal Media's September 22 FOIA request. Bay Journal Media also intends to seek to use any such information in any further appeal proceeding. EPA, as the current guardian of this information, cannot be prejudiced by its later use. To that end, Bay Journal Media reserves the right to supplement the administrative record for this appeal with any relevant information subsequently provided by the Agency or otherwise made available to Bay Journal Media.

RELIEF REQUESTED

Based on the foregoing, Bay Journal Media requests that the Agency Decision terminating grant number CB-96342701 be reversed, and the six-year grant to Bay Journal Media be immediately reinstated retroactive to the date of the improper termination, September 20, 2017.

EXHIBIT LIST

TAB	DESCRIPTION
1	EPA, Chesapeake Bay Program Office Fiscal Year 2015 Request for Proposals for <i>Bay Journal</i> Support (June 18, 2015)
2	Cooperative Agreement (Jan. 20, 2016)
3	Narrative Proposal: Response to EPA-R3-CBP-15-06
4	EPA Project Officer Post-Award Evaluation Protocol (Nov. 7, 2016)
5	EPA Project Officer Post-Award Evaluation Protocol (Apr. 5, 2017)
6	Email correspondence between Tom Wenz (EPA) and Karl Blankenship (Bay Journal Media) re 2018-2019 Funding (July 25-26, 2017)
7	Email from Diana Esher (EPA) to Karl Blankenship (Bay Journal Media) re Notification of Funding Decision on Grant Award (Aug. 23, 2017)
8	Email from Diana Esher (EPA) to Karl Blankenship (Bay Journal Media) re Appeal Notice re: Grant CB-96342701 (Sept. 20, 2017)
9	Email from Amy Graham (EPA) to Lara Lutz (Bay Journal Media) re Re: Comments requested for the Bay Journal - on deadline for 6 p.m. today (Sept. 22, 2017)
10	Juliet Eilperin, "EPA now requires political aide's sign-off for agency awards, grant applications," <i>Wash. Post</i> (Sept. 4, 2017)
11	Ltr. from Kathleen Rest (Union of Concerned Scientists) and Christy Goldfuss (Center for American Progress) to Arthur A. Elkins, Jr. (EPA) (Sept. 14, 2017)
12	Ltr. from Tom Carper (U.S. Senate) to Scott Pruitt (EPA) (Aug. 24, 2017)
13	Ltr. from Garth D. Everett, Tawanna Gaines, and L. Scott Lingamfelter (Chesapeake Bay Commission) to Scott Pruitt (EPA)
14	Ltr. from Bruce R. Williams (Local Government Advisory Committee) to Administrator Pruitt (EPA) (Sept. 5, 2017)
15	Ltr. from Benjamin L. Cardin and Chris Van Hollen (U.S. Senate) to Scott Pruitt (EPA) (Oct. 18, 2017)
16	Ltr. from Karl Blankenship (Bay Journal Media) to National Freedom of Information Officer (EPA) (Sept. 22, 2017)
17	Email from Candace White (EPA) to Erika D. Norman (Arnold & Porter Kay Scholer LLP) and Karl Blankenship (Bay Journal Media) re RE: Bay Journal FOIA (Nov. 7, 2017)
18	Complaint for Injunctive Relief, <i>Bay Journal Media, Inc. v. U.S. Env't'l Protection Agency</i> , No. 1:17-cv-02441 (D.D.C. Nov. 13, 2017)

TAB 1

OVERVIEW

AGENCY: U.S. Environmental Protection Agency (EPA)

TITLE: Chesapeake Bay Program Office Fiscal Year 2015 Request for Proposals for *Bay Journal* Support

ANNOUNCEMENT TYPE: Request for Proposals (RFP)

RFP NUMBER: EPA-R3-CBP-15-06

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 66.466

IMPORTANT DATES

June 18, 2015	Issuance of RFP
August 3, 2015	Proposal Submission Deadline (see Section IV for more information)
September 4, 2015	Approximate date for EPA to notify applicants of results
October 5, 2015	Approximate date for applicant to submit federal grant application
February 1, 2016	Approximate date of award

EPA will consider all proposals that are submitted via Grants.gov by 5:00 EDT on August 3, 2015. Any proposals submitted after the due date and time will not be considered for funding. No proposals will be accepted by facsimile or e-mail. EPA will only accept proposals submitted via Grants.gov, except in limited circumstances where applicants have no or very limited Internet access (see section IV.).

SUMMARY

The U.S. Environmental Protection Agency's (EPA) Chesapeake Bay Program Office (CBPO) is announcing a Request for Proposals (RFP) for applicants to provide the Chesapeake Bay Program (CBP) partners with a proposal for publishing the *Bay Journal*, a monthly periodical published to inform the public about issues and events that affect the Chesapeake Bay. The *Bay Journal* is published monthly with the exception of mid-summer and mid-winter, for a total of 10 issues each year. It is distributed free of charge, has a circulation of approximately 25,000, and is a member of the Associated Press. Content is also distributed through an electronic news service and posted to the *Bay Journal* website (www.bayjournal.com) with timely submissions of news, information and feature stories produced during the time period between the hard copy publications. This RFP is seeking cost-effective proposals from eligible applicants to provide the content for publication of the *Bay Journal* as well as the electronic news service and *Bay Journal* website to raise public awareness of issues surrounding the Chesapeake Bay.

CBP partners include federal agencies, seven watershed jurisdictions, and many non-federal organizations; however, work funded under this RFP will support the seven watershed

jurisdictions and other non-federal partners. The seven watershed jurisdictions are Delaware, the District of Columbia, Maryland, New York, Pennsylvania, Virginia, and West Virginia.

FUNDING/AWARDS: This RFP will cover the project period up to and including six years from an expected start date of February 1, 2016. CBPO plans to award one grant to carry out all activities under this RFP. The total estimated funding for six years is approximately \$1,800,000 to \$2,100,000, with an estimated \$300,000 to \$350,000 available for the first year and each additional year. There is no guarantee of funding throughout this period or beyond.

FULL TEXT OF ANNOUNCEMENT

I. Funding Opportunity Description

II. Award Information

III. Eligibility Information

IV. Proposal and Submission Information

V. Proposal Review Information

VI. Award Administration Information

VII. Agency Contacts

VIII. Other Information (Appendices)

I: FUNDING OPPORTUNITY DESCRIPTION

A. Background

1. About the Chesapeake Bay Program

The Chesapeake Bay is North America's largest and most biologically diverse estuary. A resource of extraordinary productivity, it is worthy of the highest levels of protection and restoration. Authorized by Section 117 of the Clean Water Act, CBP is responsible for supporting the Chesapeake Executive Council through a number of actions, including the coordination of federal, state, and local efforts to restore and protect living resources and water quality of the Chesapeake Bay and its watershed. Section 117 also authorizes EPA to provide assistance grants to support the goals of the program.

CBP is a unique regional partnership that has led and directed the restoration of the Chesapeake Bay since 1983. The CBP partners include the states of Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia; the District of Columbia; the Chesapeake Bay Commission, a tri-state legislative body; EPA, representing the federal government; and participating citizen, local government, and scientific and technical advisory groups.

The CBP partnership is guided at the direction of the Chesapeake Executive Council (Executive Council), which, through its leadership, establishes the policy direction for the restoration and protection of the Chesapeake Bay and exerts its leadership to rally public support for the Bay effort and signs directives, agreements, and amendments that set goals and guide policy for Chesapeake Bay restoration.

The Principals' Staff Committee (PSC) acts as the senior policy advisors to the Executive Council, accepting items for their consideration and approval and setting agendas for Executive Council meetings. The PSC also provides policy and program direction to the Management Board.

The Management Board provides strategic planning, priority setting, and operational guidance through implementation of a comprehensive, coordinated, accountable implementation strategy for the CBP. It directs and coordinates all of the goal teams and workgroups under it.

The Goal Implementation Teams (GITs) includes federal and non-federal experts from throughout the watershed. Thus, academic experts, advocacy organizations, and others become active members of the broad restoration partnership.

Pursuant to Section 117(b)(2) of the Clean Water Act, 33 USC 1267 (b)(2), CBPO is the office within EPA charged with providing support to the Council in the restoration and protection of the Chesapeake Bay. CBPO and CBP mentioned above are two distinct entities.

2. 2014 Chesapeake Bay Watershed Agreement and Executive Order 13508

On June 16, 2014, the Chesapeake Executive Council, CBP's governing body signed a new voluntary Chesapeake Bay agreement (referred to as *Chesapeake Bay Watershed Agreement* throughout this RFP) that will guide the CBP partnership's work into the future. For the first time, Delaware, New York, and West Virginia signed the agreement as full CBP partners in the overall effort. This agreement is one of the most comprehensive restoration plans developed for the Chesapeake region, providing greater transparency and accountability of all CBP partners. With 10 interrelated goals and 31 outcomes, this watershed-wide accord advances the restoration, conservation, and protection of all the lands and waters within the 64,000-square-mile watershed by promoting sound land use, environmental literacy, stewardship, and a diversity of engaged citizens. Additionally, the goals and outcomes aim to better protect and restore the Chesapeake Bay's living resources, water quality, and vital habitats. The new *Chesapeake Bay Watershed Agreement* also recognizes the unique and vital role local governments play and how they are essential to the restoration effort.

This grant will help fulfill the *Chesapeake Bay Watershed Agreement's* Stewardship goal and its outcomes.

B. Scope of Work

This RFP is seeking cost-effective proposals from eligible applicants for producing appropriate content and publishing and distributing the *Bay Journal* periodical newspaper, as well as for distribution through an electronic news service and posting to the *Bay Journal* website to raise public awareness of issues surrounding the Chesapeake Bay. Products should include news stories, feature stories, editorials, digital imagery and other appropriate multimedia to support the production of the hard copy newspaper as well as electronic news service distribution and posting to the website. The successful applicant should develop products in a manner consistent with industry standard journalistic practices that comply with the standards of the Associated Press Stylebook and are readily adaptable in both print and electronic news delivery. Products

will be developed independent of federal agency input as to editorial content or review except as required for accuracy of information regarding established policies or existing published data.

While the CBP partnership is comprised of federal and non-federal organizations, any activities funded under this RFP will not directly benefit the federal partners.

CBPO plans to award one grant to carry out all activities under this RFP. The estimated funding for six years is approximately \$1,800,000 to \$2,100,000, with an estimated \$300,000 to \$350,000 available for the first year and each additional year.

If your organization has an interest in this project, has the skills to accomplish the activities, and is eligible to receive a federal assistance agreement as described in Section III of this announcement, we encourage you to submit a proposal. Each eligible proposal will be evaluated using the criteria described in Section V. The activity is a multi-year project (up to six years), and the proposal should have a work plan and budget for the first year and an estimated budget detail for each of the subsequent five years.

Applicants must address each activity listed below in their proposal.

Activity 1: Expert production of content for distribution through the *Bay Journal* and posting on the *Bay Journal* website

The partners of the Chesapeake Bay Program established a goal of creating Engaged Communities as spelled out in the *2014 Chesapeake Bay Watershed Agreement*. The agreement calls on the partnership to connect with environmental stewards and encourage future local leaders to keep the restoration effort moving forward. The *Bay Journal* plays an integral part through its products by raising public awareness of issues and fostering an emotional connection within the communities of the Bay watershed.

The following are examples of the types of tasks required to carry out Activity 1. Applicants may consider these tasks as well as describe alternative approaches to providing the requested support. Applicants are encouraged to describe how they would support efforts to progressively enhance the production of media content for distribution through the printed *Bay Journal*, an electronic news service and posting to the *Bay Journal* website.

Produce articles appropriate to support production of the *Bay Journal*, distribution through an electronic news service and the *Bay Journal* website.

- Research and prepare copy appropriate for either the *Bay Journal* periodical, an electronic news distribution service, or the *Bay Journal* website. Content should focus on Chesapeake Bay Program partnership issues, progress and methods to achieve Chesapeake Bay and watershed restoration and protection as outlined in the goals of the *2014 Chesapeake Bay Watershed Agreement*.
- Develop news stories and features that are factual and consistent with journalistic and Associated Press Stylebook standards.

- Develop editorials that are clearly marked as being the opinion of the author and not the CBP partnership, its members, or as the official position of any federal agency.

Produce digital media appropriate to support production of the *Bay Journal*, distribution through an electronic news service and the *Bay Journal* website.

- Either in support of articles or as stand-alone products, professionally generate digital media, including photographs, graphics, videos, animations or other multimedia, appropriate for inclusion in the printed *Bay Journal* periodical, the electronic *Bay Journal* website, or for release through an electronic news service.
- Produce photographs and videos that meet established industry norms and are credited in accordance with the standards of the Associated Press Stylebook.
- Produce digital media for the printed *Bay Journal* periodical that is easily transferable to the *Bay Journal* website.

Activity 2: Distribution of hard copies of the *Bay Journal* periodical publication throughout the Chesapeake Bay watershed and electronic distribution of associated content.

In order to meet the desire of the CBP partnership to raise public awareness of issues surrounding the Chesapeake Bay watershed, information contained in the *Bay Journal* should be distributed through the most effective manner that will reach the intended audience. It is impractical and not cost-effective to generate hard copies of the *Bay Journal* periodical for each of the nearly 18 million residents of the watershed; therefore, maximum use of electronic distribution is needed, accompanied by a highly targeted distribution of the hard copy.

The following are examples of the types of tasks required to carry out Activity 2. Applicants may consider these tasks as well as describe alternative approaches to providing the requested support.

Publish and distribute hard copies of the *Bay Journal* periodical to the public.

- Consistent with current industry standards for editorial layout and design, compile associated content from Activity 1 to publish and distribute up to 25,000 hard copies of up to 10 issues (28-40 pages) per year for distribution to the public.
- Arrange for or provide professional printing of the periodical.
- Arrange for or provide professional mail processing, shipping and delivery of the periodical.

Electronically distribute and track *Bay Journal* articles and digital media through an electronic news service and the *Bay Journal* website.

- Establish or use an existing electronic news distribution service to share content with appropriate news agencies in order to maximize coverage of issues surrounding Chesapeake Bay restoration efforts.
- Track use of articles distributed through the electronic news service to determine to the extent possible the audience reach of the media outlets through which the articles are published.

- Utilize email distribution systems for interested subscribers to receive an electronic version of the *Bay Journal* periodical and/or articles distributed through the electronic news service.
- Host and maintain the *Bay Journal* website with timely content and design consistent with established industry practices.
- Use social media platforms to expand reach and draw traffic to the *Bay Journal* website.

Obtaining Additional Information

For additional background information on the CBP achievements and commitments, see the CBP Partnership's website located at <http://www.chesapeakebay.net/> or call 1-800-YOUR-BAY to receive information by mail.

C. EPA Strategic Plan Linkage & Anticipated Outcomes and Outputs

Pursuant to Section 6a of EPA Order 5700.7, "Environmental Results under EPA Assistance Agreements," EPA must link proposed assistance agreements to the Agency's Strategic Plan. EPA also requires that grant applicants and recipients adequately describe environmental outputs and outcomes to be achieved under assistance agreements (see EPA Order 5700.7, Environmental Results under Assistance Agreements, <http://www.epa.gov/ogd/grants/award/5700.7.pdf>).

1. Linkage to EPA's Strategic Plan

The overall objective of this grant is to protect and restore the Chesapeake Bay ecosystem through increased public awareness and public engagement in addressing water-quality restoration goals and Chesapeake Bay restoration efforts. Under EPA's FY2014–2018 Strategic Plan (see: <http://www2.epa.gov/planandbudget/strategicplan>), this objective supports Strategic Goal #2: Protecting America's Waters; Objective 2.2: Protect and Restore Watersheds and Aquatic Ecosystems; specifically, Improve the Health of the Chesapeake Bay Ecosystem. The project funded under this announcement must be linkable to these strategic goals.

2. Outputs

The term "output" means an environmental activity, effort, and/or associated work product related to an environmental goal and objective that will be produced or provided over a period of time or by a specified date. Outputs may be quantitative or qualitative but must be measurable during an assistance agreement funding period. Expected outputs from the project(s) to be funded under this announcement may include the following:

Activity 1:

- Sufficient number of news stories, features and editorials produced for the *Bay Journal* periodical, distribution through an electronic news service and posting to the *Bay Journal* website;
- Sufficient amount of appropriate digital media produced to support the *Bay Journal*, electronic news service and *Bay Journal* website.

Activity 2:

- Publish up to 10 issues (28-40 pages) of the *Bay Journal* periodical annually, with up to 25,000 hard copies for distribution to the public;
- Number of articles and digital media posted electronically;
- Track *Bay Journal* articles and digital media through an electronic news service;
- Host and maintain the *Bay Journal* website;
- Number of emails maintained in email distribution systems for distributing an electronic version of the *Bay Journal* periodical and/or articles;
- Use social media platforms to expand reach and draw traffic to the *Bay Journal* website.
- Increased traffic to the *Bay Journal* website.

Progress reports and a final report will also be required outputs as specified in Section VI.C., Reporting, of this announcement.

3. Outcomes

The term “outcome” means the result, effect, or consequence that will occur from carrying out an environmental program or activity that is related to an environmental or programmatic goal or objective. Outcomes may be qualitative and environmental, behavioral, health-related, or programmatic in nature but must also be quantitative. They may not necessarily be achievable within an assistance agreement funding period. An example of an outcome under this proposal is increased public awareness and commitment that would result in improving aquatic health of the Chesapeake Bay watershed. Another potential outcome is increased number and diversity of trained and mobilized citizen volunteers with the knowledge and skills needed to enhance the health of their local watersheds.

D. Authorizing Statutes and Regulations

The grant made as a result of this announcement is authorized under the Clean Water Act, Section 117(d). Under Section 117(d) (1) of the Act, EPA has the authority to issue grants and cooperative agreements for the purposes of protecting and restoring the Chesapeake Bay's ecosystem. This project is subject to the Office of Management and Budget' (OMB) Uniform Grants Guidance (2 CFR Part 200) and EPA-specific provisions of the Uniform Grants Guidance (2 CFR Part 1500).

II: AWARD INFORMATION

A. Funding Amount and Expected Number of Awards

CBPO plans to award one grant under this RFP. Funding for the activity listed above is approximately \$300,000 to \$350,000 annually for Fiscal Year 2016 through Fiscal Year 2021, depending on funding availability, satisfactory performance, and other applicable considerations. The total estimated funding for six years is approximately \$1,800,000 to \$2,100,000.

EPA reserves the right to reject all proposals and make no award under this announcement.

EPA reserves the right to make additional awards under this announcement, consistent with Agency policy and guidance, if additional funding becomes available after the original selection is made. Any additional selection for awards will be made no later than six months after the original selection decision.

B. Award Type

Successful applicants will be issued a grant rather than a cooperative agreement as appropriate. A cooperative agreement is an assistance agreement that is used when there is substantial federal involvement with the recipient during the performance of an activity or project. EPA awards cooperative agreements for those projects in which it expects to have substantial interaction with the recipient throughout the performance of the project. EPA does not have the authority to select employees or contractors employed by the recipient. The final decision on the content of reports rests with the recipient. For the award issued under this RFP, products will be developed independent of federal agency input as to editorial content or review except as required for accuracy of information regarding established policies or existing published data.

C. Partial Funding

In appropriate circumstances, EPA reserves the right to partially fund proposals by funding discrete portions or phases of proposed projects. If EPA decides to partially fund a project, it will do so in a manner that does not prejudice the applicant or affect the basis upon which the proposal or portion thereof was evaluated and selected for award and therefore maintains the integrity of the competition and selection process.

D. Expected Project Period

The expected project period for the grant is six years, with funding provided on an annual basis. No commitment of funding can be made beyond the first year. The expected start date for the award resulting from this RFP is **February 1, 2016**.

E. Pre-Award Costs

Recipients may incur otherwise eligible and allowable pre-award costs up to 90 days prior to award at their own risk without prior approval of EPA's award official. Pre-award costs must comply with 2 CFR 200.458 and 2 CFR 1500.8. If EPA determines that the requested pre-award costs comply with the relevant authorities, and that the costs are justified as allocable to the project, then these costs may be included as allowable expenditures at the time that the assistance award document is prepared.

However, if for any reason EPA does not fund the proposal or the amount of the award is less than the applicant anticipated, then EPA is under no obligation to reimburse the applicant for these costs incurred. Thus, applicants incur pre-award costs at their own risk. Costs incurred more than 90 days prior to award require the approval of EPA Region 3's grant official.

III: ELIGIBILITY INFORMATION

A. Eligible Applicants

Nonprofit organizations, state and local governments, colleges, universities, and interstate agencies are eligible to submit proposals in response to this RFP. For-profit organizations are not eligible to submit proposals in response to this RFP.

B. Cost-Share or Matching Requirements

Pursuant to Clean Water Act 117(d)(2)(A), the agency shall determine the cost-share requirements for awards. The CFDA Number 66.466 states that assistance agreement applicants must commit to a cost-share ranging from 5 percent to 50 percent of eligible project costs as determined at the sole discretion of EPA. For this RFP, EPA has determined that an applicant must provide a minimum of five percent of the total cost of the project as the non-federal cost-share.

Cost-share may be in the form of cash or in-kind contributions. Involvement from foundations, watershed groups, private sector, eligible governmental, as well as non-conventional partners can help with the match. This match must be met by eligible and allowable costs and is subject to the match provisions in grant regulations. Proposals that do not demonstrate how the five percent match will be met will be rejected.

C. Threshold Eligibility Criteria

Only proposals from eligible entities (see Section III.A above) that meet the following threshold eligibility criteria will be evaluated against the criteria in Section V.B. Applicants must meet the following threshold criteria to be considered for funding. Applicants deemed ineligible for funding consideration as a result of the threshold eligibility review will be notified in writing within 15 calendar days of the ineligibility determination.

1. Proposals must substantially comply with the proposal submission instructions and requirements set forth in Section IV of this announcement or else they will be rejected. Where a page limit is expressed in Section IV with respect to the narrative proposal, pages in excess of the page limitation will not be reviewed.
2. In addition, initial proposals must be submitted through www.grants.gov as stated in Section IV of this announcement (except in the limited circumstances where another mode of submission is specifically allowed for as explained in Section IV) on or before the proposal submission deadline published in Section IV of this announcement. Applicants are responsible for following the submission instructions in Section IV of this announcement to ensure that their proposal/application is timely submitted.
3. Proposals submitted after the submission deadline will be considered late and deemed ineligible without further consideration unless the applicant can clearly demonstrate that it was late due to EPA mishandling or because of technical problems associated

with [Grants.gov](https://www.grants.gov) or relevant [SAM.gov](https://www.sam.gov) system issues. An applicant's failure to timely submit their proposal/application through [Grants.gov](https://www.grants.gov) because they did not timely or properly register in [SAM.gov](https://www.sam.gov) or [Grants.gov](https://www.grants.gov) will not be considered an acceptable reason to consider a late submission. Applicants should confirm receipt of their proposal with Tim Roberts at roberts.timothy-p@epa.gov (see Section VII, Agency Contact) as soon as possible after the submission deadline—failure to do so may result in your proposal not being reviewed.

4. The project funded under this announcement must be linked to the strategic goal outlined in Section I.C.1.
5. For a proposal to be considered eligible for funding, substantive project-related work included in the proposal must take place within the Chesapeake Bay watershed, which includes portions of Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia, and all of the District of Columbia.
6. Proposals must show how they will meet the five percent cost-share requirement described in Section III.B.
7. Proposals requesting funding for more than \$350,000 for the first year or more than \$2,100,000 for the full six years will be rejected.
8. Proposals must address all activities in Section I.B. of this RFP to be considered.
9. If a proposal is submitted that includes any ineligible tasks or activities, that portion of the proposal will be ineligible for funding and may, depending on the extent to which it affects the proposal, render the entire proposal ineligible for funding.

IV: APPLICATION AND SUBMISSION INFORMATION

A. How to Obtain a Proposal Package

Applicants can download individual grant application forms from [Grants.gov](https://www.grants.gov).

B. Content and Form of Proposal Submission

Each proposal will be evaluated using the criteria referenced in Section V.B. of this announcement. You must submit a single-spaced proposal of up to 12 pages in length by the date and time specified in Section IV.C below. The format for this proposal is contained in Appendix A of this announcement. Review the directions for the preparation of the proposal. Proposals that are not prepared in substantial compliance with the requirements in Appendix A will not be considered for funding and will be returned to the applicant.

The proposal package **must** include all of the following materials:

1. **Standard Form (SF)-424, Application for Federal Assistance** – Complete the form. There are no attachments. Please be sure to include organization fax number and email address in Block 8 of SF-424. Please note that the organizational Dunn and Bradstreet (D&B) Data Universal Number System (DUNS) number must be included on the SF-424. Organizations may obtain a DUNS number at no cost by calling the toll-free DUNS number request line at 1-866-705-5711 or visiting their website at <http://fedgov.dnb.com/webform>.
2. **SF-424A, Budget Information** – Complete the form. There are no attachments. The total amount of federal funding requested for the project period should be shown on line 5(e) and on line 6(k) of SF-424A, the amount of indirect costs should be entered on line 6(j). The indirect cost rate (i.e., a percentage), the base (e.g., personnel costs and fringe benefits), and the amount should also be indicated on line 22.
3. **Narrative Proposal** – The format for this proposal is contained in Appendix A of this announcement. Review the directions for the preparation of the proposal.

Requirements for Narrative Proposal — See Appendix A

All proposal review criteria in Section V must be addressed in the proposal. The proposal shall not exceed 12 pages in length. Pages refer to one side of a single-spaced, typed page. Font size should be no smaller than 10 and the proposal must be submitted on 8 ½" x 11" paper. Note that the 12 pages include all supporting materials, including budget, budget detail, resumes or curriculum vitae and letters of support. With the exception of documentation of non-profit status, cost-share letters of commitment, and the SF-424, if you submit more than 12 pages, the additional pages will be discarded and will not be reviewed. See Appendix A for additional instructions.

C. Intergovernmental Review

Applicants must comply with the Intergovernmental Review Process and/or consultation provisions of Section 204, Demonstration Cities and Metropolitan Development Act, if applicable, which are contained in 40 CFR Part 29. This program is eligible for coverage under Executive Order (EO) 12372, An Intergovernmental Review of Federal Programs. An applicant should consult the office or official designated as the single point of contact in his or her state for more information on that state's required process for applying for assistance if the state has selected the program for review. Single Points of Contact can be found at <http://www.whitehouse.gov/omb/grants/spoc.html>. Further information regarding this requirement will be provided if your proposal is selected for funding.

D. Funding Restrictions

Administrative Cost Cap Requirement under Statutory Authority

Grantees applying for CBP assistance agreements must adhere to the requirements for “Administrative Costs” under the Clean Water Act, Section 117 (d)(4), which states that administrative costs shall not exceed 10 percent of the annual grant award (annual grant award = federal share plus cost-share). **Appendix B: Administrative Cost Cap Worksheet** is provided

as an example of a method to calculate the 10-percent limitation. You are not required to submit Appendix B with your proposal.

Allowable Costs

EPA assistance agreement funds may only be used for the purposes set forth in the grant and must be consistent with the statutory authority for the award. Federal funds may not be used for cost sharing for other federal grants (except where authorized by statute), lobbying, or intervention in federal regulatory or adjudicatory proceedings. In addition, federal funds may not be used to sue the federal government or any other government entity. All costs identified in the budget must conform to the provisions of 2 CFR Part 200, Subpart E, Cost Principles. During the grant negotiation, any ineligible costs outlined in the proposal (i.e. lobbying activities) will be excluded in the final grant award.

E. Requirement to Submit Through Grants.gov and Limited Exception Procedures

Applicants, except as noted below, must apply electronically through [Grants.gov](https://www.grants.gov) under this funding opportunity based on the grants.gov instructions in this announcement. If an applicant does not have the technical capability to apply electronically through grants.gov because of limited or no internet access which prevents them from being able to upload the required application materials to [Grants.gov](https://www.grants.gov), the applicant must contact OGDWaivers@epa.gov or the address listed below in writing (e.g., by hard copy, email) at least 15 calendar days prior to the submission deadline under this announcement to request approval to submit their application materials through an alternate method.

Mailing Address:
OGD Waivers
c/o Barbara Perkins
USEPA Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Ave., N. W.
Mail Code: 3903R
Washington, DC 20460

Courier Address:
OGD Waivers
c/o Barbara Perkins
Ronald Reagan Building
1300 Pennsylvania Ave., N.W.
Rm # 51267
Washington, DC 20004

In the request, the applicant must include the following information:

- Funding Opportunity Number (FON)
- Organization Name and DUNS
- Organization's Contact Information (email address and phone number)

- Explanation of how they lack the technical capability to apply electronically through Grants.gov because of 1) limited internet access or 2) no internet access which prevents them from being able to upload the required application materials through www.Grants.gov.

EPA will only consider alternate submission exception requests based on the two reasons stated above and will timely respond to the request -- all other requests will be denied. If an alternate submission method is approved, the applicant will receive documentation of this approval and further instructions on how to apply under this announcement. Applicants will be required to submit the documentation of approval with any initial application submitted under the alternative method. In addition, any submittal through an alternative method must comply with all applicable requirements and deadlines in the announcement including the submission deadline and requirements regarding proposal content and page limits (although the documentation of approval of an alternate submission method will not count against any page limits).

If an exception is granted, it is valid for submissions to EPA for the remainder of the entire calendar year in which the exception was approved and can be used to justify alternative submission methods for application submissions made through December 31 of the calendar year in which the exception was approved (e.g., if the exception was approved on March 1, 2015, it is valid for any competitive or non-competitive application submission to EPA through December 31, 2015). Applicants need only request an exception once in a calendar year and all exceptions will expire on December 31 of that calendar year. Applicants must request a new exception from required electronic submission through Grants.gov for submissions for any succeeding calendar year. For example, if there is a competitive opportunity issued on December 1, 2015 with a submission deadline of January 15, 2016, the applicant would need a new exception to submit through alternative methods beginning January 1, 2016.

Please note that the process described in this section is only for requesting alternate submission methods. All other inquiries about this announcement must be directed to the Agency Contact listed in Section VII of the announcement. Queries or requests submitted to the email address identified above for any reason other than to request an alternate submission method will not be acknowledged or answered.

F. Submission Instructions

The electronic submission of your application must be made by an official representative of your institution who is registered with Grants.gov and is authorized to sign applications for Federal assistance. For more information on the registration requirements that must be completed in order to submit an application through grants.gov, go to <http://www.grants.gov> and click on “Applicants” on the top of the page and then go to the “Get Registered” link on the page. If your organization is not currently registered with Grants.gov, please encourage your office to designate an Authorized Organization Representative (AOR) and ask that individual to begin the registration process as soon as possible. Please note that the registration process also requires that your organization have a DUNS number and a current registration with the System for Award Management (SAM) and the process of obtaining both could take a month or more. Applicants must ensure that all registration requirements are met in order to apply for this opportunity through grants.gov and should ensure that all such requirements have been met well

in advance of the submission deadline. Registration on grants.gov, SAM.gov, and DUNS number assignment is FREE.

To begin the application process under this grant announcement, go to <http://www.grants.gov> and click on “Applicants” on the top of the page and then “Apply for Grants” from the dropdown menu and then follow the instructions accordingly. Please note: To apply through Grants.gov, you must use Adobe Reader software and download the compatible Adobe Reader version. For more information about Adobe Reader, to verify compatibility, or to download the free software, please visit <http://www.grants.gov/web/grants/support/technical-support/software/adobe-reader-compatibility.html>.

You may also be able to access the application package for this announcement by searching for the opportunity on <http://www.grants.gov>. Go to <http://www.grants.gov> and then click on “Search Grants” at the top of the page and enter the Funding Opportunity Number, EPA-R3-CBP-15-06, or the CFDA number that applies to the announcement (CFDA 66.466), in the appropriate field and click the Search button. Alternatively, you may be able to access the application package by clicking on the Application Package button at the top right of the synopsis page for the announcement on <http://www.grants.gov>. To find the synopsis page, go to <http://www.grants.gov> and click “Browse Agencies” in the middle of the page and then go to “Environmental Protection Agency” to find the EPA funding opportunities.

Proposal Submission Deadline

Your organization’s AOR must submit your complete proposal electronically to EPA through Grants.gov (<http://www.grants.gov>) no later than 5 p.m. EDT on **August 3, 2015**. Please allow for enough time to successfully submit your application process and allow for unexpected errors that may require you to resubmit.

Please submit *all* of the application materials described below using the grants.gov application package that you downloaded using the instructions above. For additional instructions on completing and submitting the electronic application package, click on the “Show Instructions” tab that is accessible within the application package itself.

If you have not received a confirmation of receipt from EPA (*not from Grants.gov*) within 30 days of the proposal/application deadline, please contact the person listed in Section VII of this announcement. Failure to do so may result in your proposal/application not being reviewed.

Application Materials

The following forms and documents are required under this announcement:

1. Application for Federal Assistance (SF-424)
2. Budget Information for Non-Construction Programs (SF-424A)
3. Narrative Proposal (Project Narrative Attachment Form) – prepared as described in Section IV.B. of the announcement

G. Technical Issues With Submission

1. Once the application package has been completed, the “Submit” button should be enabled. If the “Submit” button is not active, please call Grants.gov for assistance at 1-800-518-4726. Applicants who are outside the U.S. at the time of submittal and are not able to access the toll-free number may reach a Grants.gov representative by calling 606-545-5035. Applicants should save the completed application package with two different file names before providing it to the AOR to avoid having to re-create the package should submission problems be experienced or a revised application needs to be submitted.

2. Submitting the application. The application package must be transferred to Grants.gov by an AOR. The AOR should close all other software before attempting to submit the application package. Click the “submit” button of the application package. Your Internet browser will launch and a sign-in page will appear. ***Note: Minor problems are not uncommon with transfers to Grants.gov. It is essential to allow sufficient time to ensure that your application is submitted to Grants.gov BEFORE the due date identified in Section IV of the solicitation.*** The Grants.gov support desk operates 24 hours a day, seven days a week, except Federal Holidays.

A successful transfer will end with an on-screen acknowledgement. For documentation purposes, print or screen capture this acknowledgement. If a submission problem occurs, reboot the computer – turning the power off may be necessary – and re-attempt the submission.

Note: Grants.gov issues a “case number” upon a request for assistance.

3. Transmission Difficulties. If transmission difficulties that result in a late transmission, no transmission, or rejection of the transmitted application are experienced, and following the above instructions do not resolve the problem so that the application is submitted to www.Grants.Gov by the deadline date and time, follow the guidance below. The Agency will make a decision concerning acceptance of each late submission on a case-by-case basis. All emails, as described below, are to be sent to Tim Roberts (roberts.timothy-p@epa.gov) with the FON in the subject line. If you are unable to email, contact Tim Roberts at 410-267-5770. Be aware that EPA will only consider accepting applications that were unable to transmit due to www.Grants.gov or relevant www.Sam.gov system issues or for unforeseen exigent circumstances, such as extreme weather interfering with internet access. Failure of an applicant to submit timely because they did not properly or timely register in SAM.gov or Grants.gov is not an acceptable reason to justify acceptance of a late submittal.

a. If you are experiencing problems resulting in an inability to upload the application to Grants.gov, it is essential to call www.Grants.gov for assistance at 1-800-518-4726 before the application deadline. Applicants who are outside the U.S. at the time of submittal and are not able to access the toll-free number may reach a Grants.gov representative by calling 606-545-5035. Be *sure* to obtain a case number from Grants.gov. If the problems stem from unforeseen exigent circumstances unrelated to Grants.gov, such as extreme weather interfering with internet access, contact Tim Roberts.

b. Unsuccessful transfer of the application package: If a successful transfer of the

application cannot be accomplished even with assistance from Grants.gov due to electronic submission system issues or unforeseen exigent circumstances, send an email message to Tim Roberts prior to the application deadline. The email message must document the problem and include the Grants.gov case number as well as the entire application in PDF format as an attachment.

c. Grants.gov rejection of the application package: If a notification is received from Grants.gov stating that the application has been rejected for reasons other than late submittal promptly send an email to Tim Roberts with the FON in the subject line within one business day of the closing date of this solicitation. The email should include any materials provided by Grants.gov and attach the entire application in PDF format.

H. Additional Provisions for Applicants Incorporated into the Solicitation

Additional provisions that apply to this solicitation and/or awards made under this solicitation, including but not limited to those related to confidential business information, contracts and subawards under grants, and proposal assistance and communications, can be found at http://www.epa.gov/ogd/competition/solicitation_provisions.htm. These, and the other provisions that can be found at the website link, are important, and applicants must review them when preparing proposals for this solicitation. If you are unable to access these provisions electronically at the website above, please communicate with the EPA contact listed in this solicitation to obtain the provisions.

V: APPLICATION REVIEW INFORMATION

A. Evaluation Process

After EPA reviews proposals for threshold eligibility purposes as described in Section III, CBPO will conduct a merit evaluation of each eligible proposal. Reviews will be performed by a team of professionals from EPA and other CBP partner organizations with a working knowledge of the technical analysis and programmatic evaluation needs of CBP partnership. All reviewers will sign a conflict of interest statement indicating they have no conflict of interest.

B. Evaluation Criteria: Maximum score: 215 points

Criteria	Points
<p>1. Organizational Capability and Program Description: Under this criterion, reviewers will evaluate the application based on:</p> <p>a. The quality of the proposal and how it demonstrates the ability to timely and successfully achieve the relevant activity to support the CBP partners as described in Section I.B (35 points).</p> <p>b. How well the proposal demonstrates that the applicant has the skill, experience, and resources for generating media content covering information of a complex scientific nature and potentially of a sensitive and political</p>	65

<p>nature as well. Must also have the technical skill, experience and resources for producing, distributing and tracking periodicals, articles and associated digital media. (30 points).</p>	
<p>2. Programmatic Capability and Environmental Results Past Performance: Under this criterion, reviewers will evaluate the applicant based on their programmatic capability to successfully perform the proposed activity taking into account the applicant's:</p> <ul style="list-style-type: none"> a. Past performance in successfully completing federally- and non-federally-funded assistance agreements (assistance agreements include federal grants and cooperative agreements but not federal contracts) similar in size, scope, and relevance to the proposed project within the last three years (no more than five, and preferably EPA agreements). Successful completion of federally-funded assistance agreements also includes your organization's history of meeting reporting requirements and submission of acceptable final technical reports under those agreements (10 points). b. Extent and quality to which applicant adequately documented and/or reported on their progress in achieving the expected results (e.g., outcomes and outputs) under federal agency assistance agreements performed within the last three years and, if such progress was not being made, whether the applicant adequately documented and/or reported why not (10 points). c. Skill and experience in: <ul style="list-style-type: none"> i. Production of news stories, features and editorials of a scientifically complex and potentially politically sensitive nature. Production of digital media, including photographs, graphics, video, animations and other multimedia (10 points); ii. Publishing and distributing hard copy periodicals (10 points); iii. Effective creation and/or management of an electronic news distribution platform in providing content to media outlets (10 points); iv. Hosting and maintaining a news platform website. Use of social media platforms to distribute content and/or increase traffic on website (10 points); <p>Note: In evaluating applicants under Items a. and b. of these criteria, the reviewers will consider the information provided by the applicant and may also consider relevant information from other sources, including Agency files and prior/current grantors (e.g., to verify and/or supplement the information supplied by the applicant). If you do not have any relevant or available past performance, please indicate this in the proposal and you will receive a neutral score for these subfactors; a neutral score is half of the total points available in a subset of</p>	<p>60</p>

possible points. If you do not provide any response for these items, you may receive a score of zero for these subfactors.	
3. Cost-effectiveness: Under this criterion, reviewers will evaluate the application based on the degree to which the proposal is cost-effective, considering the following factors: organizational overhead (indirect costs) and ability to perform the duties within the operational range of budgets provided by the CBP.	20
4. Transferability of Results to Similar Projects and/or Dissemination to the Public: Under this criterion, reviewers will evaluate the application based on the degree to which the proposal includes an adequate plan to: <ul style="list-style-type: none"> a. Gather information and lessons learned from the project(s) (10 points). b. Transfer the documentation/information/data/results/recommendations to CBP partners, stakeholders, and appropriate audience in the Chesapeake Bay watershed in a timely manner (10 points). 	20
5. Modernization of Methods Over Time: Under this criterion, reviewers will evaluate the application based on the extent the proposal addresses the development of recommendations for changes to the existing distribution practices, which will further improve the efficiency and cost-effectiveness of efforts to raise public awareness and involvement.	30
6. Timely Expenditure of Grant Funds: Under this criterion, reviewers will evaluate the application based on the approach, procedures, and controls for ensuring that awarded grant funds will be expended in a timely and efficient manner.	20

C. Review and Selection Process

Eligible proposals will be evaluated and ranked using the criteria stated in Section V.B. above by a panel of reviewers from EPA and other CBP partner organizations with a working knowledge of the technical analysis and programmatic evaluation needs of the CBP partnership. The review team will then forward the highest-ranked proposals to the director or deputy director of CBPO for final selection. In making the final funding decisions, the selection official may also consider programmatic goals and priorities, as described in the Chesapeake Bay Executive Order Action Plan, Bay TMDL, and the Bay TMDL's associated WIPs and milestones. Information about the Executive Order and Bay TMDL are available on the following websites:

<http://executiveorder.chesapeakebay.net/> and <http://www.epa.gov/chesapeakebaytmdl/>.

VI: AWARD ADMINISTRATION INFORMATION

A. Award Notices and Instructions for Submission of Final Application

It is expected that applicants will be notified in writing of funding decisions on or around September 4, 2015, either via email or U.S. Postal Service. The notification will be sent to the

original signer of the proposal or the project contact listed in the proposal. This notification, which informs the applicant that its proposal has been selected and is being recommended for award, is not an authorization to begin work. The official notification of an award will be made by the EPA Region 3 grants office. Applicants are cautioned that only a grant award official is authorized to bind the government to the expenditure of funds; selection does not guarantee an award will be made. For example, statutory authorization, funding, or other issues discovered during the award process may affect the ability of EPA to make an award to an applicant. The award notice, signed by an EPA grant award official, is the authorizing document and will be provided through electronic or postal mail.

Notification of selection does not indicate that the applicant can start work on the project. The selected applicant will be asked to submit a full federal assistance agreement application package. A federal project officer provides assistance in the application process and negotiates a work plan, budget, and starting date. Processing for this particular grant award is expected to take 60 days.

B. Administrative and National Policy Requirements

If your proposal is selected, the following information will be helpful in preparing your grant application. A listing and description of general EPA regulations applicable to the award of assistance agreements may be viewed at:

<http://www.epa.gov/ogd/AppKit/contents.htm>.

Federal Requirements

An applicant whose proposal is selected for federal funding must complete additional forms prior to award. EPA reserves the right to negotiate and/or adjust the final grant amount and work plan content prior to award consistent with agency policies.

Indirect Costs

If indirect costs are budgeted in the assistance application and the non-profit organization or educational institute does not have a previously established indirect cost rate, it will need to prepare and submit an indirect cost rate proposal and/or cost allocation plan in accordance with the federal cost principles in 2 CFR Part 200, Subpart E, within 90 days from the effective date of the award.

If a local government does not have a previously established indirect cost rate, it will need to prepare its indirect cost rate proposal and/or cost allocation plan in accordance with 2 CFR Part 200, Subpart E. The local government recipient whose cognizant federal agency has been designated by OMB must develop and submit its indirect cost rate proposal to its cognizant agency within six months after the close of the governmental unit's fiscal year. If the cognizant federal agency has not been identified by OMB, the local government recipient must still develop (and when required, submit) its proposal within that period.

If a state government agency does not have a previously established indirect cost rate, it agrees that it will prepare its indirect cost rate proposal in accordance with 2 CFR Part 200, Subpart E. The state government agency must send its proposal to its cognizant federal agency within six months after the close of the governmental unit's fiscal year.

Incurred Costs

Funding eligibility ends on the date specified in the award. The time expended and costs incurred in either the development of the proposal or the final assistance application, or in any subsequent discussions or negotiations prior to the award, are neither reimbursable nor recognizable as part of the recipient's cost share.

EPA Requirements for Quality Management Plans and Quality Assurance Plans

In accordance with 2 CFR Section 1500.11, projects that include the generation or use of environmental data are required to submit a Quality Management Plan (QMP) and Quality Assurance Project Plan (QAPP).

The QMP must document quality assurance policies and practices that are sufficient to produce data of adequate quality to meet program objectives. The QMP should be prepared in accordance with EPA QA/R-2: EPA Requirements for Quality Management Plans (refer to <http://www.epa.gov/quality/qs-docs/r2-final.pdf>, Chapter 2). The recipient's QMP should be reviewed and updated annually as needed. The QMP must be submitted to the EPA project officer at least 45 days prior to the initiation of data collection or data compilation.

The recipient must develop and implement quality assurance and quality control procedures, specifications and documentation that are sufficient to produce data of adequate quality to meet project objectives. The Quality Assurance Project Plan (QAPP) is the document that provides comprehensive details about the quality assurance/quality control requirements and technical activities that must be implemented to ensure that project objectives are met. The QAPP should be prepared in accordance with EPA QA/R-5: EPA Requirements for Quality Assurance Project Plans. The QAPP must be submitted to the EPA project officer at least 30 days prior to the initiation of data collection or data compilation. Requirements for QAPPs can be found at <http://www.epa.gov/quality/qs-docs/r5-final.pdf>.

Deliverables

Awarded applicant will be required to provide a chart or list of deliverables, providing items and due dates.

C. Reporting

Quarterly or semiannual progress reports, as determined by the federal project officer, will be required as a condition of this award.

D. Disputes

Assistance agreement competition-related disputes will be resolved in accordance with the dispute resolution procedures published in 70 FR (Federal Register) 3629, 3630 (January 26, 2005) which can be found at <http://www.epa.gov/ogd/competition/resolution.htm>. Copies of these procedures may also be requested by contacting the person listed in Section VII of the announcement.

E. Additional Provisions for Applicants Incorporated into the Solicitation

Additional provisions that apply to this solicitation and/or awards made under this solicitation, including but not limited to those related to DUNS, SAM, copyrights, disputes, and administrative capability, can be found at http://www.epa.gov/ogd/competition/solicitation_provisions.htm. These, and the other provisions that can be found at the website link, are important, and applicants must review them when preparing proposals for this solicitation. If you are unable to access these provisions electronically at the website above, please communicate with the EPA contact listed in this solicitation to obtain the provisions.

VII: AGENCY CONTACT

For administrative and technical issues regarding this RFP, please contact Tim Roberts via email at roberts.timothy-p@epa.gov. All questions must be received in writing via email or fax at 410-267-5777 with the reference line referring to this RFP (Re: **RFP EPA-R3-CBP-15-06**). All questions and answers will be posted on <http://www.epa.gov/region3/chesapeake/grants.htm>.

VIII: OTHER INFORMATION

In developing your proposal, you may find the following documents helpful. Websites for guidance documents are listed here. If you prefer a paper copy, please call 1-800-YOUR BAY.

Boundaries of the Chesapeake Bay Watershed

<http://www.chesapeakebay.net/maps>

Electronic copy of the *Chesapeake 2000* agreement

http://www.chesapeakebay.net/content/publications/cbp_12081.pdf

Electronic copy of the *CBP Guidance for Data Management*

<http://archive.chesapeakebay.net/cims/Guidance%20for%20Data%20Management%20Nov%202006.pdf>

Electronic copy of the *Chesapeake Bay Program Office Grant and Cooperative Agreement Guidance*

<http://www.epa.gov/region3/chesapeake/grants.htm>

EPA Requirements for Quality Management Plans and Quality Assurance Plans

http://www.epa.gov/quality/qa_docs.html

Bay Journal

<http://www.bayjournal.com>

Please visit the EPA Grants website (<http://www.epa.gov/ogd>) or the EPA Region 3 Grants website (<http://www.epa.gov/region3/chesapeake/grants.htm>) if you have questions about grant

issues such as costs or eligibility. Further information on CBP committees is located at:
<http://www.chesapeakebay.net/about/organized>.

Appendix A
Proposal Format
U. S. ENVIRONMENTAL PROTECTION AGENCY, Region III
Chesapeake Bay Program Office Fiscal Year 2015 Request for Proposals (RFP) for
Bay Journal Support
EPA-R3-CBP-15-06

The following information must be provided or the proposal may not be considered complete and may not be evaluated.

Format: Narrative proposals as described below shall not exceed 12 single-spaced pages. The proposal must be submitted on 8 ½" x 11" paper, and font size should be no smaller than 10. Note that the 12 pages must include all supporting materials, including budget, budget detail, resumes or curriculum vitae and letters of support. With the exception of documentation of non-profit status, cost share letters of commitment, and the SF-424, if the proposal includes more than 12 pages, the additional pages will be discarded and not considered in the review. Applicants must submit one proposal for each Activity they wish to compete and should ensure it clearly identifies the Activity number. Applicant's responses should be numbered and submitted according to the format listed below.

1. Name, address (street and email), and contact information of the applicant

2. Background - Include the following in this section:

- i) Project title.
- ii) Brief description of your organization.
- iii) Documentation of non-profit status, if applicable.
- iv) Brief biographies of applicant lead(s) including resumes and/or curriculum vitae.
- v) Funding requested. Specify total cost of the project. Identify funding from other sources, including cost-share or in-kind resources.
- vi) DUNS number — See Section VI of RFP.

3. Work plan - Include the following in this section:

- i) A clear and concise discussion of how your organization will meet the objectives and requirements of the Program as described in Section I of the announcement;
- ii) Budget: For the first year and each of the subsequent years, provide a budget detail breakdown by the major budget categories (i.e. personnel, fringe benefits, travel, equipment, supplies, contractual, construction, other, and indirect). In each of the budgets, include the cost share amount (a minimum of five percent of the total project costs) and demonstrate how the cost share will be met, including, if applicable, letters of commitment from any third-party contributors. In each budget also specify how much of the funding will go to subawards and/or contractors. Please note that subaward costs must be included in the "Other" budget costs category. For an example budget detail, please go to:
http://www.epa.gov/region03/grants/Application_Kit_for_Grants_and_Cooperative_Agreem

[ents.pdf](#), page 27. In addition, grantees applying for CBP assistance agreements must adhere to the requirement for “Administrative Costs” under the Clean Water Act, Section 117 (d)(4), which states that administrative costs shall not exceed 10 percent of the annual grant award. Information on how to calculate the 10 percent administration cost cap is located in Appendix B: Administrative Cost Cap Worksheet. To calculate the specific cost-share amount, follow these two-steps:

- 1) EPA amount (including any in-kind) ÷ 95% = 100% of Total Grant Amount
- 2) 100% of Total Grant Amount × 5% = Applicant’s Cost-Share Amount

Based upon the annual funding estimate of \$300,000 to \$350,000 per year, the minimum annual cost share is calculated to be \$15,790 to \$18,422 annually.

iii) Environmental Results – Outputs and Outcomes: Address how the proposal will meet the expected outputs and outcomes of this project.

1. Output: An output is an environmental activity, effort, or work product related to an environmental goal or objective that will be produced within the assistance agreement period. Examples of potential outputs include:

Activity 1:

- Sufficient number of news stories, features and editorials produced for the *Bay Journal* periodical, distribution through an electronic news service and posting to the *Bay Journal* website;
- Sufficient amount of appropriate digital media produced to support the *Bay Journal*, electronic news service and *Bay Journal* website.

Activity 2:

- Publish up to 10 issues (28-40 pages) of the *Bay Journal* periodical annually, with up to 25,000 hard copies for distribution to the public;
- Number of articles and digital media posted electronically;
- Track *Bay Journal* articles and digital media through an electronic news service;
- Host and maintain the *Bay Journal* website;
- Number of emails maintained in email distribution systems for distributing an electronic version of the *Bay Journal* periodical and/or articles;
- Use social media platforms to expand reach and draw traffic to the *Bay Journal* website.
- Increased traffic to the *Bay Journal* website.

2. Outcome: An outcome is a result, effect, or consequence that will result from carrying out an environmental program or activity that is related to an environmental programmatic goal or objective. Outcomes are quantitative measures that may not necessarily be achievable within the assistance agreement period. An example of an outcome under this proposal is increased public

awareness and commitment that would result in improving aquatic health of the Chesapeake Bay watershed. Another potential outcome is increased number and diversity of trained and mobilized citizen volunteers with the knowledge and skills needed to enhance the health of their local watersheds.

- iv) **Review Criteria:** Address in narrative form each of the review criteria identified in Section V.B of the RFP. Identify by the review criteria number and title followed by your narrative. With specific respect to the Programmatic Capability and Environmental Results Past Performance factor in V.B:

Submit a list of federally and/or non-federally funded assistance agreements (assistance agreements include federal grants and cooperative agreements but not federal contracts) similar in size, scope and relevance to the proposed project that your organization performed within the last three years (no more than five agreements and preferably EPA agreements) and describe (i) whether, and how, you were able to successfully complete and manage those agreements and (ii) your history of meeting the reporting requirements under those agreements, including whether you adequately and timely reported on your progress towards achieving the expected outputs and outcomes of those agreements (and if not, explain why not) and whether you submitted acceptable final technical reports under the agreements.

In evaluating applicants under these factors in Section V, EPA will consider the information provided by the applicant and may also consider relevant information from other sources, including information from EPA files and from current/prior grantors (e.g., to verify and/or supplement the information provided by the applicant). If you do not have any relevant or available past performance or past reporting information, please indicate this in the proposal and you will receive a neutral score for these factors (a neutral score is half of the total points available in a subset of possible points). If you do not provide any response for these items, you may receive a score of 0 for these factors.

In addition, provide information on your organizational experience and plan for timely and successfully achieving the objectives of the proposed project as well as your staff's expertise/qualifications, staff knowledge, and resources, or the ability to obtain them, to successfully achieve the goals of the proposed project.

Appendix B
EPA-R3-CBP-15-06

SAMPLE
(DO NOT SUBMIT WORKSHEET WITH APPLICATION)

CHESAPEAKE BAY PROGRAM ADMINISTRATIVE COST
CAP WORKSHEET

INSTRUCTIONS: In accordance with Section 117(d)(4) and 117(e)(6) of the Clean Water Act (CWA), the costs of salaries and fringe benefits incurred in administering a grant under Section 117(d) or 117(e) of the CWA shall not exceed 10 percent of the annual grant award. The annual grant award is the total costs including Federal and cost share amounts. The worksheet below is provided to assist you in calculating allowable administrative costs. **The Budget Detail of your Application for Federal Assistance (SF-424) should reflect how your administrative costs will comply with the cap.** For specific guidance refer to page 2 of this sample "Compliance with CWA Section 117 Requirements Restricting Administrative Costs."

Total Costs	\$ _____
Cap %	X .10
Limit on Administrative Costs	\$ _____ (a)
List Administrative Costs: (Budgeted costs for application)	
_____	\$ _____
_____	_____
_____	_____
_____	_____
Total	\$ _____ (b)

Line (b) cannot exceed Line (a).

COMPLIANCE WITH CWA SECTION 117 RESTRICTING ADMINISTRATIVE COSTS

Statutory Authority

Under statutory authority, grantees applying for Chesapeake Bay Program grants/cooperative agreements under Section 117 (d) or (e) must adhere to the requirement on administrative costs as follows:

Under Section 117(a)(1) Administrative Cost - The term “administrative cost” means the cost of salaries and fringe benefits incurred in administering a grant under this section.

Under Section 117(d)(4) - Administrative Costs. - Administrative costs shall not exceed 10 percent of the annual grant award.

Under Section 117(e)(6) - Administrative Costs. -Administrative costs shall not exceed 10 percent of the annual grant award.

Guidance for Determining Administrative Costs

As determined by EPA/CBPO, the following provides guidance in determining administrative costs for grants/cooperative agreements under Section 117 (d) and (e) of the Clean Water Act.

1. Administrative Costs

Salaries and fringe benefits charged against the project or program element for the sole purpose of administering the grant/cooperative agreements shall not exceed 10% of the annual grant **award (Federal and cost share)**. One hundred percent of the salaries and fringe benefits related to these functions are considered administrative costs. Examples of administrative costs include, but are not limited to:

- preparation and submission of grant applications
- fiscal tracking of grants funds
- maintaining project files
- collection and submission of deliverables

2. Non-administrative Costs

Salaries and fringe benefits related to the implementation of the project or program element of the grant/cooperative agreement are not considered administrative costs. None of the salaries and fringe benefit costs related to these functions shall be considered administrative costs. Example:

- the salaries and fringe benefits for technical staff to conduct work to accomplish specific Bay Program goals as outlined in the program or project elements are not administrative costs.


3. Calculation of Administrative Costs

In order to ensure compliance with this requirement, use the format above or a similar format to calculate the costs and include in the Budget Detail of your Application for Federal Assistance (SF-424).

4. Questions Regarding Administrative Costs

The grantees shall direct questions to the EPA Project Officer who will determine what costs should be included as administrative costs on a case-by-case basis.

TAB 2

	U.S. ENVIRONMENTAL PROTECTION AGENCY Cooperative Agreement		GRANT NUMBER (FAIN): 96342701		DATE OF AWARD 01/20/2016	
			MODIFICATION NUMBER: 0			
			PROGRAM CODE: CB		TYPE OF ACTION New	MAILING DATE 01/27/2016
			PAYMENT METHOD: ASAP		ACH# 30221	
RECIPIENT TYPE: Not for Profit			Send Payment Request to: N/A			
RECIPIENT: Chesapeake Media Service Inc. 619 Oakwood Drive Seven Valleys, PA 17360 EIN: 26-2359058			PAYEE: Chesapeake Media Service Inc. 619 Oakwood Drive Seven Valleys, PA 17360			
PROJECT MANAGER Karl Blankenship 619 Oakwood Drive Seven Valleys, PA 17360 E-Mail: kblankenship@bayjournal.com Phone: 717-428-2819		EPA PROJECT OFFICER Tom Wenz 410 Severn Ave, Suite 109, 3CB10 Annapolis, MD 21403 E-Mail: Wenz.Tom@epa.gov Phone: 410-295-1360		EPA GRANT SPECIALIST Julie Dietrich Grants and Audit Management Branch, 3PM70 E-Mail: Dietrich.Julie@epa.gov Phone: 215-814-5373		
PROJECT TITLE AND DESCRIPTION Production of Bay Journal and related products These funds will be used to produce the content for the "Bay Journal" periodical newspaper and to publish and distribute 10 issues of the journal per year as well as for distribution of articles through an electronic news service and posting of the journal content to the "Bay Journal" Website to raise public awareness of issues concerning the Chesapeake Bay and its health. This action awards federal funds in the amount of \$350,000. Federal funds in the amount of \$1,600,000 are contingent upon availability.						
BUDGET PERIOD 02/01/2016 - 01/31/2022		PROJECT PERIOD 02/01/2016 - 01/31/2022		TOTAL BUDGET PERIOD COST \$3,479,697.00		
				TOTAL PROJECT PERIOD COST \$3,479,697.00		
NOTICE OF AWARD						
Based on your Application dated 10/29/2015 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$350,000. EPA agrees to cost-share <u>56.04%</u> of all approved budget period costs incurred, up to and not exceeding total federal funding of \$350,000. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.						
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)			AWARD APPROVAL OFFICE			
ORGANIZATION / ADDRESS US EPA Region 3, 3PM70 1650 Arch Street Philadelphia, PA 19103-2029			ORGANIZATION / ADDRESS U.S. EPA, Region 3 Chesapeake Bay Program Office (3CB00) 410 Severn Ave, Suite 109 Annapolis, MD 21403			
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY						
Digital signature applied by EPA Award Official for Diana Esher - Assistant Regional Administrator for Policy and Management John Krakowiak - Award Official delegate					DATE 01/20/2016	

EPA Funding Information

CB - 96342701 - 0 Page 2

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 350,000	\$ 350,000
EPA In-Kind Amount	\$	\$	\$ 0
Unexpended Prior Year Balance	\$	\$	\$ 0
Other Federal Funds	\$	\$	\$ 0
Recipient Contribution	\$	\$ 1,529,697	\$ 1,529,697
State Contribution	\$	\$	\$ 0
Local Contribution	\$	\$	\$ 0
Other Contribution	\$	\$	\$ 0
Allowable Project Cost	\$ 0	\$ 1,879,697	\$ 1,879,697

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.466 - Chesapeake Bay Program	Clean Water Act: Sec. 117(d)	2 CFR 200 2 CFR 1500 and 40 CFR 33

[illegible]

Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$2,195,618
2. Fringe Benefits	\$227,542
3. Travel	\$106,680
4. Equipment	\$0
5. Supplies	\$15,972
6. Contractual	\$440,753
7. Construction	\$0
8. Other	\$493,132
9. Total Direct Charges	\$3,479,697
10. Indirect Costs: % Base	\$0
11. Total (Share: Recipient <u>43.96</u> % Federal <u>56.04</u> %.)	\$3,479,697
12. Total Approved Assistance Amount	\$1,950,000
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$350,000
15. Total EPA Amount Awarded To Date	\$350,000

Administrative Conditions

1. General Terms and Conditions

The recipient agrees to comply with the current EPA general terms and conditions available at: [http://www2.epa.gov/sites/production/files/2015-10/documents/general tc as of 10-6-2015.pdf](http://www2.epa.gov/sites/production/files/2015-10/documents/general_tc_as_of_10-6-2015.pdf). These terms and conditions are in addition to the assurances and certifications made as part of the award and the terms, conditions or restrictions cited below.

The EPA repository for the general terms and conditions by year can be found at: <http://www.epa.gov/ogd/tc.htm>.

2. Cybersecurity Grant Condition for Other Recipients, Including Intertribal Consortia

(a) The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State or Tribal law cybersecurity requirements.

(b) (1) EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure. For purposes of this Section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition.

If the recipient's connections as defined above do not go through the Environmental Information Exchange Network or EPA's Central Data Exchange, the recipient agrees to contact the EPA Project Officer (PO) no later than 90 days after the date of this award and work with the designated Regional/Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data.

(b)(2) The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under 2 CFR 200.331(d), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and EPA.

3. Annual Federal Financial Report

Pursuant to 2 CFR 200.327 and 200.343, the recipient agrees to submit to EPA an annual Federal Financial Report (FFR) (SF-425) when the budget period is longer than one year. The following reporting period end dates shall be used for interim reports: 3/31, 6/30, 9/30, or 12/31. Interim reports shall be submitted no later than 90 days after the end of each reporting period.

The form is available on the internet at <http://www.epa.gov/financial/forms>. All FFRs must be submitted to the Las Vegas Finance Center (LVFC) via email LVFC-grants@epa.gov or fax at 702-798-2423.

4. Contingent Funding

In the event that additional Federal funds are not made available, the recipient agrees that each of the object class amounts in the approved budget shall be prorated by the ratio of the amount of total Federal funds awarded to the amount of total Federal funds contingently approved. If proration of the budget is not acceptable, the recipient must submit an amendment request for a budget revision. This request must be submitted to the Grants Management Officer (3PM70), at least 60 days before the expiration of the budget period. Pending approval of the revised budget submission, the grant will be amended to reflect the budget at actual funding level.

5. Incremental Funding on Competitive Awards

EPA is partially funding this budget period and will consider funding the balance of the budget request contingent upon satisfactory progress, as certified by the EPA Project Officer, the availability of funds, and EPA priorities. It is understood that the scope of work will be renegotiated to reflect the amount awarded, if additional funds are not available.

6. UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES

GENERAL COMPLIANCE, 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR, Part 33.

MBE/WBE REPORTING, 40 CFR, Part 33, Subpart E

MBE/WBE reporting is required in annual reports. Reporting is required for assistance agreements where there are funds budgeted for procuring construction, equipment, services and supplies, including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the "Other" category that exceed the threshold amount of \$150,000, including amendments and/or modifications.

Based on EPA's review of the planned budget, this award meets the conditions above and is subject to the Disadvantaged Business Enterprise (DBE) Program reporting requirements. However, if recipient believes this award does not meet these conditions, it must provide the EPA Grant Specialist with a justification and budget detail within 21 days of the award date clearly demonstrating that, based on the planned budget, this award is not subject to the DBE reporting requirements.

The recipient agrees to complete and submit a "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" report (EPA Form 5700-52A) on an annual basis. All procurement actions are reportable, not just that portion which exceeds \$150,000.

When completing the annual report, recipients are instructed to check the box titled "annual" in section 1B of the form. For the final report, recipients are instructed to check the box indicated for the "last report" of the project in section 1B of the form. Annual reports are due by October 30th of each year. Final reports are due by October 30th or 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on total procurements. Recipients with expended and/or budgeted funds for procurement are required to report annually whether the planned procurements take place during the reporting period or not. If no budgeted procurements take place during the reporting period, the recipient should check the box in section 5B when completing the form.

MBE/WBE reports should be **signed and emailed to R3_MBE-WBE_Reports@epa.gov as a pdf file, or if that is not possible, mailed to Hana Hyland, Small Business Program Coordinator (3DA10), U.S. EPA - Region III, 1650 Arch Street, Philadelphia, PA 19103-2029 with a courtesy copy to the EPA Grant Specialist.** The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at http://www.epa.gov/osbp/dbe_reporting.htm ;

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR, Part 33, Section 33.502; however, the other requirements outlined in 40 CFR Part 33 remain in effect, including the Good Faith Effort requirements as described in 40 CFR Part 33 Subpart C, and Fair Share Objectives negotiation as described in 40 CFR Part 33 Subpart D and explained below.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

A recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

In accordance with 40 CFR, Section 33.411 some recipients may be exempt from the fair share objectives requirements as described in 40 CFR, Part 33, Subpart D. Recipients should work with their DBE coordinator, if they think their organization may qualify for an exemption.

Accepting the Fair Share Objectives/Goals of Another Recipient

The dollar amount of this assistance agreement, or the total dollar amount of all of the recipient's financial assistance agreements in the current federal fiscal year from EPA is \$250,000, or more. The recipient accepts the applicable MBE/WBE fair share objectives/goals negotiated with EPA by the **Pennsylvania**

Department of Environmental Protection as follows:

MBE%: CONSTRUCTION 7.29; EQUIPMENT 5.92; SERVICES 8.07; SUPPLIES 30.04

WBE%: CONSTRUCTION 6.84; EQUIPMENT 19.70; SERVICES 18.20; SUPPLIES 44.10

By signing this financial assistance agreement, the recipient is accepting the fair share objectives/goals stated above and attests to the fact that it is purchasing the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market as the **Pennsylvania Department of Environmental Protection**.

Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404

The recipient has the option to negotiate its own MBE/WBE fair share objectives/goals. If the recipient wishes to negotiate its own MBE/WBE fair share objectives/goals, the recipient agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The submission of proposed fair share goals with the supporting analysis or disparity study means that the recipient is **not** accepting the fair share objectives/goals of another recipient. The recipient agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA will respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- (e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.
- (f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving

loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

7. Federal Employee Costs

The recipient understands that the funds for this project (including funds contributed by the recipient as their cost share) may not be used to pay for the travel of Federal employees, or for other costs associated with Federal participation in this project unless the Federal agency is performing special technical assistance to the recipient as allowed under the provisions of the Intergovernmental Cooperation Act.

Programmatic Conditions

1. Program Income

The recipient agrees to use any program income generated during the project period to further eligible project or program objectives. The recipient shall have no obligation to EPA regarding program income earned after the end of the project period.

2. Performance Reports

In accordance with 2 CFR 200.328, the recipient agrees to submit performance reports that include brief information on each of the following areas; 1) a comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement work plan for the period; 2) the reasons for slippage if established outputs/outcomes were not met; and 3) additional pertinent information, including, when appropriate, analysis and information of cost overruns or high unit costs.

In accordance with 2 CFR 200.328, the recipient agrees to inform EPA as soon as problems, delays or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan.

3. Performance Reports - Submission Frequency

The recipient agrees to submit **quarterly** performance reports to the EPA Project Officer. The reports are due 30 days after the reporting period. Final performance reports are due 90 days after the end of the budget period.

4. Program Guidance

The recipient agrees to comply with the provisions of the US EPA CBP Grant Guidance (2015). Any future versions of the Guidance will be applicable while the assistance agreement is still active.

5. EPA Involvement

The work involved in this cooperative agreement will be performed through Chesapeake Media and the CBP's GIT and work groups in which EPA also substantially participates as a CBP partner to ensure that the efforts of all members are coordinates and to ensure consistency of recommendations and decisions for all Bay Program partners.

TAB 3

Narrative Proposal: Response to EPA-R3-CBP-15-06

1. Chesapeake Media Service, Inc.

Karl Blankenship, Executive Director
619 Oakwood Dr., Seven Valleys, PA 17360
Phone: 717-428-2819 E-mail: kblankenship@bayjournal.com

2. Background

i. Project title: Bay Journal Support

ii. Brief description of organization

Chesapeake Media Service is a 501(c)3 organization created in 2008 with the mission to expand independent, unbiased reporting that informs the public about environmental issues affecting the Chesapeake Bay and mid-Atlantic regions and inspire effective action by individuals, groups, organizations, and all levels of government to restore, protect, and preserve the cultural and natural heritage of the Chesapeake Bay region.

We maximize our reach by distributing the information we develop through the *Bay Journal* print edition; its website, www.bayjournal.com; Bay Journal News Service, which distributes conservation-oriented original op-eds and news articles to other media; radio programming; and partnerships with public television and other media outlets. We are currently supporting a documentary film about Chesapeake Bay blue crabs to mark the 40th anniversary of the book, “Beautiful Swimmers.” Cumulatively, our products reach millions of people each month.

We have a staff of writers with extensive expertise about the Chesapeake Bay and regional conservation issues. Combined, our staff has more than 125 years of experience working with Bay issues, and individuals have been recognized with numerous awards. Executive Director Karl Blankenship has served as *Bay Journal* editor since its inception in 1991, and is highly knowledgeable of Chesapeake Bay Program history and activities. A board of directors composed almost entirely of journalism and communication professionals ensures operational, management, and financial integrity.

iii. Documentation of Chesapeake Media Service nonprofit status is attached.

iv. Biographies of applicant lead(s) including resumes and/or curriculum vitae.

Project Lead: Karl Blankenship is executive director of Chesapeake Media Service and has served as *Bay Journal*’s editor since its inception in 1991, overseeing its production while reporting and writing many of its articles. Blankenship provides overall organizational management and guides CMS policy decisions to ensure that the *Bay Journal* and associated media products align with the Chesapeake Bay Program goal of raising public awareness of issues and fostering emotional connections with the region’s natural and cultural resources throughout Bay watershed. His resume is attached.

Michael Shultz is the associate editor responsible for editing *Bay Journal* content and distributing articles and op-eds through the Bay Journal News Service. Previously, Shultz worked at *The Evening Sun* and *The Sun* in Baltimore, reporting on the environment, government, and politics. As assistant managing editor at *The Evening Sun*, he managed the local news staff. Shultz also worked for the Chesapeake Bay Foundation, developing a communications program to build public support for protecting and restoring the Chesapeake Bay. This included creating web content, e-newsletters, and an action network.

Rona Kobell is a *Bay Journal* staff writer with more than 20 years of journalism experience. The Maryland-Delaware-D.C. Press Association gave her first place in environmental reporting and Best in Show in 2008, as well as Best Local News Reporting and Best in Show in 2005. She won several prizes in the Washington-Baltimore Newspaper Guild’s Front Page contest. In 2008, Kobell was selected as a Knight-Wallace fellow at the University of Michigan to study economic incentives in environmental policy. This year, she was honored by the National Audubon Society as a “woman greening journalism.” Kobell previously worked for *The Sun* in Baltimore, where she was named its Chesapeake Bay reporter in 2004, *The Jerusalem Post*, Public Risk, and newspapers in Missouri and Pittsburgh.

Lara Lutz is a staff writer for the *Bay Journal* and associate editor for its *Bay Journeys* section. She has 20 years of experience as a writer and editor specializing in the environment and heritage of the Chesapeake region. She is author of “Virginia Indians at Werowocomoco,” a National Park Service book; “Chesapeake’s Western Shore”: “Vintage Vacationland” from Arcadia Press; and “Watershed Moments,” published by the Chesapeake Bay Trust. She writes and edits reports, brochures, case studies, and web text for a variety of clients and won a regional Emmy in 2015 for producing a story on invasive snakeheads for Maryland Public Television. She previously worked in the Bay Program Communications Office.

Whitney Pipkin is a staff writer with the *Bay Journal*. She began reporting on estuaries when she worked for *The Skagit Valley Herald* north of Seattle; her work covered many sides of environmental conflicts in the Puget Sound region and earned her a fellowship with the Institute for Journalists of Natural Resources. Pipkin is a graduate of the University of Oklahoma and

previously worked for the *Wichita Eagle* (KS) and *The News Tribune in Tacoma*, WA. Since moving to Virginia, Pipkin has freelanced for *The Washington Post*, *Grist*, NPR's Kitchen Window, Elevation DC Media, *The Delmarva Farmer*, and others. She blogs at thinkabouteat.com.

Leslie Middleton is a staff writer for the *Bay Journal*. She has worked as a commercial fisherman and a research engineer for the U.S. Navy, where she led a team of the Navy's shipboard environmental protection program in Annapolis, MD. In Virginia, she founded the Rivanna Watershed Center, a community-based nonprofit promoting collaborative watershed protection. She served as the Virginia director of the Alliance for the Chesapeake Bay, and then executive director of the Rivanna River Basin Commission, which is devoted to local government watershed protection. She also hosted a radio show about local watershed issues.

David Harp is the *Bay Journal* staff photographer with decades of award-winning work. His magazine credits include *The New York Times Magazine*, *Smithsonian*, *Audubon*, *Sierra*, *Natural History*, *Islands*, *Travel Holiday*, and *Coastal Living Magazine*. Harp has also produced images for several books, including "Water's Way: Life Along the Chesapeake," "The Great Marsh: An Intimate Journey into a Chesapeake Wetland," "Swanfall," and "The Nanticoke: Portrait of a Chesapeake River." Harp has received the Andrew White Medal from Loyola College for his Chesapeake Bay photography, served as president of the American Society of Media Photographers, and was appointed to the Maryland State Arts Council.

Kathleen Gaskell is the copy/design editor of the *Bay Journal* as well as its Bay Buddies and Chesapeake Challenge columnist and compiler of the items for Bulletin Board. Gaskell joined the *Bay Journal* in 1995. She previously worked at *The Sun* in Baltimore on the business, local, and national copy desks and the layout desk, and served as the assistant night editor. She also worked at the *Detroit* (MI) *News* as copy/design editor for the business and auto desk and copy editor for the news desk. Gaskell attended Michigan State University and earned a Dow Jones Newspaper Internship, which honors the nation's top 40 copy editing journalism students.

v. **Funding requested**

Requested amount: \$1,950,000

Total Cost: \$3,479,697

Matching Funds: \$1,529,597 (to be raised through foundation funding, reader donations, and advertising revenue)

vi. **DUNS number:** 830948340

3. **Work Plan**

- i. The objective of this cooperative agreement is to help protect and restore the Chesapeake Bay watershed ecosystem by supporting the Engaged Communities goal of the Chesapeake Bay Watershed Agreement which calls for increasing "the number and diversity of local citizen stewards and local governments that actively support and carry out the conservation and restoration activities that achieve healthy local streams, rivers and a vibrant Chesapeake Bay." Increasing the network of informed, passionate, and motivated environmental stewards requires information about current conditions and an understanding of how policies and personal action affect Bay restoration, as well as building an appreciation for the history and culture in the region and love of the Bay's landscapes.

The *Bay Journal* plays an important part in achieving this objective by raising awareness of regional issues affecting the Chesapeake Bay and its watershed and fostering an emotional connection among individuals and communities with the region's rich natural and cultural resources. For almost 25 years, the *Bay Journal* has delivered exceptional coverage of environmental issues in the Chesapeake Bay region, reaching hundreds of thousands of people each month through a combination of printed newspapers, web content, radio shows, and distribution of material to other publications. Surveys show *Bay Journal* information is highly informative to readers, and the vast majority of them take part in restoration activities. Information from the *Bay Journal* is used in school curricula; as briefing materials for policy makers; as the starting point for journalists pursuing their own articles on about Bay issues; is reproduced in other publications and websites; and is used for myriad other purposes.

The *Bay Journal* has been produced by Chesapeake Media Services, Inc. (CMS) since 2010; and executive director Karl Blankenship has served as editor of the *Bay Journal* since its inception in 1991. This proposal demonstrates CMS expertise in covering Bay-related issues and in producing the *Bay Journal* and related media products, using methods and outcomes found to be successful in the past. The work plan also outlines how CMS plans to progressively enhance the future production of media content for distribution through *Bay Journal* print edition and website, an electronic syndication service (Bay Journal News Service), and additional venues, including social media, radio programs, and specific targeted distribution to non-traditional audiences and local government leaders throughout the watershed.

Activity 1: Expert production of content for distribution through the *Bay Journal* and posting on the *Bay Journal* website.

CMS employs a staff of four full-time and four part-time professionals with extensive knowledge of Chesapeake Bay and regional environmental issues that equip us to report on a mix of topics that influence the health of the Bay, its watershed, and the species that inhabit its waters and landscapes. Staff is dispersed across the watershed, in Maryland, Virginia and Pennsylvania, and our editors, reporters, columnists, and staff photographer have combined experience totaling more than 125 years covering regional issues that affect the Chesapeake Bay and its watershed.

The *Bay Journal* has served as the “paper of record” for Chesapeake Bay restoration efforts since 1991. A recent survey by WBA Research found that 77 percent of its readers consider the *Bay Journal* to be their most trusted source of information about the Chesapeake and environmental restoration — more than other media, environmental groups, or government agencies. We will continue to seek out and report all sides of an issue, talking not only to environmental advocates but also those who represent alternate views, so that our readers may be better-informed citizens and decision-makers.

We track various Bay Program activities, and attend many Bay Program meetings to develop stories related to the 2014 Chesapeake Bay Watershed Agreement and to ensure our reporting is accurate, timely, and relevant. Our coverage will continue to focus on historically important areas of Bay Program, including fisheries, water quality and habitats, but also include expanded coverage of new issues highlighted in the Agreement, such as reaching diverse communities and climate change. We will also continue to highlight Bay-related research and science; issues related to stormwater, agriculture and forestry; the growing interest in large landscape conservation; and other issues of importance to the Bay Program, its partners, stakeholders, and others. Our long and deep familiarity with the Bay Program’s complex, ever-evolving partnership allows us to provide history, context, and perspective that is unique among media outlets.

We will continue to provide the most authoritative coverage about the implementation of the Chesapeake Bay Total Maximum Daily Load, including progress toward meeting pollution reduction goals, the 2017 midpoint assessment, innovative nutrient reduction techniques, issues affecting BMP implementation and adoption, the BMP verification process, work of the expert panels, and more. We will continue to unravel complex scientific, technical, and policy issues, and explain how government at all levels plays a role in environmental stewardship and conservation.

Our coverage of historic and cultural heritage — including outdoor activities and opportunities for individuals, students, and families — will continue with a monthly “Bay Journeys” section in the *Bay Journal*. These stories introduce readers to special places where natural features, habitats, and history can educate, inspire, and instill a love of place and region.

The CMS staff produces this content for use in the print edition of the *Bay Journal* and on its website, which incorporates content from the print edition as well as original content (breaking news, blogs, events). Content includes graphics, maps, photographs, slide shows, and video. Much of the digital media produced for the printed *Bay Journal* periodical is easily transferable to the *Bay Journal* website — and visa versa. The website is integrated with social media tools (FaceBook, Twitter) that expand the reach and impact of web postings and make it easier for people to share articles, and new website content is also distributed through a weekly e-newsletter.

CMS also builds off the production of the *Bay Journal* to distribute content through multiple mechanisms to reach different audiences. The *Bay Journal* itself provides in-depth reporting on Chesapeake Bay and Chesapeake Bay Program issues that are often found nowhere else. Some of these stories will appeal only to those with the greatest interest, or involvement, in Bay efforts. Other articles may appeal to broader audiences. To reach these, we use the Bay Journal News Service, our syndication service that distributes *Bay Journal* articles to other media outlets every other week.

All CMS staff are involved in creating print products and web-based content. Individual reporters are capable of both producing general articles about issues, while also developing expertise on specific subjects. In addition to providing authoritative and factual news and feature stories, CMS editorial staff ensures all editorial content is consistent with journalistic and Associated Press Stylebook standards. Editors work with reporters to guide story development, edit copy, and seek revisions for clarity, accuracy, and relevance. Print, photographic, and digital content meet established industry norms and is credited in accordance with industry standards.

During weekly conference calls, reporters and editors discuss possible stories for print, web or both, possible blogs, long-term projects, and emerging issues to track — always considering how best to reach specific or multiple audiences, based on time-sensitivity and nature of the story.

In addition to the content produced by our staff for *Bay Journal* and bayjournal.com, we will continue to work with writers who contribute occasional stories and popular features (such as “On the Wing” and “Bay Naturalist”) and will gather op-eds (including Tom Horton’s popular “Chesapeake Born” column) and other pieces from a range of perspectives for the Forum section. Both print and online editions will continue to include a calendar of events that promotes public engagement, educational opportunities, and outdoor activities. Taken together, this cohesive and diverse editorial product appeals to a variety of reader interests.

Looking forward, there are several enhancements we would like to make to improve and expand our coverage. Our ability to accomplish some objectives is constrained by limited staffing. Therefore, we are seeking to add 1 FTE reporting/editing position to aid in achieving these objectives:

- Improved coverage of Pennsylvania and the headwater states. (We have added staff to greatly expand our coverage of Maryland, Virginia, and the DC area, but “upstream” coverage needs to be improved.)
- Increased coverage of issues specific to local governments throughout the watershed.
- Increase our capacity to produce more timely “breaking” news that would appear on the website and be distributed to other media outlets. Some past experiments suggest that timely news distributed to other media may increase use of articles.
- In addition, we would like to expand our part-time photographer position to a full-time photographer-videographer position. This would allow us to produce expanded web content, including videos and more slideshows. (Our photography position is funded by non-EPA funds, so this would be accomplished using outside grants, but it will support activities funded by this cooperative agreement.)

Activity 2: *Distribution of hard copies of the Bay Journal periodical publication throughout the Chesapeake Bay watershed and electronic distribution of associated content (including the electronic news service).*

CMS creates content used in media products that reach readers through a variety of mechanisms. Our products and delivery mechanisms have evolved, and will continue to do so as technologies and opportunities change, and as we gain insights from our multiple techniques of monitoring how many people we reach, who they are and, where possible, how they use the information.

We produce the *Bay Journal* 10 times a year with a current press run of about 29,000 copies per issue. Surveys indicate copies are typically read by more than one person, thus we estimate hard copy readership is about twice that number. We create camera-ready PDFs of the *Bay Journal*, deliver them to a printer who ships the print edition to a mail house for preparation for mailing. Single copies are mailed at bulk rate directly to individuals while bundles are delivered by UPS or local distribution services to offices, schools, libraries, nature centers and other outlets.

Right now, surveys show the print issue is the preferred medium for most readers; even our e-newsletter subscribers read most of their *Bay Journal* material in print. Surveys also show that most new readers learn about the *Bay Journal* through exposure to the print edition. The print edition has also been critical to generating the growing proportion of matching funds over the years, as reader donations, foundation grants and advertising revenues are primarily tied to the print edition. Consequently, without the print edition, either the EPA funds for the project would need to increase to maintain our current level of coverage, or we would have to reduce staff. Also, reader surveys show a large percentage of website readers have work connections related to the Bay, while the hard copy readership is strongly skewed to a broader, more diverse citizenry.

Nonetheless, we recognize that multiple delivery mechanisms are needed to reach as broad an audience as possible given that it is impractical to serve all 18 million residents of the Bay watershed using print alone. Since 1994, all *Bay Journal* content has been available on a website, which has been overhauled multiple times over the years to take advantage of new technologies. The latest version of the website uses responsive web design, automatically adapting to whatever device a person is using to view it, whether that be a desktop computer, tablet or smart phone. Our website content management system allows us to incorporate timely content, as well as some original web-only news articles and blogs. In the two years since the new website was launched in 2013, site visitation has increased 64 percent (to about 750 a day) and page views have increased 39 percent (to about 1,050 a day). We will continue to host and maintain the *Bay Journal* website and explore opportunities to integrate new technologies and ways to enhance the web experience.

Since 2013, the website has been integrated with social media that expand the reach and impact of web postings and make it easier for people to share articles. Our social media presence — nonexistent before 2013 — has risen steadily. Today our Facebook page has 1,529 “Likes” and our Twitter feed has 1,215 followers. We also distribute a weekly *Bay Journal* e-newsletter to highlight new material on the website. The e-newsletter subscriber list has grown from about 1,400 to more than 2,600 in the last two years. After web searches, the e-newsletter and social media are the most important drivers to the website.

In addition, we reach broader audiences by making our articles — and the staff expertise gained in reporting these stories — available to others. We use our Bay Journal News Service syndication service to distribute *Bay Journal* articles that are suitable for a more general audience to other media on a biweekly basis. Use of *Bay Journal* materials, and the number of publications using them, has increased, particularly by smaller newspapers. In addition, we work directly with other outlets and allow them to reuse other *Bay Journal* content (with credit) that specifically fits with the needs of their publications or websites. For instance, the Outdoors Unlimited website uses most of our fisheries articles, as do many widely read fisheries bloggers. Chesapeake Bay Magazine frequently reprints *Bay Journal* articles related to its interests. Many online news services, such as various “Spy” websites, and news aggregators select and use *Bay Journal* articles that relate to their local issues. The National Park Service’s new FindYourChesapeake.com website uses dozens of *Bay Journal* features to highlight sites around the Bay.

We have also used our expertise to reach audiences through radio and television. Since 2010, we have partnered with WYPR to produce “Midday on the Bay,” a monthly radio call-in program with an audience of about 90,000 listeners which is broadcast on public radio stations throughout Maryland and is devoted to Bay-related topics that appear in the *Bay Journal*. Our reporters also appear as guests on other radio programs, such as The Kojo Nnamdi Show on WAMU in Washington, DC. We partnered with Maryland Public Television on its Chesapeake Bay Summit panel discussion televised during “Bay Week” programming earlier

this year (and broadcast on other public television stations throughout the watershed). We are in discussions with the station about future collaborative projects. These partnerships are very cost-effective ways to reach broad audiences with more general information, and they also introduce those audiences to the *Bay Journal*, where they can find more in-depth information.

CMS is committed to tracking the effectiveness of its activities. We monitor *Bay Journal* distribution; use Google analytics to monitor website use and reader behavior; conduct periodic surveys of hard copy and web users; track use of articles by other publications using the BurrellsLuce tracking service; and monitor use of our content on other sites through web searches. Altogether, we estimate that through our print editions, website, article distribution, and radio, we reach about a half-million people a month. Nonetheless, there is more we would like to do to broaden our reach:

- Increase distribution of the print *Bay Journal* to targeted audiences, such as local government officials. As part of a commitment to another funder, we will be working in the coming year to ensure that all Virginia local governments in the Bay watershed receive the *Bay Journal*. We want to expand that effort to reach local governments in other states over time.
- Increase distribution of *Bay Journal* bundles to attract new readers. Reader surveys show that exposure to hard copies are instrumental to attracting new readers. Right now, we distribute bundles of *Bay Journals* to nature centers, libraries, offices, schools, and other places that request them. We are working with a distributor to develop a test program to distribute copies at additional venues in targeted localities to determine how that impacts readership. We would also like to increase our presence at events such as festivals where we can hand out hard copies of the *Bay Journal*.
- Improve marketing for all of our products — print *Bay Journal*, its website, our social media audience, e-newsletter subscriptions, and Bay Journal News Service distribution — to reach larger audiences. Our strategic planning process currently under way has already identified the need to develop a *Bay Journal* marketing strategy, which we expect to undertake with the assistance of an outside contractor as funds become available.
- Increase the use of videos and slideshows on the website – both of which have proven popular. To do this, we will need to expand the staff photographer position to a full-time photographer/videographer position. (As mentioned before, this position is and will continue to be funded by non-EPA funding.)
- Continually update email lists to reach editors through the Bay Journal News Service. This is a challenge, and we are exploring the use of an outside service to help us maintain the list.

Our ability to maximize our reach is limited by staff capacity. Adding a FTE editorial position, mentioned in Activity 1, would help in several ways:

- Our social media reach has had steady growth, but fully realizing its potential is limited because staffers with responsibility for social media primarily serve as reporters. By adding a new editorial position, we would free some additional staff time to further expand our social media efforts.
- Increased content, including content related to emerging issues and broader geographic areas, is important for driving traffic to the website. We typically post 3 to 4 articles a week, either from the print *Bay Journal* or written specifically for the website. We would like to post at least 5 articles a week.

ii. Budget

Estimated Budget - All Years							
Description	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Total
Personnel	343,724	352,317	361,125	370,153	379,407	388,892	2,195,618
Fringe	35,621	36,512	37,425	38,361	39,320	40,303	227,542
Travel	16,700	17,118	17,546	17,985	18,435	18,896	106,680
Supplies	2,500	2,563	2,627	2,693	2,760	2,829	15,972
Contractual	69,000	70,725	72,493	74,305	76,163	78,067	440,753
Other	77,200	79,130	81,108	83,136	85,214	87,344	493,132
Total Direct Costs	544,745	558,365	572,324	586,633	601,299	616,331	3,479,697
Indirect	0	0	0	0	0	0	0
Total Request from EPA	350,000	350,000	325,000	325,000	300,000	300,000	1,950,000
Match	194,745	208,365	247,324	261,633	301,299	316,331	1,529,697
Match percent	35.7 %	37.3 %	43.2 %	44.6 %	50 %	51.3 %	43.9 %

This level of funding will allow us to maintain our current activities and contribute toward adding one FTE editorial position. As described above, this will allow us to produce more articles, generate more content for social media, enhance our web presence, and improve article distribution through the Bay Journal News Service. To help fill this position quickly, we are seeking funding at the maximum funding level (\$350,000) for the first two years of the project. We recognize that EPA funding is likely to continue to be tight, and we therefore propose incrementally decreasing support in the remaining four years of the project period. Thus, the six-year project cost is \$1.95 million, slightly less than the total EPA funding to CMS over the past six years.

CMS has demonstrated its commitment to obtaining outside funds to support *Bay Journal* and related efforts. Project match has increased from 12.5 percent to nearly 30 percent over the last six years. In addition, some components of the project are not charged to EPA or applied to match (including our staff photography position, indirect costs, and costs for reader surveys); they are covered by funding from other sources.

The CMS strategic planning process under way includes looking at ways to increase the development capacity of our organization and increase the diversity of our funding sources. As we develop that capacity, we anticipate being able to increase our cost-share over time. As we discuss in the “transferability” evaluation criteria, we believe diversifying funding is important for this effort to become a model for environmental communications that may be used to meet needs elsewhere.

None of the budget goes to sub-awards. Contractual costs are less than 14 percent of the total budget and include printing, mailing and free-lance writing services.

iii. Environmental Results

1) Outputs

Activity 1

- Produce, consistent with industry standards and Associated Press style, at least three news articles per week to support production of the print *Bay Journal* and provide fresh content for the *Bay Journal* website, along with photos, maps, and other digital support material as needed.
- Produce other feature, travel, and commentary content for use in the *Bay Journal* and its website which build reader appreciation for the region’s resources and provide a range of views about current issues.
- Distribute articles to other media outlets on a biweekly basis.
- Increase the distribution of timely “breaking” news stories distributed to other media and track their use to evaluate the relative importance of timely news to other media outlets.

Activity 2

- Produce and distribute at least 10 issues (32 to 48 pages each) of the *Bay Journal* a year.
- Host and maintain the *Bay Journal* website.
- With additional staff support, increase the number of articles posted to the *Bay Journal* website to five articles a week (excluding holidays).
- With additional staff support, post additional op-eds, blogs, and feature stories to the website, with a goal of posting one non-news article each day (excluding holidays and weekends) to the website.
- Expand the use of slideshows and videos on the website.
- Use social media and e-newsletter to highlight new website posts.
- Increase *Bay Journal* distribution to local governments.
- Experiment with, and assess effectiveness of, distribution of *Bay Journal* bundles in targeted areas.
- Track use of *Bay Journal* articles used by other media using BurrellesLuce or other tracking services.
- Develop a marketing strategy for the *Bay Journal*, its website, e-newsletter, social media products, and Bay Journal News Service.
- Track and increase website use over time.
- Continue to use our staff expertise to develop partnerships with other media, such as radio and television.

2) Outcomes

The overall outcome from our efforts is to increase public awareness of issues affecting the Bay and the environmental health of its watershed and to increase public involvement in locally based restoration efforts. To reach new audiences and evaluate our effectiveness, we propose to:

- Conduct periodic reader surveys (with non-EPA funding) to monitor how people use information distributed in print and on the website and determine how it influences their behavior.

- Collect anecdotal evidence of restoration, protection actions, policies, etc. that can be traced to *Bay Journal* reporting.

And we will quantitatively measure efforts to increase public awareness by:

- Increasing the number of subscribers to the weekly e-newsletter by at least 20 percent per year.
- Increasing web visits by at least 20 percent a year.
- Increasing social media audience (Facebook likes and Twitter followers) by at least 20 percent per year.
- Expanding the distribution of *Bay Journal* articles to other media from biweekly to weekly, and monitor the size of the audience reached using BurrellsLuce and/or other tracking systems.
- Implementing, as funding allows, recommendations from the marketing strategy. This may require additional staff or contractor support.

3) Review Criteria

1. Organizational Capability and Program Description

a. CMS maintains staff dispersed in Maryland, Virginia and Pennsylvania with extensive experience in covering Chesapeake Bay and environmental issues, and in producing print and web-based products, and making content available to others for use through a distribution and partnerships. Individual reporters are capable of both producing general articles about issues, while also developing expertise on specific subjects. During weekly conference calls, reporters and editors discuss possible stories for print, web or both, possible blogs, long-term projects, and emerging issues to track. Editors work with reporters to guide story development, edit copy and copy edit to comply with Associated Press style.

This process keeps both short-term and long-term story development on track. CMS has consistently met all deliverables related to the *Bay Journal* project since 2010. Executive Director Karl Blankenship, who has served editor of the *Bay Journal* since 1991, has met all production deadlines for the last 24 years. Further, as demonstrated in the staff biographies, our staff has extensive experience working both on Chesapeake Bay issues and with the Chesapeake Bay Program.

Following the leadership of Blankenship, *Bay Journal* staff members maintain contact with the diverse agencies and organizations that participate in Bay-related activities. Blankenship attends — or stays current with — activities of some of the most technical Bay Program meetings, including those of the Scientific and Technical Advisory Committee, various workgroups, Water Quality Goal Implementation Team, Sustainable Fisheries Goal Implementation Team, and others to help ensure we are up-to-date on scientific and technical aspects that underlie Bay policies.

b. All CMS/ *Bay Journal* staff members have extensive experience in writing about complex environmental issues, especially those relating to the Chesapeake Bay. Executive director and *Bay Journal* editor Karl Blankenship has been involved with the Chesapeake Bay Program since 1990 and has maintained a good working relationship with most Bay Program staff, Goal Implementation Team staff and chairs, state officials, key members of the scientific community, and many stakeholder organizations. He is very familiar with handling highly technical, and often very nuanced and sensitive information. He frequently attends some of the Bay Program's most technical meetings to stay up-to-date with developments. He attends many Bay science workshops.

Other staffers have great familiarity with Bay Program operations and practical experience with handling sensitive information. Lara Lutz is a former Bay Program Communications Office staffer, and Leslie Middleton is former Virginia director of the Alliance for the Chesapeake Bay. Michael Shultz is former vice president for communications with the Chesapeake Bay Foundation and communications consultant.

We have a long track record of producing and distributing publications on time, posting material to the website, distributing information to other publications, and developing methods to track our results, including the use of reader surveys conducted by outside firms (with non-EPA funding). We have also demonstrated the ability to attract outside resources, having consistently increased the non-EPA share of funding for this work over time.

2. Programmatic Capability and Environmental Results Past Performance

a & b. Within the past three years, CMS has successfully completed a number of large federal assistance agreements as well as grants from outside funders. These include:

Funder	Grant Number	Grant Title	Amount
EPA	CB-973893-05	Bay Journal	\$327,000
EPA	CB-973893-04	Bay Journal	\$327,000
EPA	CB-973893-03	Bay Journal	\$327,000
Campbell Foundation	Sept. 2, 2014	CMS Support	\$75,000
Town Creek Foundation	April 1, 2014	Bay Journal News Service/Conference	\$75,000

All grant obligations and deliverables were accomplished, and project progress was documented in progress reports which were completed on time.

In 2013, the EPA completed a Limited Scope Administrative Financial Management System Review of two years of CMS records, and concluded, “Chesapeake Media Service, Inc., has adequate administrative and financial management systems to manage and administer the EPA assistance agreements we reviewed.” The only minor issue identified by the EPA was corrected, with the resolution approved by the EPA. An outside accountant conducts an annual financial review of the organizational records. Starting with 2015 records, CMS records will have a full financial audit conducted annually.

c. As documented above, our staff collectively has more than 125 years working on Chesapeake Bay issues; most have extensive background in newspapers; communications; involvement with books about the Chesapeake; and/or working on Bay policy issues. Executive director Karl Blankenship has one of the longest track records of covering the Bay of any active journalist. Dave Harp, who not only provides our photos but also produces occasional slideshows for the website, is generally recognized as the most experienced photographer focusing on the Chesapeake Bay.

- CMS has produced and overseen distribution of 10 editions of the *Bay Journal* annually since 2010 and met all deadlines. Executive director Karl Blankenship has overseen production and met all deadlines since its inception in 1991.
- CMS has distributed *Bay Journal* articles since 2010, but it has longer experience in operating a distribution system. Its staff launched the Bay Journal News Service in 2007 to distribute original weekly op-eds, written by a diverse collection of authors from throughout the region, about conservation issues facing the Bay and the mid-Atlantic region. That op-ed service (totally funded with non-EPA dollars) reaches several million readers a month, appearing in everything from small weekly newspapers such as the *Farmville Herald* to large dailies such as the *Washington Post*. We have used that system in recent years to distribute *Bay Journal* articles as well, and to track their use.
- CMS has maintained the *Bay Journal* website since 2010 and executive director Karl Blankenship has overseen its web presence since the first iteration of its website in 1994. The latest version of the site was launched in April 2013 and uses responsive web design technology to optimize the display for whatever device a reader is using. The site is frequently updated with new material, and a growing social media network and e-newsletter distribution system alerts readers to new content.

3. Cost-Effectiveness

CMS organizational overhead is currently under 10 percent, and we do not charge (and are not proposing to charge) an indirect rate to the EPA. We have a low overhead rate, in part, because all our employees work from their own homes around the watershed, thus eliminating the need for central or multiple office spaces. Given the need to deploy multiple reporters around a 64,000-square-mile watershed, we do not expect to change this model of operating soon.

Over 24 years of producing the *Bay Journal*, Editor Karl Blankenship has learned how to optimize (and minimize) printing and distribution costs. Optimizing costs means being able to work with a printer that can produce a product that meets Postal Service specs for lowest available postal rates, and who can promptly deliver it to a mail house that can prepare and deliver the print edition to a postal bulk mail entry point where mailing rates are lowest. This is a juggling act because the lowest priced printer may not be located in a place that can produce the lowest postage rates. The lowest per-unit price for printing and mailing is not determined solely by collecting bids, but also by understanding these elements and fitting them together to produce the lowest overall price. We also work with a network of local distributors and UPS to achieve the lowest possible delivery rates for bundled *Bay Journals* going to offices, schools, nature centers, libraries, and other outlets.

The Bay Journal News Service, which was developed to distribute op-eds, is largely funded by other sources for that purpose. Our use of the News Service to distribute *Bay Journal* articles results in only a small incremental increase in cost, but provides a huge return to the overall project. The BurrellesLuce tracking service estimated that the value in 2014 of space devoted to printing *Bay Journal* content in other publications exceeded \$283,500.

As discussed in the budget portion of this proposal, we have improved and expanded our operations primarily through raising funds from other sources (donations, private grants, and advertising). As a result, the matching funds used to produce and distribute the *Bay Journal* and associated media products has progressively increased over time, a trend we expect to continue into the future.

4. Transferability of Results to Similar Projects and/or Dissemination to the Public

Through reader surveys, collection of anecdotal information, and other monitoring mechanisms, CMS continually gathers information to evaluate how well we are doing in reaching and expanding our audience and understanding how our information is used.

One of our organizational goals is to develop a model that helps fill the environmental reporting gap that has resulted from a rapidly changing media environment over the past decade. To accomplish that, we have invested in surveys over the years to

understand our audience and their interests. We have created cost-effective delivery mechanisms for information. And, we continue to develop a broad-based source of funding which has allowed us to increase our effectiveness while reducing the percentage of the project funded by the EPA — something we expect to enhance through our strategic review. While cost constraints may make it unlikely that the EPA alone could reproduce the *Bay Journal* effort elsewhere, it is possible that it, working with other federal agencies in partnership with the National Fish and Wildlife Foundation — or a group of private foundations — could help seed similar operations in other regions. Executive Director Karl Blankenship freely discusses aspects of the *Bay Journal* project with organizations that are interested exploring aspects that may be transferable to other groups or activities.

The timely transfer of information through the *Bay Journal*, website, and associated products has also produced significant results that have benefited the Bay region, in some cases producing actions that may otherwise not have happened. In some cases this information is anecdotal, in other cases it is produced by surveys, but the overall results are tangible.

For instance, a *Bay Journal* article about a U.S. Fish and Wildlife Service experiment to return eels to the Susquehanna River, where they have been absent for most of the past century, was seen by the U.S. Army Corps of Engineers which then provided multi-year mitigation funding from another project to support the effort. Eels are critical for eliptico mussels, normally the most common mussel in the region's rivers, to reproduce, but with the absence of eels, their populations have been in sharp decline in the Susquehanna. With the return of eels, it is hoped the mussel population will be restored, greatly increasing their ability to naturally filter river water. The successful results from the Corps-funded project helped lead to permanent funding for eel reintroduction to be included in the new relicensing agreement for Conowingo Dam.

A feature about one woman attempting to transform an abandoned oyster-packing house on Tilghman Island into a center that would promote environmental education and preserve the local waterman culture helped to make that \$300,000 project, which was originally considered a merely a dream, a reality.

Other articles can impact policy. For instance, Maryland Department of Natural Resources employees say that a *Bay Journal* report about plans to eliminate funding for the Bloede Dam removal project earlier this year was important in restoring funding for that project. The *Bay Journal* also increases public engagement. Some event organizers say that a listing in the *Bay Journal* Bulletin Board is among the most effective means of securing volunteers for activities such as invasive weed removals.

Some local governments have also told us about the importance of the *Bay Journal* in helping them understand what others are doing in the watershed. For instance, the Lycoming County, PA, Planning and Community Development Department wrote: "The *Bay Journal* is a valuable publication to local communities across the watershed because it spreads news and innovative ideas that might not otherwise be shared across state lines. The *Journal* also serves as a forum for the commentary and perspectives of individuals and organizations engaged in restoration efforts. I appreciate the balanced reporting and willingness to go beyond the Bay to report news relevant to the entire watershed."

Reader surveys about the impact of information transferred through the *Bay Journal* confirm such anecdotes. A survey conducted two years ago by WBA Research found that *Bay Journal* readers act upon what they read and pass information from the *Bay Journal* on to others. Among the survey results:

- 75 percent said the *Bay Journal* greatly adds to their understanding of Bay issues.
- 65 percent said that it greatly informs their conversations with others on the Bay/conservation/environmental issues.
- 75 percent of hard copy readers pass the publication on to other readers, reaching an average of 2.2 additional readers.
- 75 percent of readers say they take part in some kind of restoration activity, such as reducing fertilizer use, becoming involved with a watershed group, participating in a stream cleanup, or similar activity.
- Half of readers have used the *Bay Journal* to plan Bay-related trips.

We will continue to collect information, both anecdotal and from surveys, to track how the *Bay Journal* contributes to restoration efforts.

5. Modernization of Methods over Time

Under the leadership of Editor Karl Blankenship, the *Bay Journal* for the last 24 years has steadily adapted new technologies to produce the print versions and make information available on its website. Changing technologies have allowed us to move from hand-delivering paper pages and photos to printers (and waiting days for actual printing to take place) to electronically delivering camera-ready PDFs to printers only hours before the *Bay Journal* runs on the presses. Likewise, the website is on its third generation of design and has gone from being a text-only product updated once a month to a dynamic site that can handle new information anytime, along with slideshows and videos. The latest version of the website uses responsive web design technology that adapts to multiple devices — computers, tablets or smartphones. We will continue to make use of cost-effective technologies that enhance our products and improve our productivity as they become available.

We began new social media efforts in April 2013 to coincide with the launch of the latest version of our website and have seen rapid increase in Facebook likes and Twitter followers. At the same time, we switched from monthly to weekly distribution of our e-newsletter — since then digital subscribers have nearly doubled. We have experimented with using slideshows and video on the site, and plan to increase our use of digital multimedia.

We will continue to use our staff expertise to develop partnerships with radio and television stations. We plan to expand distribution of articles through our Bay Journal News Service to reach new audiences. We will continue to use reader surveys to understand our existing audience and identify audience “gaps.” That information will help develop a professional marketing strategy to strengthen existing distribution networks and identify new strategies to improve and expand our outreach.

6. Timely Expenditure of Grant Funds

Grant funds will be expended following the timeline and budget detailed in the proposal. CMS has procedures, reviewed by the EPA, to comply with all federal requirements and accounting for funds under this grant. A CPA reviews all organizational transactions monthly, and an outside accountant conducts an annual financial review. Beginning with records from the 2015 calendar year, we will have a full audit conducted annually.

RESUME

Karl Blankenship

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Seven Valleys, PA 17360
kblankenship@bayjournal.com
office (717) 428-2819

Areas of professional expertise

Writing about environmental policy and issues; development of low-cost publications that can reach relatively large audiences and present complex environmental news and issues in ways that a general audience can understand.

Professional experience

Editor, *Bay Journal*, 1991- present. Editor and principal writer for a monthly newspaper exploring issues and policies related to the Chesapeake Bay restoration effort.

Executive Director, Chesapeake Media Service, 2008 to present. Manage the operation of a small nonprofit organization focused on producing environmental journalism product to enhance public understanding of complex conservation issues. Oversee annual budget of \$650,000 and staff of eight full and part-time employees and several contractors.

Editor, *Keystone Wild Notes*, 1993-2007. Produced a quarterly newsletter for the Pennsylvania Wild Resource Conservation Fund, researching and writing articles about research related to the state's nongame plants and wildlife.

Editor, Alliance for the Chesapeake Bay, 1990. Prepared newsletters and white papers on Chesapeake Bay issues.

Reporter, Harrisburg (Pennsylvania) *Patriot-News*, 1986-1989. Initially covered state transportation issues, and later covered environmental issues for the newspaper. Helped develop a weekly page devoted exclusively to environmental news.

Reporter, *Saginaw* (Michigan) *News*, 1983-1986. Local government reporter.

Other publications

Dozens of magazine articles for a variety of national and regional publications, including *E Magazine*, *American Forests*, *Keystone Outdoors*, *Pennsylvania Angler*, *Pennsylvania Wildlife*, *EPA Journal*, and *Water, Environment & Technology*.

Education

Michigan State University, B.A., Journalism, 1982

Awards

2006 Lifetime Conservationist Achievement Award (Chesapeake Bay Foundation)
2001 Renewable Natural Resources Foundation's first-ever Excellence in Journalism Award.
1998 June Sekoll Media Award (Virginia Chapter of the Soil and Water Conservation Society)
1992 Environmental Excellence Award (Maryland Department of the Environment)
1992 Salute to Excellence Award from the Governor of Maryland

Memberships

Society of Environmental Journalists

TAB 4

EPA PROJECT OFFICER POST-AWARD EVALUATION PROTOCOL
(USED FOR ADVANCED AND BASELINE MONITORING)
CHESAPEAKE BAY PROGRAM OFFICE (CBPO)

To prevent potential problems with the Paperwork Reduction Act, Project Officers should not give this protocol to the recipient or direct the issues as questions to the recipient.

BACKGROUND INFORMATION (PART 1)

MID YEAR/SIX MONTH: <u> X </u> CLOSEOUT: _____	GRANT NUMBER(s): CB96342701	
1. DATE PREPARED: 11/07/2016	2. RECIPIENT NAME: Chesapeake Media Service, Inc.	
3. ENTER ALL DATES: a. OFF-SITE CONFERENCE CALL DATE: 10/18/2016 b. ON-SITE REVIEW DATE: N/A c. REPORT DATE: 11/07/2016 d. CLOSED DATE: 11/09/2016	4. PROJECT OFFICER(s): Tom Wenz PARTICIPANTS/PERSONS CONTACTED: (Names /Affiliations) - EPA: Tom Wenz, Project Officer - GRANTEE: Karl Blankenship	
5. <u>AWARD INFORMATION</u> Grant _____ Cooperative Agreement <u> XX </u>	6. <u>PROJECT / BUDGET PERIOD DATES:</u>	
	BEGINNING	ENDING
	Project Period: 02/01/16	01/31/2022
	Budget Period: 02/01/16	01/31/2022
7. <u>AWARD AMOUNT</u> EPA share: \$350,000 Recipient share/Match: \$194,745 EPA IN-KIND: \$0 Total: \$544,745	8. <u>BRIEF PROJECT DESCRIPTION:</u> Production of Bay Journal and related products. 10 issues of the journal per year as well as distribution of articles through an electronic news service and posting of the journal content to the "Bay Journal" website to raise public awareness of issue concerning the Chesapeake Bay and its health.	

BACKGROUND INFORMATION (PART 1) CONTINUED

9. PROVIDE BRIEF DESCRIPTION OF RECIPIENT:

Provide Background Information of Recipient, i.e. State Agency, University, Local Government, and Not For Profit. Background Information may be included in Statement of Work. (Example: This is a “Not For Profit” membership organization representing a broad coalition of interests united in support of the conservation, protection and restoration of the Potomac River watershed.....). If background information is not included in the Statement of Work, request recipient to e-mail their description to you.

Response: Chesapeake Media Service is a 501(c)3 organization created in 2008 with the mission to expand independent, unbiased reporting that informs the public about environmental issues affecting the Chesapeake Bay and mid-Atlantic regions and inspire effective action by individuals, groups, organizations, and all levels of government to restore, protect, and preserve the cultural and natural heritage of the Chesapeake Bay region. Chesapeake Media Service maximizes reach by distributing the information developed through the Bay Journal print edition; its website, www.bayjournal.com; Bay Journal News Service, which distributes conservation-oriented original op-eds and news articles to other media; radio programming; and partnerships with public television and other media outlets. Cumulatively, products reach millions of people each month. Chesapeake Media Service has a staff of writers with extensive expertise about the Chesapeake Bay and regional conservation issues. Combined, the staff has more than 125 years of experience working with Bay issues, and individuals have been recognized with numerous awards. A board of directors composed almost entirely of journalism and communication professionals ensures operational, management, and financial integrity.

10. DISCUSS PREVIOUS RECOMMENDATIONS/CONCERNS/OPEN PROGRAMMATIC FINDINGS, IF ANY EXIST; ARE THEY OR WILL THEY BE REMEDIED?:

a. Open Programmatic Findings in Last Monitoring Review (Refer to Part II, Item 7, PO Suggestions and Recommendations). If applicable, are there any open programmatic findings for this Award in last monitoring review (could not provide a “closed date” on last monitoring review report because of major finding(s))? Provide date of resolution and explanation on how finding(s) have been resolved.

Response: N/A. This is first for this grant.

RESULTS OF REVIEW WITH RECOMMENDATIONS (success & findings) - PART II

1. Scope of Review: Summarize the purpose of your review.

If appropriate, list issues that will be raised for resolution during the review (e.g., need response on why the recipient spent half of the grant award and hasn’t produced a literature review).

Response: The purpose of this review is to conduct a six-month monitoring review to ensure project deliverables were on-time with no issues and resources were expended properly and timely.

2. Financial: POs are responsible for: *>Analyzing the budget information in the reports by reviewing the payment history (using recipient progress reports, Financial Status Reports, or Compass Data Warehouse reports) and comparing actual amounts spent against the planned budget in the work plan. >Providing rebudget approval to the Grants Specialist on the recipients request to rebudget grant funds or on other actions which require prior approval from EPA.*

PO to Review, Discuss, and Respond:

a. Has the recipient begun work under this assistance agreement? If no, provide explanation.

Response: Yes as this is a six-month review.

b. How is this award funded? (Fully, Incrementally, Supplementary)

Response: Incrementally

If response is *incrementally funded* then complete the following questions:

• **Have all increments been funded?**

Response: No

Enter an explanation: This is a multi-year continuation grant that has federal funds in the amount of \$xxx contingent upon availability.

• **Amount the Recipient has received in incremental funding:**

Response: \$183,228

• **The current total funding for this award, which includes the incremental funding:**

Response: \$350,000

If response is for *supplementary funded* awards, complete the following information:

• **Amount the Recipient has received in supplemental funding:**

Response: N/A

• **The current total funding for this award, which includes the supplemental funding:**

Response: N/A

c. Ensure funds are available to complete the project:

*Amount of EPA funds awarded: \$350,000

*Amount of EPA funds paid: \$183,228

*Remaining Balance \$166,722

% of Project Completed: 8.3%

% of Funds Paid: 8.1%

* Information found on Financial Data Warehouse Report at

http://oasint.rtpnc.epa.gov/neis/grant_web.grant_inquiry

d. Is the recipient making draw-downs on this award in accordance with the workplan since the award date or last monitoring review?

Response: Yes.

e. Is the payment history consistent with the progress to date?

Response: Yes. Recipient draws down as needed based on cash flow to reimburse for travel and payroll.

f. Do the drawdowns seem reasonable and capture the progress to date based on the project duration and workplan?

Response: Yes

g. Is the remaining funding on this award necessary to complete the project?

Response: Yes

h. Verify with recipient if there is enough funding in place to cover expected costs? If no, provide explanation. (Contact either Lori Mackey or Annie Hamm for assistance to possibly add funds)

Response: Yes

i. Are the Project/Budget Period(s) long enough to cover the time that it will take to complete the project? If no, provide explanation. (Contact either Lori Mackey or Annie Hamm for assistance prior to requesting time extension request from recipient.)

Response: Yes

j. Does the recipient's most current EPA approved work plan require any PO/Grant Office approvals/amendments for cost or activities not included in the original award? Respond to the following:

- **Movement/transfer of funds in grantee's total approved budget more than 10% between cost categories.**

Response: No.

- **Re-budgeting between direct and indirect costs (Part 30 or 31 recipients only).**

Response: N/A.

- **Changes to equipment costs not included in the most current approved work plan.**

Response: No equipment was approved in assistance agreement. No equipment was purchased.

- **Changes in key personnel.** (Ex: Has turnover in staff caused delays in completing the funded activities?) *Yes or No response required.* Also, note if the changes were either 1) approved and recipient notified; or 2) conditionally approved and recipient notified; or 3) denied and recipient notified.

Response: None during this six month period.

- **Food or refreshments at events not identified in most current approved work plan.**

Response: Not part of this agreement.

- **Unplanned travel expenses not identified in most current approved work plan.**

Response: No

- **Changes in the project's approved scope of work.**

Response: No

3. Technical: POs are responsible for:

> *comparing the recipient's work plan/application to actual progress under the award.*

> *monitoring all activities and the recipient's progress on the project.*

- > *providing comments to the recipient on the progress reports and other work products.*
- > *apprizing program staff who are responsible for parts of the project/program on issues which need resolution.*
- > *recommending actions that require the attention of Grants Office or others.*

a. List work plan/application tasks, compare to actual work progress, and identify areas of concern cited in the progress report. Provide a summary of each task and current status:

Response:

Progress for this Objective – Detail

SUMMARY of Products to date in this cycle

Project Officer Comments: Continued outstanding work in producing independent editorial and news content pertinent to the general public interest in Chesapeake Bay restoration efforts. The most comprehensive coverage of Bay related issues within the watershed.

PROGRESS FOR OBJECTIVE:

Produce 10 issues of the Chesapeake Bay Journal a year, maintain the Bay Journal website, and make material from the Bay Journal and website available to other outlets for use. Information, either published in the Bay Journal itself or distributed to others, is intended to educate and raise public awareness about issues related to the Chesapeake Bay and its restoration.

Two issues of the Bay Journal were produced during this quarter.

A 40-page June issue was produced with articles about a recent agreement to improve fish passage at Conowingo Dam; Bernie Fowler's long fight to clean up the Patuxent River and the Bay; concerns over Dominion's draining of coal ash ponds into rivers; the Charles County Board's vote on a development plan that could influence the fate of Mattawoman Creek; students at Thomas Jefferson High School who undertake Bay projects more akin to those of college students; an effort that uses art to discourage litter in Baltimore neighborhoods; a Richmond area neighborhood debating the role of stream restoration; entrepreneurs building a large private oyster hatchery in Maryland; the loss of tax incentives that could doom super-efficient geothermal heating/cooling system; studies that show measures to curtail nutrients and sediment are also removing toxics; rail trails make it possible to ride from Annapolis to York; the Chesapeake Bay Environmental Center; Sherwood Forest Plantation introduced visitors to lesser known president and the James River; and more.

A 48-page July-August issue was produced with articles about the slow start to Pennsylvania's reboot strategy; a researcher finds that dolphins are more common in the Potomac River than previously thought; ocean trawlers are suspected in the disappearance of shad, herring; Baltimore is given another 14.5 years to fix chronic sewage overflows; a Kent County farmer seeks to reap benefits for farm and the Bay; booming wood pellet production is inching toward watershed forests; Bay grasses make a comeback but annual survey is in jeopardy; crabbers, scientists seeing more, and larger, blue crabs this spring; Chesapeake oyster aquaculture has roots in France; MD Natural Resources Police face increasing duties without budget to match; biologists alarmed over

lack of young Atlantic sturgeon in surveys; more sturgeon turn up in Bay, raising new questions — and worry; farm sites along the upper Choptank to help measure BMPs' efficiency; scientists digging up the dirt for clues to disappearing nitrogen; Sassafrass River shows off the Bay that was; Susquehanna petroglyphs find a home near their original site; visitors can soak up Berkeley Springs' water, cool art scene; John Smith Chesapeake Trail celebrates 10 years; and more.

In all, two issues were printed and distributed, each with a press run of about 30,000. Estimated readership is about twice that. A recent survey showed that 75 percent of Bay Journal readers pass their copies on to others to read, and it is read by an average of 2.4 additional people.

We also produced additional stories, blogs and other content for the website. According to Google Analytics, in May there were 31,264 website visitors, 24,167 unique visitors, and 42,920 page views. In June, there were 28,005 visits, 22,188 unique visitors, and 37,971 page views. In July, there were 35,237 visits, 28,195 unique visitors, and 45,504 page views. That represents a year-over-year increases in visitation of 27.5 percent in May; 21 percent in June; and 95.8 percent in July. Our Facebook page has 3,165 likes, and our Twitter followers exceed 1,783.

Nine Bay Journal articles were distributed to other media outlets during the quarter. A partial list of publications in which Bay Journal content appeared includes the Star-Democrat; the Virginian-Pilot; the Scranton Times; Pennsylvania Outdoor News; Kent County Times; Kent Island Bay Times; Kent County News; the Rappahannock Record; the Fredericksburg Free Lance-Star; the Delaware State News; the Salisbury Daily Times; the Philadelphia Free Press; the University City Review; the Eastern Shore News; the Dorchester Banner; the Berlin (Md.) Dispatch; the Smithfield Times; the Easton Sunday Star; and others. Several publications carried multiple articles during this period. Circulations of publications carrying Bay Journal content during this quarter exceeded 531,000 with a potential readership that would be significantly greater. Space devoted to Bay Journal content used in other publications during this quarter was worth more than \$32,700 according to the BurrellsLuce clipping service. Because the service does not track all publications, some of which are known to have used Bay Journal articles, the actual number would be higher. The websites of most publications that carried Bay Journal articles also posted them online as well, reaching additional audiences.

In addition, many others used Bay Journal material on their websites, including the Pennsylvania Environment Digest; Kentguardian.com; Delawarestatenews.com; marylandreporter.com; Fredericksburg.com; myeasternshoremmd.com; southeastenergynews.com; livingwellmagazine.net; chestertownspy.com; environmental groups; and others.

With non-EPA funds, we also produced a documentary marking the 40th anniversary of the book, *Beautiful Swimmers*, which made its debut during the 2016 Environmental Film Festival in the Nation's Capital in March and has since continued to air on public broadcasting stations and been presented in numerous other screenings around the Bay watershed. This effort will help to introduce audiences to an important resource, and to the Bay Journal.

Several Bay Journal reporters appeared on WYPR during this quarter to discuss Bay-related issues. We are exploring the potential for future partnerships with MPT to extend our reach. Staff writer Rona Kobell participated in the Global Estuaries Forum in France.

In addition, using non-EPA funds we have begun working with a consultant to develop a marketing strategy to increase the reach of all of our products, something that was also part of our proposal.

We are also exploring the potential for creating a local government edition of the Bay Journal to increase outreach to elected officials and senior staff within local jurisdictions. We are seeking non-EPA funding for this project.

We estimate that, through readership of the print edition, website visitors other periodicals and websites, Bay Journal material reached more than 258,000 people a month this quarter, but with audiences from television program factored in, we reached several million people during the quarter.

1. Percentage of the objective completed

All objectives for Bay Journal publication and for article distribution were met.

2. A comparison of actual accomplishments (outputs, outcomes) with the anticipated outputs/outcomes.

Outputs were met; outcomes, in terms of numbers of people reached, is increasing over time.

3. If applicable, problems encountered during the performance period, which may interfere with meeting program/project objectives.

None

4. List proposed remedies if problem(s) exist (s) as indicated in item 3. List N/A if not applicable.

N/A

b. Is the work under the agreement on schedule?

Response: Yes.

c. Is the actual work being performed within the scope of the recipient's work plan?

Response: Yes.

d. In accordance with Resource Management Directive 2520-03-P1, Responsibilities for Reviewing Unliquidated Obligations, does the most current revised work plan specify target dates and milestones for timely project completion to the maximum extent practicable?

http://intranet.epa.gov/ocfo/policies/direct/2520-03-P1_ULO.pdf

Response: There have been no revisions to the workplan at this point. The current work plan does specify target dates and milestones for timely project completion.

e. Are the recipient's staff and facilities appropriate to handle the work under the agreement?

Response: Yes.

f. Based upon the progress reports and this review, is the recipient:

- **Generally submitting progress reports as required in the award and on time?**

Response: Yes.

- **Submitting products/progress reports that are acceptable?**

Response: Yes.

- **Has the recipient been notified in writing that the products/progress reports received to date are acceptable or not acceptable and the project file documented accordingly? If not, please notify the recipient and document the project file as a result of this monitoring review.**

Response: Yes, most recent quarterly report (05/01/2016 to 07/31/2016) accepted on 10/11/16.

- **Meeting milestones and/or targets described in the award and/or scope of work?**

Response: Yes.

Note: Questions g. and h. pertain to environmental results. If your grant was awarded on or after January 1, 2005, the official date the Environmental Results Policy became effective, answer both g. and h. The CBP Grant and Cooperative Agreement Guidance states that the recipient is required to attach to each applicable performance report (semi-annual, quarterly, or final) an updated Work Plan and Progress Made Performance Results Under Assistance Agreements Form that was submitted with the grant application. If not received, obtain copy from recipient to assist in responding to questions g. and h. and to document file. If your grant was awarded prior to January 1, 2005, answer both questions as "NA".

g. Is the recipient making agreed-upon progress in achieving outcomes and outputs (to the maximum extent practicable) and associated milestones in the assistance agreement work plan?

Response: Yes.

h. If the recipient is experiencing significant problems meeting agreed-upon outcomes and outputs, has the recipient been required to develop and implement a corrective action plan?

Response: Not at this time and not expected to be required.

4. Agreement Specific: POs to discuss which areas apply to this agreement, otherwise, NA:

>Reviewing progress reports and other work products to assure that the recipient is complying with the applicable programmatic regulations and programmatic terms and conditions in the agreement.

> Notifying Grants Office if the recipient is not complying with the terms and conditions of the agreement,

> Providing technical assistance to recipients when requested or required by the programmatic terms and conditions of the award.

>Assisting the recipient, where appropriate, with the development of a plan to conduct subsequent portions of the project.

a.) **Pre-Award Costs:** (For more information on pre-award costs, please review: 1) GPI-00-02 (a) entitled, "Clarification on GPI 00-02 Modification to Policy Guidance for 40 CFR Part 31 Pre-Award Costs," (May 3, 2000); 2) 40 CFR 30.25(f)(1) or 40 CFR 30.28 and; 3) 40 CFR 31.23.)

- **Did the recipient incur costs prior to receiving the award?**

Response: None incurred.

- **If so, was the recipient's written request approved by the PO, file documented, and included on the assistance agreement?**

Response: N/A.

b.) **Programmatic Conditions, Regulatory, and Statutory Requirements:**

1. Programmatic Conditions:

- a. **Is the recipient complying with applicable programmatic terms and conditions of the award?**

Response: Yes. During this review, we reviewed each of the programmatic conditions on the award document.

- b. **Has the recipient submitted Quality Assurance Project Plan (s) (QAPP)? If not applicable, list N/A?**

Response: N/A

- If yes, has the QAPP(s) been approved?**

Response: N/A

- c. **Has the recipient submitted Quality Management Plan(s) (QMP)? If not applicable, list N/A?**

Response: N/A

- If yes, has the QMP(s) been approved?**

Response: N/A

- d. **If applicable, is an approved QMP/QAPP plan documented in file?**

(If QMP/QAPP not in file or approved, find out why? Contact is Mary Ellen Ley.)

Response: N/A

- e. **Are all personnel responsible for implementing the QMP/QAPP familiar with its requirements?**

Respond N/A if not applicable.

Response: N/A

- f. **Is the recipient submitting quarterly payment requests?** (via TIMELY PAYMENT REQUEST TERM AND CONDITION in Unliquidated Obligations Policy-GPI-11-01 Sec 12)

http://intranet.epa.gov/ogd/policy/gpi_11_01_interim_final_9_28_12.pdf

Response: No. Recipient submitting requests as needed to cover payroll, travel and production costs.

2. Statutory and Regulatory Requirements: *(Statutory pertains to Clean Water Act, Sec 117; Regulatory pertains to 40 CFR Part 30 for Non-Profit Organizations and Universities and Part 31 for State and Local Governments.)*

a. Have all Statutory requirements been met?

Response: In support of the Clean Water Act, Section 117, this project supports communications and production of the Bay Journal, which is in support of the 2014 Chesapeake Bay Watershed Agreement - Water Quality - to reduce pollutants to achieve the water quality necessary to support the aquatic living resources of the Bay and its tributaries and protect human health; as well as all of the remaining goals outlined in the agreement.

b. Have all Regulatory requirements been met? *(Use this statement provided the requirements in the applicable 40 CFR Part 30 or 31 requirements are being met.)*

Response: All regulatory requirements are being met.

c.) Equipment/Supplies:

1. Did the recipient purchase equipment as planned in the agreement and was it used as planned?

Response: Equipment was not budgeted and was not purchased.

If so, request a list of equipment indicating each item purchased and the date and dollar amount of purchase. Attach list to this protocol. (Note: Each item and its cost must be approved in recipient's budget and purchased only during the budget/project period of this assistance agreement.)

2. Did the recipient purchase supplies as planned in the agreement and was it used as planned?

Response: Supplies were budgeted and have been expended for this project as planned.

(Note: Requested and approved supplies should represent only the supplies that are needed to complete the approved workplan. Supplies must be purchased only during the budget/project period of this assistance agreement.)

d.) Travel: Was this authorized in the agreement and was it carried out appropriately?

Response: Yes.

e.) Conferences: Did the conference comply with the Best Practices Guide for Conferences?

Response: N/A.

f.) Contracting practices: Written Code of Conduct/Ethics: Federal regulations require recipients to establish codes of conduct to eliminate any potential conflict of interest and to establish disciplinary actions for those violating the standards. Note: (The minimum requirements are outlined in 40 CFR 30.42, Non-Profit Organizations, Universities; 40 CFR 31.36(3), State and Local Governments.)

1. Contractual Costs: Were contractual/subcontract costs authorized in the assistance agreement?

Costs must be approved in the contractual budget category in the assistance agreement.

Response: Yes.

If yes, answer the following questions:

- are costs consistent with the approved work plan? yes
- budget category reflects funds for contracting? yes
- the recipient reprogrammed funds to contracting? n/a
- subcontracts SOW consistent with scope of the assistance agreement? n/a

2. Does grant recipient have written contracting procedures?

Response: Yes.

3. Competition: Was the contract competed/sole source; files documented?

Response: For printing, the contract is competed; procedures in place to contract for writers for assigned stories at fair market value. All files are documented.

g. Subawards: Subaward Policy, effective May 15, 2007, requires all new awards and supplemental amendments awarded on or after May 15, 2007 must meet the requirements of the Directive. Subaward costs must be included under the "Other" budget cost category in the assistance agreement.

1. Does the work plan contain subaward work?

Response: No.

a. If yes, does the recipient have subawards pertinent to the agreement/amendment work plan?

Response: N/A.

b. If yes, is the recipient complying with the subaward policy requirements? N/A

h.) Program Income: (POs must work with the recipient to resolve program-income related issues on agreements that generate program income.)

- Did the project generate unanticipated program income?

Response: None.

i.) EPA-Furnished In Kind: Was this satisfactorily used in the assistance agreement?

Response: N/A

j.) Recipient Furnished/Third Party In Kind:

- Met the conditions under 40 CFR 30.23 and 40 CFR 31.24?

Response: N/A

- Were any adjustments made to the cost share?

Response: N/A

5. Based upon PO review and knowledge of this award, does PO recommend:

(Yes or No Response required)

a. Award Amendment: If yes, explain if the Award Amendment has been discussed with the Program Manager, Supervisor, or Grants Specialist?

Response: Not at this time.

b. Advanced Programmatic Monitoring: If needed, discuss with Lori or Annie to either add to current list, if not already on, or next year's PO Advanced Programmatic Monitoring List in the Post Award Monitoring Plan.

Response: No.

c. Administrative Review completed by Grants Office: Respond "No". If major concerns exist to check "Yes", discuss with Lori or Annie prior to responding to this question.

Response: No.

d. OIG Referral: Respond "No" If major concerns exist to check "Yes", discuss with Lori or Annie prior to responding to this question.

Response: No.

e. More Frequent Baseline Monitoring Reviews (less than every six months)

Response: No.

6. Project Officer Suggestions and Recommendations (define as either major or minor):

Note: (Recommendations should have corresponding routes to/for resolution specified in report. Also, when major recommendations are made, EPA should explicitly require the recipient to develop and submit a corrective action plan to address the major recommendation.)

Response: None at this time.

7. Recipient Recommendations and Suggestions:

Response: N/A

8. Identify any areas where the recipient is significantly meeting or exceeding programmatic expectations:

Response: Excellent production in meeting the grant requirements and establishing the standard for coverage of Chesapeake Bay related issues. Working outside of the requirements of the grant to explore a marketing strategy, which would significantly increase the value and impact of this grant. Also outside of the scope of the grant exploring a targeted edition aimed at reaching local government officials.

9. Recommendations for the Grants Office, if any:

Response: None.

10. Closeout Process (Applicable to Closeout Review): Closeout of the award occurs when all applicable administrative actions and all required work of the grant has been completed.

Note: (Project Officer should be aware of the recipients responsibility in the closeout process and review the general regulations (40 CFR 30.71 Universities & Non-Profits and 40 CFR 31.50 State and Local Governments) on Closeout Requirements with grantee.)

a. Are any funds remaining? If so, why and what tasks were not completed?

Response: N/A

b. Has the Final Technical Report been submitted, reviewed, and approved?

Response: N/A

c. Equipment/Supplies: *Project Officers should be aware and review with the recipient the disposition requirements outlined in 40 CFR 30.34 and 30.35 for Non-Profit Organizations and Universities; 40 CFR 31.32 and 31.33 for State and Local Governments. If the recipient no longer needs the equipment, please request from the recipient a list of equipment purchased, its fair market value and date of purchase.*

- **Is the recipient keeping the equipment?**

Response: N/A

- **Is the recipient keeping the supplies?**

Response: N/A.

RESOLUTION PLAN AND TIMING - PART III

Prepare Corrective Action Plan, if applicable, to address major recommendation(s):

- 1. Tell the recipient when the corrective action plan is due, and clearly state what should be addressed.**
- 2. Tell the recipient to whom they should send the corrective action plan (EPA contact) and where to send it, including phone number.**

Response: No corrective action plan is needed

Note:

1. Send an electronic copy of protocol to the recipient for comment.
2. cc: Annie Hamm
(Also, send to Annie any follow-up letters sent to recipient, and relevant e-mail messages)
3. Recipient to send confirmation upon receipt of approved report.

TAB 5

EPA PROJECT OFFICER POST-AWARD EVALUATION PROTOCOL
(USED FOR ADVANCED AND BASELINE MONITORING)

CHESAPEAKE BAY PROGRAM OFFICE (CBPO)

To prevent potential problems with the Paperwork Reduction Act, Project Officers should not give this protocol to the recipient or direct the issues as questions to the recipient.

BACKGROUND INFORMATION (PART 1)

MID YEAR/SIX MONTH: <u> X </u> CLOSEOUT: _____	GRANT NUMBER(s): CB96342701	
1. DATE PREPARED: 04/05/2017	2. RECIPIENT NAME: Chesapeake Media Service, Inc.	
3. ENTER ALL DATES: a. OFF-SITE CONFERENCE CALL DATE: 04/05/2017 b. ON-SITE REVIEW DATE: N/A c. REPORT DATE: 04/05/2017 d. CLOSED DATE: XXXX	4. PROJECT OFFICER(s): Tom Wenz PARTICIPANTS/PERSONS CONTACTED: (Names /Affiliations) - EPA: Tom Wenz, Project Officer - GRANTEE: Karl Blankenship	
5. <u>AWARD INFORMATION</u> Grant ____ Cooperative Agreement _ XX ____	6. <u>PROJECT / BUDGET PERIOD DATES:</u>	
	BEGINNING	ENDING
	Project Period: 02/01/16	01/31/2022
	Budget Period: 02/01/16	01/31/2022
7. <u>AWARD AMOUNT</u> EPA share: \$1,950,00 Recipient share/Match: \$1,529,697 EPA IN-KIND: \$0 Total: \$3,479,697	8. <u>BRIEF PROJECT DESCRIPTION:</u> Production of Bay Journal and related products. 10 issues of the journal per year as well as distribution of articles through an electronic news service and posting of the journal content to the "Bay Journal" website to raise public awareness of issue concerning the Chesapeake Bay and its health.	

BACKGROUND INFORMATION (PART 1) CONTINUED

9. PROVIDE BRIEF DESCRIPTION OF RECIPIENT:

Provide Background Information of Recipient, i.e. State Agency, University, Local Government, and Not For Profit. Background Information may be included in Statement of Work. (Example: This is a “Not For Profit” membership organization representing a broad coalition of interests united in support of the conservation, protection and restoration of the Potomac River watershed.....). If background information is not included in the Statement of Work, request recipient to e-mail their description to you.

Response: Chesapeake Media Service is a 501(c)3 organization created in 2008 with the mission to expand independent, unbiased reporting that informs the public about environmental issues affecting the Chesapeake Bay and mid-Atlantic regions and inspire effective action by individuals, groups, organizations, and all levels of government to restore, protect, and preserve the cultural and natural heritage of the Chesapeake Bay region. Chesapeake Media Service maximizes reach by distributing the information developed through the Bay Journal print edition; its website, www.bayjournal.com; Bay Journal News Service, which distributes conservation-oriented original op-eds and news articles to other media; radio programming; and partnerships with public television and other media outlets. Cumulatively, products reach millions of people each month. Chesapeake Media Service has a staff of writers with extensive expertise about the Chesapeake Bay and regional conservation issues. Combined, the staff has more than 125 years of experience working with Bay issues, and individuals have been recognized with numerous awards. A board of directors composed almost entirely of journalism and communication professionals ensures operational, management, and financial integrity.

10. DISCUSS PREVIOUS RECOMMENDATIONS/CONCERNS/OPEN PROGRAMMATIC FINDINGS, IF ANY EXIST; ARE THEY OR WILL THEY BE REMEDIED?:

a. Open Programmatic Findings in Last Monitoring Review (Refer to Part II, Item 7, PO Suggestions and Recommendations). If applicable, are there any open programmatic findings for this Award in last monitoring review (could not provide a “closed date” on last monitoring review report because of major finding(s))? Provide date of resolution and explanation on how finding(s) have been resolved.

Response: N/A.

RESULTS OF REVIEW WITH RECOMMENDATIONS (success & findings) - PART II

1. Scope of Review: Summarize the purpose of your review.

If appropriate, list issues that will be raised for resolution during the review (e.g., need response on why the recipient spent half of the grant award and hasn’t produced a literature review).

Response: The purpose of this review is to conduct a six-month monitoring review to ensure project deliverables were on-time with no issues and resources were expended properly and timely.

2. Financial: POs are responsible for: >*Analyzing the budget information in the reports by reviewing the payment history (using recipient progress reports, Financial Status Reports, or Compass Data Warehouse reports) and comparing actual amounts spent against the planned budget in the work plan.*
>*Providing rebudget approval to the Grants Specialist on the recipients request to rebudget grant funds or on other actions which require prior approval from EPA.*

PO to Review, Discuss, and Respond:

a. Has the recipient begun work under this assistance agreement? If no, provide explanation.

Response: Yes as this is a six-month review.

b. How is this award funded? (Fully, Incrementally, Supplementary)

Response: Incrementally

If response is *incrementally funded* then complete the following questions:

• **Have all increments been funded?**

Response: No

Enter an explanation: This is a multi-year continuation grant that has federal funds in the amount of \$1,600,000 contingent upon availability.

• **Amount the Recipient has received in incremental funding:**

Response: \$350,000

• **The current total funding for this award, which includes the incremental funding:**

Response: \$1,950,000

If response is for *supplementary funded* awards, complete the following information:

• **Amount the Recipient has received in supplemental funding:**

Response: N/A

• **The current total funding for this award, which includes the supplemental funding:**

Response: N/A

c. Ensure funds are available to complete the project:

*Amount of EPA funds awarded: \$1,950,000

*Amount of EPA funds paid: \$350,000

*Remaining Balance \$1,600,000

% of Project Completed: 16.7%

% of Funds Paid: 17.9%

* Information found on Financial Data Warehouse Report at

http://oasint.rtpnc.epa.gov/neis/grant_web.grant_inquiry

d. Is the recipient making draw-downs on this award in accordance with the workplan since the award date or last monitoring review?

Response: Yes.

e. Is the payment history consistent with the progress to date?

Response: Yes. Recipient draws down as needed based on cash flow to reimburse for travel and payroll.

f. Do the drawdowns seem reasonable and capture the progress to date based on the project duration and workplan?

Response: Yes. Funds paid in early years will be higher than in later years, which is reflected in the project budget and workplan.

g. Is the remaining funding on this award necessary to complete the project?

Response: Yes

h. Verify with recipient if there is enough funding in place to cover expected costs? If no, provide explanation. (Contact either Lori Mackey or Annie Hamm for assistance to possibly add funds)

Response: Yes

i. Are the Project/Budget Period(s) long enough to cover the time that it will take to complete the project? If no, provide explanation. (Contact either Lori Mackey or Annie Hamm for assistance prior to requesting time extension request from recipient.)

Response: Yes

j. Does the recipient's most current EPA approved work plan require any PO/Grant Office approvals/amendments for cost or activities not included in the original award? Respond to the following:

- **Movement/transfer of funds in grantee's total approved budget more than 10% between cost categories.**

Response: No.

- **Re-budgeting between direct and indirect costs (Part 30 or 31 recipients only).**

Response: N/A.

- **Changes to equipment costs not included in the most current approved work plan.**

Response: No equipment was approved in assistance agreement. No equipment was purchased.

- **Changes in key personnel.** (Ex: Has turnover in staff caused delays in completing the funded activities?) Yes or No response required. Also, note if the changes were either 1) approved and recipient notified; or 2) conditionally approved and recipient notified; or 3) denied and recipient notified.

Response: None during this six month period. Non-EPA funds used to hire an individual to market the Bay Journal at festivals and trade shows. Additional hires of reporters expected during next 6-month period.

- **Food or refreshments at events not identified in most current approved work plan.**

Response: Not part of this agreement.

- **Unplanned travel expenses not identified in most current approved work plan.**

Response: No

- **Changes in the project's approved scope of work.**

Response: No

3. Technical: POs are responsible for:

> *comparing the recipient's work plan/application to actual progress under the award.*

> *monitoring all activities and the recipient's progress on the project.*

> *providing comments to the recipient on the progress reports and other work products.*

> *apprizing program staff who are responsible for parts of the project/program on issues which need resolution.*

> recommending actions that require the attention of Grants Office or others.

a. List work plan/application tasks, compare to actual work progress, and identify areas of concern cited in the progress report. Provide a summary of each task and current status:

Response:

Progress for this Objective – Detail

SUMMARY of Products to date in this cycle

Project Officer Comments: Continued outstanding work in producing independent editorial and news content pertinent to the general public interest in Chesapeake Bay restoration efforts. The most comprehensive coverage of Bay related issues within the watershed.

PROGRESS FOR OBJECTIVE:

Two issues of the Bay Journal were produced during this quarter.

A 40-page December issue was produced with articles about a new study showing that 3.3 million blue crabs are killed annually by derelict crab pots in the Bay; Potomac River environmental groups opposed a new plan that would allow Alexandria to continue discharging sewage into the river; the Atlantic States Marine Fisheries Commission increased menhaden catch limits for 2017; Maryland watermen pressed to open 14,000 acres of oyster sanctuaries to harvesting; longtime Chesapeake Bay Foundation fisheries scientist Bill Goldsborough retired; Conowingo Dam looms as major challenge in Bay Program midpoint assessment; volunteer pilots offer environmentalists and eye in the sky; a Baltimore group seeks to preserve urban forests; conservationists seek protection for Maryland's Savage River; green roofs raising interest as a way to meet stormwater goals; Richmond church's rain garden also serves as a community vegetable garden; Maryland may shorten season for cownose ray bowfishing tournament; Dominion to pay \$260,000 for oil spills at two sites; start the New Year with a 'first day' hike at state parks; Loudoun County is home to new state park; Patuxent refuge a haven for humans, flora and fauna; Magothy river map reveals 'hidden gems' to paddlers; and more.

A 48-page January-February issue was produced with articles about Pennsylvania farm pollution threatening a drinking water supply; concerns that the Chesapeake Bay is losing oyster reefs faster than they can be rebuilt; Jim Price, a voice for Bay's menhaden and striped bass, dies; Jon Capacasa retires as head of EPA Region 3 water program chief; climate change, development loom as threats to Nanticoke River; Eastern Shore explores fresh approaches to promote local farm-to-table programs; pilot program seeks to rebuild marshes at Blackwater Refuge; Bay already feeling heat of climate change, which is an issue facing the midpoint assessment; new plant on James River to require first of its kind pollution trade; funding issues a common theme as state legislatures confront 2017 environmental issues; NOAA taking comments on proposed Malloes Bay sanctuary; Pennsylvania farmers doing more to control pollution than previously thought, survey shows; Jug Bay 'swamp stomp' offers midwinter hike through refuge; herds of visitors flock to Pennsylvania's elk country; Merkle Wildlife Sanctuary lets visitors view winter waterfowl

from warmth of their car; project is replacing crosses at furthest extent of John Smith's voyages up Bay rivers; and more.

In all, two issues were printed and distributed, each with a press run of more than 30,000. Estimated readership is about twice that. A recent survey showed that 75 percent of Bay Journal readers pass their copies on to others to read, and it is read by an average of 2.4 additional people.

We also produced additional stories, blogs and other content for the website. According to Google Analytics, in November there were 22,203 website visitors, 15,511 unique visitors, and 30,728 page views. In December, there were 22,947 visits, 17,526 unique visitors, and 30,577 page views. In January, there were 26,526 visits, 21,044 unique visitors, and 36,278 page views. That represents a year-over-year decreases in visitation of less than 1 percent in November; 2.7 percent in December and 41 percent in January. The declines in November and December likely result from short staffing in those months which resulted in fewer articles being posted on the website than during the same month the previous year. The significant January 2017 decline was because the January 2016 website visitation was the highest-ever, driven by an article about a kayaker who commuted to work on the Anacostia. Our Facebook page has 3,466 likes, and our Twitter followers exceed 2,063.

Nine Bay Journal articles were distributed to other media outlets during the quarter. A partial list of publications in which Bay Journal content appeared includes the Star-Democrat; Pennsylvania Outdoor News; Fincastle (Va.) Herald; King George Journal; Kent County News; the Salisbury Daily Times; the Penn-Franklin News; the Eastern Shore News; the Dorchester Banner; the Berlin (Md.) Dispatch; the Recorder-Observer (Easton, Md.); the Times-Record (Denton, Md.); the Scranton Times-Tribune; the Easton Sunday Star; the Lititz (Pa.) Record Express; the Morrison's Cove Herald (Martinsville, Pa.); the Rappahannock Record; the Weekend Whig (Elkton, Md.) the Cumberland (Md.) Times-News; the Worcester County Times; and others. Several publications carried multiple articles during this period. Circulations of publications carrying Bay Journal content during this quarter exceeded 360,000 with a potential readership that would be significantly greater. Space devoted to Bay Journal content used in other publications during this quarter was about \$20,000 according to the BurrellsLuce clipping service. Because the service does not track all publications, some of which are known to have used Bay Journal articles, the actual numbers would be higher. The websites of most publications that carried Bay Journal articles also posted them online as well, reaching additional audiences.

In addition, many others used Bay Journal material on their websites, including the Pennsylvania Environment Digest; the Rappahannock Record; and others.

With non-EPA funds, we are producing a documentary about sea level rise on the Eastern Shore. Our first documentary, marking the 40th anniversary of the book, *Beautiful Swimmers*, made its debut during the 2016 Environmental Film Festival in the Nation's Capital in March and has since continued to air on public broadcasting stations and been presented in numerous other screenings around the Bay watershed. These efforts will help to introduce audiences to an important resource,

and to the Bay Journal.

Several Bay Journal reporters appeared on radio programs and participated in panel discussions at workshops and conferences to discuss Bay-related issues. In addition, with non-EPA funds we hired a part-time person to help with marketing the Bay Journal, and have had operated booths at several festivals and events.

We are also developing a local government edition of the Bay Journal to increase outreach to elected officials and senior staff within local jurisdictions. We are seeking non-EPA funding for this project.

We estimate that, through readership of the print edition, website visitors other periodicals and websites, Bay Journal material reached more than 220,000 people a month this quarter.

b. Is the work under the agreement on schedule?

Response: Yes.

c. Is the actual work being performed within the scope of the recipient's work plan?

Response: Yes.

d. In accordance with Resource Management Directive 2520-03-P1, Responsibilities for Reviewing Unliquidated Obligations, does the most current revised work plan specify target dates and milestones for timely project completion to the maximum extent practicable?

http://intranet.epa.gov/ocfo/policies/direct/2520-03-P1_ULO.pdf

Response: There have been no revisions to the workplan at this point. The current work plan does specify target dates and milestones for timely project completion.

e. Are the recipient's staff and facilities appropriate to handle the work under the agreement?

Response: No – recruiting for additional reporters, however all deadlines to date have been met.

f. Based upon the progress reports and this review, is the recipient:

- **Generally submitting progress reports as required in the award and on time?**

Response: Yes.

- **Submitting products/progress reports that are acceptable?**

Response: Yes.

- **Has the recipient been notified in writing that the products/progress reports received to date are acceptable or not acceptable and the project file documented accordingly? If not, please notify the recipient and document the project file as a result of this monitoring review.**

Response: Yes, most recent quarterly report (11/01/2016 to 01/31/2017) accepted on 04/05/16.

- **Meeting milestones and/or targets described in the award and/or scope of work?**

Response: Yes.

Note: Questions g. and h. pertain to environmental results. If your grant was awarded on or after January 1, 2005, the official date the Environmental Results Policy became effective, answer both g. and h. The CBP Grant and Cooperative Agreement Guidance states that the recipient is required to attach to each applicable performance report (semi-annual, quarterly, or final) an updated Work Plan and Progress Made Performance Results Under Assistance Agreements Form that was submitted with the grant application. If not received, obtain copy from recipient to assist in responding to questions g. and h. and to document file. If your grant was awarded prior to January 1, 2005, answer both questions as “NA”.

g. Is the recipient making agreed-upon progress in achieving outcomes and outputs (to the maximum extent practicable) and associated milestones in the assistance agreement work plan?

Response: Yes.

h. If the recipient is experiencing significant problems meeting agreed-upon outcomes and outputs, has the recipient been required to develop and implement a corrective action plan?

Response: Not at this time and not expected to be required.

4. Agreement Specific: POs to discuss which areas apply to this agreement, otherwise, NA:

>Reviewing progress reports and other work products to assure that the recipient is complying with the applicable programmatic regulations and programmatic terms and conditions in the agreement.

> Notifying Grants Office if the recipient is not complying with the terms and conditions of the agreement,

> Providing technical assistance to recipients when requested or required by the programmatic terms and conditions of the award.

>Assisting the recipient, where appropriate, with the development of a plan to conduct subsequent portions of the project.

a.) Pre-Award Costs: (For more information on pre-award costs, please review: 1) GPI-00-02 (a) entitled, “Clarification on GPI 00-02 Modification to Policy Guidance for 40 CFR Part 31 Pre-Award Costs,” (May 3, 2000); 2) 40 CFR 30.25(f)(1) or 40 CFR 30.28 and; 3) 40 CFR 31.23.)

- **Did the recipient incur costs prior to receiving the award?**

Response: None incurred.

- **If so, was the recipient’s written request approved by the PO, file documented, and included on the assistance agreement?**

Response: N/A.

b.) Programmatic Conditions, Regulatory, and Statutory Requirements:

1. Programmatic Conditions:

a. Is the recipient complying with applicable programmatic terms and conditions of the award?

Response: Yes. During this review, we reviewed each of the programmatic conditions on the award document.

b. Has the recipient submitted Quality Assurance Project Plan (s) (QAPP)? If not applicable, list N/A?

Response: N/A

If yes, has the QAPP(s) been approved?

Response: N/A

c. Has the recipient submitted Quality Management Plan(s) (QMP)? If not applicable, list N/A?

Response: N/A

If yes, has the QMP(s) been approved?

Response: N/A

d. If applicable, is an approved QMP/QAPP plan documented in file?

(If QMP/QAPP not in file or approved, find out why? Contact is Mary Ellen Ley.)

Response: N/A

e. Are all personnel responsible for implementing the QMP/QAPP familiar with its requirements?

Respond N/A if not applicable.

Response: N/A

f. Is the recipient submitting quarterly payment requests? (via TIMELY PAYMENT REQUEST TERM AND CONDITION in Unliquidated Obligations Policy-GPI-11-01 Sec 12)

http://intranet.epa.gov/ogd/policy/gpi_11_01_interim_final_9_28_12.pdf

Response: No. Recipient submitting requests as needed to cover payroll, travel and production costs.

2. Statutory and Regulatory Requirements: (*Statutory pertains to Clean Water Act, Sec 117; Regulatory pertains to 40 CFR Part 30 for Non-Profit Organizations and Universities and Part 31 for State and Local Governments.*)

a. Have all Statutory requirements been met?

Response: In support of the Clean Water Act, Section 117, this project supports communications and production of the Bay Journal, which is in support of the 2014 Chesapeake Bay Watershed Agreement - Water Quality - to reduce pollutants to achieve the water quality necessary to support the aquatic living resources of the Bay and its tributaries and protect human health; as well as all of the remaining goals outlined in the agreement.

b. Have all Regulatory requirements been met? (*Use this statement provided the requirements in the applicable 40 CFR Part 30 or 31 requirements are being met.*)

Response: All regulatory requirements are being met.

c.) Equipment/Supplies:

1. Did the recipient purchase equipment as planned in the agreement and was it used as planned?

Response: Equipment was not budgeted and was not purchased.

If so, request a list of equipment indicating each item purchased and the date and dollar amount of purchase. Attach list to this protocol. *(Note: Each item and its cost must be approved in recipient's budget and purchased only during the budget/project period of this assistance agreement.)*

2. Did the recipient purchase supplies as planned in the agreement and was it used as planned?

Response: Supplies were budgeted and have been expended for this project as planned.

(Note: Requested and approved supplies should represent only the supplies that are needed to complete the approved workplan. Supplies must be purchased only during the budget/project period of this assistance agreement.)

d.) Travel: Was this authorized in the agreement and was it carried out appropriately?

Response: Yes.

e.) Conferences: Did the conference comply with the Best Practices Guide for Conferences?

Response: N/A.

f.) Contracting practices: Written Code of Conduct/Ethics: Federal regulations require recipients to establish codes of conduct to eliminate any potential conflict of interest and to establish disciplinary actions for those violating the standards. Note: (The minimum requirements are outlined in 40 CFR 30.42, Non-Profit Organizations, Universities; 40 CFR 31.36(3), State and Local Governments.)

1. Contractual Costs: Were contractual/subcontract costs authorized in the assistance agreement?

Costs must be approved in the contractual budget category in the assistance agreement.

Response: Yes.

If yes, answer the following questions:

- are costs consistent with the approved work plan? yes
- budget category reflects funds for contracting? yes
- the recipient reprogrammed funds to contracting? n/a
- subcontracts SOW consistent with scope of the assistance agreement? n/a

2. Does grant recipient have written contracting procedures?

Response: Yes.

3. Competition: Was the contract competed/sole source; files documented?

Response: For printing, the contract is competed; procedures in place to contract for writers for assigned stories at fair market value. All files are documented.

g. Subawards: Subaward Policy, effective May 15, 2007, requires all new awards and supplemental amendments awarded on or after May 15, 2007 must meet the requirements of the Directive. Subaward costs must be included under the "Other" budget cost category in the assistance agreement.

1. Does the work plan contain subaward work?

Response: No.

a. If yes, does the recipient have subawards pertinent to the agreement/amendment work plan?

Response: N/A.

b. If yes, is the recipient complying with the subaward policy requirements? N/A

h.) Program Income: (POs must work with the recipient to resolve program-income related issues on agreements that generate program income.)

- Did the project generate unanticipated program income?**

Response: None.

i.) EPA-Furnished In Kind: Was this satisfactorily used in the assistance agreement?

Response: N/A

j.) Recipient Furnished/Third Party In Kind:

- Met the conditions under 40 CFR 30.23 and 40 CFR 31.24?**

Response: N/A

- Were any adjustments made to the cost share?**

Response: N/A

5. Based upon PO review and knowledge of this award, does PO recommend:
(Yes or No Response required)

a. Award Amendment: If yes, explain if the Award Amendment has been discussed with the Program Manager, Supervisor, or Grants Specialist?

Response: Not at this time.

b. Advanced Programmatic Monitoring: If needed, discuss with Lori or Annie to either add to current list, if not already on, or next year's PO Advanced Programmatic Monitoring List in the Post Award Monitoring Plan.

Response: No.

c. Administrative Review completed by Grants Office: Respond "No". If major concerns exist to check "Yes", discuss with Lori or Annie prior to responding to this question.

Response: No.

d. OIG Referral: Respond "No" If major concerns exist to check "Yes", discuss with Lori or Annie prior to responding to this question.

Response: No.

e. More Frequent Baseline Monitoring Reviews (less than every six months)

Response: No.

6. Project Officer Suggestions and Recommendations (define as either major or minor):

Note: (Recommendations should have corresponding routes to/for resolution specified in report. Also, when major recommendations are made, EPA should explicitly require the recipient to develop and submit a corrective action plan to address the major recommendation.)

Response: Minor: Consider conducting social media and web analytics that project a broader time span than year-over-year to help identify any trends.

7. Recipient Recommendations and Suggestions:

Response: N/A

8. Identify any areas where the recipient is significantly meeting or exceeding programmatic expectations:

Response: Excellent production in meeting the grant requirements and establishing the standard for coverage of Chesapeake Bay related issues. Working outside of the requirements of the grant to explore a marketing strategy, which would significantly increase the value and impact of this grant. Also outside of the scope of the grant performing marketing to promote the various platforms and content and exploring a targeted edition aimed at reaching local government officials.

9. Recommendations for the Grants Office, if any:

Response: None.

10. Closeout Process (Applicable to Closeout Review): Closeout of the award occurs when all applicable administrative actions and all required work of the grant has been completed.

Note: (Project Officer should be aware of the recipients responsibility in the closeout process and review the general regulations (40 CFR 30.71 Universities & Non-Profits and 40 CFR 31.50 State and Local Governments) on Closeout Requirements with grantee.)

a. Are any funds remaining? If so, why and what tasks were not completed?

Response: N/A

b. Has the Final Technical Report been submitted, reviewed, and approved?

Response: N/A

c. Equipment/Supplies: *Project Officers should be aware and review with the recipient the disposition requirements outlined in 40 CFR 30.34 and 30.35 for Non-Profit Organizations and Universities; 40 CFR 31.32 and 31.33 for State and Local Governments. If the recipient no longer needs the equipment, please request from the recipient a list of equipment purchased, its fair market value and date of purchase.*

- **Is the recipient keeping the equipment?**

Response: N/A

- **Is the recipient keeping the supplies?**

Response: N/A.

RESOLUTION PLAN AND TIMING - PART III

Prepare Corrective Action Plan, if applicable, to address major recommendation(s):

- 1. Tell the recipient when the corrective action plan is due, and clearly state what should be addressed.**
- 2. Tell the recipient to whom they should send the corrective action plan (EPA contact) and where to send it, including phone number.**

Response: No corrective action plan is needed

Note:

1. Send an electronic copy of protocol to the recipient for comment.
2. cc: Annie Hamm
(Also, send to Annie any follow-up letters sent to recipient, and relevant e-mail messages)
3. Recipient to send confirmation upon receipt of approved report.

TAB 6

Subject: RE: 2018-2019 funding

Date: Wednesday, July 26, 2017 at 7:30:14 AM Eastern Daylight Time

From: Wenz, Tom

To: Karl Blankenship

Yes, got it Karl. They are in the process of forward funding your '18 funds prior to the end of this fiscal year (Sep 30).

Tom

From: Karl Blankenship [mailto:bayjournal@earthlink.net]

Sent: Tuesday, July 25, 2017 6:03 PM

To: Wenz, Tom <Wenz.Tom@epa.gov>

Subject: Re: 2018-2019 funding

Tom,

Sent you a note from my iPhone earlier, but not sure it went through.

But yes, the figures in your email for 2018 and beyond are correct.

Thanks

Karl

Karl Blankenship
Editor, Bay Journal
619 Oakwood Dr.
Seven Valleys, PA 17360
717-428-2819
Bayjournal@earthlink.net

From: "Wenz, Tom" <Wenz.Tom@epa.gov>

Date: Tuesday, July 25, 2017 at 7:47 AM

To: Karl Blankenship <bayjournal@earthlink.net>

Subject: 2018-2019 funding

Karl,

Wanted to confirm, based on your 5-year budget detail, \$325k is your expectation for funding starting in Feb 2018. Then again \$325k in Feb 2019 and \$300k in Feb 2020 and Feb 2021.

Thanks,

Tom Wenz

EPA Chesapeake Bay Program Office

410 Severn Ave, Suite 112

Annapolis, MD 21403

410-295-1360

TAB 7


From: "Esher, Diana" <Esher.Diana@epa.gov>
Subject: Notification of Funding Decision on Grant Award
Date: August 23, 2017 at 12:16:53 PM EDT
To: "kblankenship@bayjournal.com" <kblankenship@bayjournal.com>
Cc: "Edward, James" <edward.james@epa.gov>, "White, Lisa" <WHITE.LISA@EPA.GOV>

Dear Mr. Blankenship,

This message is to notify you that EPA will not fund your grant application for The Chesapeake Bay Journal. Due to a shift in priorities, EPA has decided not to provide funds for your project. Please accept our sincere thanks for your interest this EPA funding opportunity.

Diana Esher
Assistant Regional Administrator
for Policy and Management
US EPA Region 3
215-814-2706
esher.diana@epa.gov

TAB 8

From: Esher, Diana Esher.Diana@epa.gov 
Subject: Appeal Notice re: Grant CB-96342701
Date: September 20, 2017 at 2:57 PM
To: kblankenship@bayjournal.com

DE

Cc: White, Lisa WHITE.LISA@EPA.GOV, Edward, James edward.james@epa.gov, Hindin, Rebecca Hindin.Rebecca@epa.gov, Neal, Kerry neal.kerry@epa.gov, Krakowiak, John Krakowiak.John@epa.gov, Wenz, Tom Wenz.Tom@epa.gov, DiPasquale, Nicholas dipasquale.nicholas@epa.gov, Smith, William (Region 3) smith.william@epa.gov, tlewis@gejlaw.com

Subject: Grant Number CB-96342701

Dear Mr. Blankenship:

I am following up on my August 23, 2017 email, below, concerning the funding for grant CB-96342701, and your September 7, 2017 inquiry to Project Officer Rebecca Hindin about the appeal process. I am also in receipt of your September 19, 2017 email to me entitled "Bay Journal grant decision request for appeal extension."

As stated in the August 23, 2017 email, the reason for the Agency Decision not to provide incremental annual funding for this grant is because of a change in Agency priorities. The Funding/Award section of the Request for Proposals (RFP), EPA-R3-CBP-15-06, issued June 18, 2015, that led to the award of this grant states: "*There is no guarantee of funding throughout this period or beyond.*" (Emphasis added) Part II.D of the RFP also stated: "The expected project period for the grant is six years, with funding provided on an annual basis. *No commitment of funding can be made beyond the first year.*" (Emphasis added). Item 4 of the Programmatic Terms and Conditions 4 ("Incremental Funding on Competitive Awards") of Grant Number CB-96342701 states: "EPA is partially funding this budget period and will consider funding the balance of the budget request contingent upon satisfactory progress, as certified by the EPA Project Officer, the availability of funds, *and EPA priorities.* It is understood that the scope of work will be renegotiated to reflect the amount awarded, if additional funds are not available." (Emphasis added) EPA's decision not to award additional funding to your organization is consistent with both the terms of the RFP and grant CB-96342701.

Please note that EPA's decision not to provide incremental funding is not a termination due to Chesapeake Media's failure to comply with the terms of grant CB-96342701 for the purposes of reporting under 2 CFR 200.239(h) to the OMR designated integrity and performance system

200.33(b) to the CIVIC designated integrity and performance system. Therefore, there will be no adverse effect on Chesapeake Media's consideration for future Federal funding.

In accordance with 2 CFR Part 1500, Subpart E, available at <https://www.gpo.gov/fdsys/pkg/CFR-2017-title2-vol1/pdf/CFR-2017-title2-vol1-part1500-subpartE.pdf>, this email communication constitutes the Agency Decision in this matter. If you wish to file an appeal of this Agency Decision, you must do so no later than 30 calendar days of the date of this email communication, i.e., on or before October 20, 2017. Your appeal should be submitted electronically to Kerry K. Neal, Deputy Director, Office of Grants and Debarment, who is the Disputes Decision Official (DDO) for this matter. Mr. Neal's email address is neal.kerry@epa.gov. I have forwarded to Mr. Neal your September 19, 2017 email ("Bay Journal grant decision request for appeal extension") and attachments. Any supplementary appeal materials, or requests for an extension of time for the Appeal beyond October 20, 2017, must be directed to Mr. Neal. You should also email any additional appeal materials to me as the Action Official, esher.diana@epa.gov.

Pursuant to 2 CFR Sec. 1500.14(c), the appeal must include a copy of the Agency Decision; a detailed statement of the specific legal and factual grounds for the Appeal, including copies of any supporting documents; the specific remedy or relief sought; and the name and contact information, including email address, of your designated point of contact for the Appeal.

Diana Esher
Assistant Regional Administrator
for Policy and Management
US EPA Region 3
215-814-2706
esher.diana@epa.gov

>>>>>

From: Esher, Diana
Sent: Wednesday, August 23, 2017 12:17 PM
To: 'kblankenship@baviournal.com' <kblankenship@baviournal.com>

Cc: Jim Edward (edward.james@epa.gov) <edward.james@epa.gov>; White, Lisa <WHITE.LISA@EPA.GOV>
Subject: Notification of Funding Decision on Grant Award

Dear Mr. Blankenship,

This message is to notify you that EPA will not fund your grant application for The Chesapeake Bay Journal. Due to a shift in priorities, EPA has decided not to provide funds for your project. Please accept our sincere thanks for your interest this EPA funding opportunity.

Diana Esher
Assistant Regional Administrator
for Policy and Management
US EPA Region 3
215-814-2706
esher.diana@epa.gov

TAB 9

Subject: Re: Comments requested for the Bay Journal - on deadline for 6 p.m. today
Date: 9/22/2017 12:45:12 PM Eastern Standard Time
From: graham.amy@epa.gov
To: llutz@bayjournal.com
Cc: Press@epa.gov

Hi Lara – Liz passed along your email. Here is our statement that you may attribute to me:

"It's not unprecedented for a new administration to conduct a thorough review of the previous administration's funding decisions, which is currently ongoing for all grants. We are focused on ensuring taxpayer funds are spent responsibly on programs that yield tangible results to protect clean air, land, and water, and as part of that effort, funding for the Bay Journal will now go back into the Chesapeake Bay program to fund other Chesapeake Bay grants." – Amy Graham, EPA spokesperson

Thanks,
Amy

From: Lara Lutz [mailto:llutz@bayjournal.com]
Sent: Friday, September 22, 2017 10:57 AM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Subject: Comments requested for the Bay Journal - on deadline for 6 p.m. today

Ms. Bowman,

I am working on an article for the Chesapeake Bay Journal about the EPA decision by John Konkus to cancel the grant to the Bay Journal. I would like to include EPA responses to the questions below and would appreciate your help in providing them. I'm working on a 6 p.m. deadline; if it's easier to call me to discuss this, please feel free to do so. I'm at 410-798-9925.

-- Email correspondence between the EPA and the Bay Journal has described the reason for the cut as a "shift in priorities." Can you provide a more detailed explanation of the priorities that have changed? What are the new priorities and how does that differ from the priorities under which the Bay Journal grant was originally approved?

-- How many contracted/awarded grants have been reviewed in the process conducted by Mr. Konkus and how many of those have been canceled due to a "shift in priorities"? Can you provide a list?

Thanks in advance for your help with these questions. I look forward to hearing from you; if I should be making this request to a different EPA representative, please let me know as soon as possible.

Thanks,
Lara Lutz
Writer/Editor
410-798-9925
llutz@bayjournal.com

TAB 10

EPA now requires political aide's sign-off for agency awards, grant applications

By **Juliet Eilperin** September 4

The Environmental Protection Agency has taken the unusual step of putting a political operative in charge of vetting the hundreds of millions of dollars in grants the EPA distributes annually, assigning final funding decisions to a former Trump campaign aide with little environmental policy experience.

In this role, John Konkus reviews every award the agency gives out, along with every grant solicitation before it is issued. According to both career and political employees, Konkus has told staff that he is on the lookout for “the double C-word” — climate change — and repeatedly has instructed grant officers to eliminate references to the subject in solicitations.

Konkus, who officially works in the EPA's public affairs office, has canceled close to \$2 million competitively awarded to universities and nonprofit organizations. Although his review has primarily affected Obama administration priorities, it is the heavily Republican state of Alaska that has undergone the most scrutiny so far.

ADVERTISING

EPA spokeswoman Liz Bowman said that grant decisions “are to ensure funding is in line with the Agency’s mission and policy priorities,” with the number of awards denied amounting to just 1 percent of those made since EPA Administrator Scott Pruitt took office. “We review grants to see if they are providing tangible results to the American people,” she said in an email.

But the agency’s new system has raised concerns among career officials and outside experts, as well as questions among some in Congress that the EPA grant program is being politicized at the expense of their states.

Earlier this summer, on the same day that Sen. Lisa Murkowski of Alaska joined with two other Republicans in voting down a GOP health-care bill, EPA staffers were instructed without any explanation to halt all grants to the regional office that covers Alaska, Washington, Oregon and Idaho. That hold was quickly narrowed just to Alaska and remained in place for nearly two weeks.

The ideological shift is a clear break from the practices of previous Republican and Democratic administrations. It bears the hallmarks not just of Pruitt’s tenure but of President Trump’s, reflecting skepticism of climate science, advocacy groups and academia.

Although the EPA has taken the most systematic approach to scrutinizing the flow of money, it is not the only entity to do so. Attorney General Jeff Sessions has vowed to withhold Justice Department grants from “sanctuary cities” that refuse to hand over arrested immigrants who cannot prove they are in the country legally. The Interior Department, which is conducting a review of its grants, last month canceled a \$100,000 National Academies of Sciences, Engineering and Medicine study aimed at evaluating the impact of surface mining on nearby communities.

Yet several officials from the Obama and George W. Bush administrations said they had never heard of a public affairs officer scrutinizing EPA’s solicitations and its grants, which account for half of the agency’s roughly \$8 billion budget.

“We didn’t do a political screening on every grant, because many of them were based on science, and political appointees don’t have that kind of background,” said former EPA administrator Christine Todd Whitman, who served under Bush. She said she couldn’t recall a time when that administration’s political appointees weighed in on a given award.

Konkus is a longtime Republican operative from Florida who served as Trump’s Leon County campaign chairman and previously worked for the state’s lieutenant governor and as a political consultant. From 2000 to 2006, he was an executive assistant, primarily on scheduling and organizational matters, for then-House Science Committee Chairman Sherwood L. Boehlert (R-N.Y.). The panel has oversight of the EPA.

Now, as deputy associate administrator in the EPA’s public affairs office, Konkus helps to publicize the funding of awards and serves more broadly as a grants adviser on policy and management issues.

While most of the internal focus has been on individual grants with a connection to climate change, the decision on July 28 to put a temporary hold on all awards to Alaska attracted broader notice.

Two EPA officials, who spoke on the condition of anonymity for fear of retaliation, said the action prompted a consultation with agency lawyers because of its unusual nature. The hold temporarily slowed awarding more than \$10 million in federal funds through half a dozen tribal grants and one to the state's Department of Conservation.

Bowman said Alaska was not singled out in the review, and aides to Murkowski and Alaska Gov. Bill Walker (I) said they were not aware that any funding was delayed. The Obama administration had identified "combating climate change by limiting pollutants" as one of its priorities for awarding tribal funds, but several of the pending Alaska grants were unrelated to climate change.

Konkus has nixed funding for nearly a half-dozen projects to date, including a Bush-era program to address indoor air pollution, a project to protect watersheds in Central and Eastern Europe, and a one-day training session in Flint, Mich., to help residents eradicate bedbugs.

He allowed a \$300,000 award for a computer system to help implement the Obama administration's Clean Power Plan after the firm involved told the EPA that it could be used for policies other than climate change, officials said.

E&E News first reported that Konkus was overseeing grant applications but did not describe the criteria he was applying or his specific work on the actual awards.

Bowman said that the agency's approach, which required the development of a new computer-reporting system, has allowed the Trump administration to determine whether decisions made by the previous administration were a wise use of taxpayer money.

"I want to underscore that only a select few have been rescinded," she said in her email, noting that the EPA had given states nearly \$74 million in competitive grants and \$1.7 billion in noncompetitive awards between Feb. 1 and Aug. 22.

But Sen. Thomas R. Carper (Del.), the top Democrat on the Environment and Public Works Committee, sent Pruitt [a letter](#) late last month asking that he provide documents outlining which grant programs are now subject to political review, how this deviates from past practice and which grants recommended by career staff have been subsequently declined.

From February through July, Carper noted, EPA grant awards to several Democratic-leaning states — including Delaware, Massachusetts and California — had declined compared with the previous year.

"There could be many reasons for these apparent declines," Carper wrote. Although he added that it warranted attention "in light of the potential that EPA's decision to involve political appointees represents a change in the grant-solicitation process and may be indicative of the politicization of the grant-awarding process."

James L. Connaughton, who was chairman of the White House Council on Environmental Quality under Bush, said new administrations routinely do "a soup-to-nuts review of the previous administration's programs" and advance their own priorities through funding decisions.

“Some of the efforts might be more transparent than others, but let’s not fool ourselves,” he added.

Still, Connaughton said it was fair to question a review’s outcome. Two of the awards the EPA’s leadership rescinded — \$1.1 million to the U.N. Foundation and a nearly \$148,000 award to the nonprofit organization Winrock International — supported the deployment of clean cookstoves in the developing world. The U.N. Foundation grant grew out of a 15-year-old EPA program with the private sector, which aims to curb the kind of pollution that fuels climate change and disproportionately affects women and children.

The program addressed pollution that enters the air and “affects all of us,” Whitman said. “It was also good for human health in those countries, which we wanted to have stable for national security.”

Bowman said the agency was pulling back grants to international entities that are not “providing results for American taxpayers.”


But several U.S. firms that sell stoves and equipment benefit from the program, countered Radha Muthiah, chief executive of the Global Alliance for Clean Cookstoves. “It’s a cutting-edge solution to one of the world’s oldest challenges, it’s working, and there is a lot still to be done,” she said in a statement.

The smallest grant revoked so far was a \$20,000 award to the Midwest Pesticide Action Center to train Flint residents on how to combat bedbugs. Executive Director Ruth Kerzee said in an interview that regional EPA officials had urged the center to apply because it had a small amount of unused funds. The group was notified of the award and then told a month later that it was canceled.

Kerzee said bedbug infestations have spread over time in the Michigan city — which has grappled with lead-contaminated drinking water since 2014 — and the center’s past sessions attracted packed audiences. “People really do need this,” she said. “For low-income communities, it’s a really desperate situation.”

Bowman said the cancellation made sense in light of the agency’s overall priorities: “Let’s be clear, we are talking about \$20,000 for a one-day workshop on bedbugs.”

 **757 Comments**

Juliet Eilperin is The Washington Post's senior national affairs correspondent, covering how the new administration is transforming a range of U.S. policies and the federal government itself. She is the author of two books—one on sharks, and another on Congress, not to be confused with each other—and has worked for the Post since 1998.  Follow @eilperin

TAB 11

Arthur A. Elkins, Jr.
U.S. Environmental Protection Agency
Office of Inspector General
1200 Pennsylvania Avenue, N.W. (2410T)
Washington, DC 20460

September 14, 2017

Dear Inspector General Elkins:

We write as organizations concerned with ensuring scientific integrity in the policymaking process, particularly with respect to policies that protect the environment and public health. We respectfully request that you review the reported decision to have John Konkus, the deputy associate administrator of the Environmental Protection Agency (EPA) Office of Public Affairs, review and approve all grants awarded by the agency.

As reported by the Washington Post, Mr. Konkus has reviewed every EPA grant and grant solicitation, canceling almost \$2 million worth of grants to nonpartisan research universities and nonprofits in that process.¹ Given that the Office of Public Affairs is responsible for EPA communications and outreach efforts, and not the evaluation of grant proposals to determine their technical and scientific merit, its involvement raises serious concerns about the integrity of the grantmaking process. Members of Congress have requested clarification from EPA regarding this matter, and given the serious nature of issues raised, we write to urge your office to investigate as well.

First, we ask that your office determine whether Mr. Konkus and other EPA staff are making decisions in the grantmaking processes consistent with the requirements set forth in statute, EPA's policy and procedures, and other federal standards and policies related to grantmaking.² We also ask you to investigate whether Mr. Konkus and other EPA staff are using political criteria instead of scientific criteria to determine grant awards, and whether such decisions reflect improper conflicts of interest or constitute violations of the Hatch Act.³

According to the Washington Post, a "temporary hold on all awards to Alaska" enacted on July 28th alarmed two EPA officials, who subsequently reported it to EPA's Office of the General Counsel. Potential EPA political staff involvement in grantmaking increases the importance of that office's determination of the legality of such actions, so we also ask that you investigate whether the Office of General Counsel's advice was followed, and whether there was any political interference in the provision of its advice on this or other matters related to the politicized grantmaking process.

¹ Washington Post, "EPA now requires political aide's sign-off for agency awards, grant applications," Sep. 4, 2017

² See FIFRA, § 20, 23; CERCLA, § 311; TSCA, § 10, 28; Clean Air Act § 103, 104; SWDA, § 8001

³ 5 CFR 734.302(a)

The allegation that EPA political staff delayed the disbursement of grant awards to Alaska in retaliation for a vote on pending legislation or other improper political considerations, as well as other allegations of politically motivated decision-making in the agency's grantmaking, are grave. We urge your office to being an investigation of these matters immediately.

Thank you for your prompt attention to this matter,

Kathleen Rest, PhD, MPA
Executive Director
Union of Concerned Scientists

Christy Goldfuss
Vice President for Energy and Environment Policy
Center for American Progress

TAB 12

JAMES M. INHOFE, OKLAHOMA
SHELLEY MOORE CAPITO, WEST VIRGINIA
JOHN BOOZMAN, ARKANSAS
ROGER WICKER, MISSISSIPPI
DEB FISCHER, NEBRASKA
JERRY MORAN, KANSAS
MIKE ROUNDS, SOUTH DAKOTA
JONI ERNST, IOWA
DAN SULLIVAN, ALASKA
RICHARD SHELBY, ALABAMA

THOMAS R. CARPER, DELAWARE
BENJAMIN L. CARDIN, MARYLAND
BERNARD SANDERS, VERMONT
SHELDON WHITEHOUSE, RHODE ISLAND
JEFF MERKLEY, OREGON
KIRSTEN GILLIBRAND, NEW YORK
CORY A. BOOKER, NEW JERSEY
EDWARD J. MARKEY, MASSACHUSETTS
TAMMY DUCKWORTH, ILLINOIS
KAMALA HARRIS, CALIFORNIA

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

RICHARD M. RUSSELL, MAJORITY STAFF DIRECTOR
GABRIELLE BATKIN, MINORITY STAFF DIRECTOR

August 24, 2017

The Honorable Scott Pruitt
Administrator
Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20004

Dear Administrator Pruitt:

I write to request information about the manner in which the Environmental Protection Agency (EPA) is issuing grant solicitations. A recent report¹ states that you have assigned a political appointee in EPA's Office of Public Affairs to sign off on the agency's issuance of grant solicitation decisions. According to the report, EPA's spokesperson said, in response to press inquiries, that "grants are being reviewed to ensure they adhere to the Trump administration's goals and policies and the EPA's back-to-basics agenda."

EPA awards hundreds of millions of dollars' worth of competitive grants each year, including for environmental research and development and the Diesel Emissions Reduction Act. According to former EPA officials interviewed for the press report, it is highly unusual for the Office of Public Affairs or a political appointee to sign off on grant solicitations before they are made public. Such action raises concerns that EPA may be planning to politicize the types of grants EPA awards or the recipients thereof.

A review of the EPA grant database² indicates that grants awards to several states have declined in early 2017. For example, grants to Massachusetts declined from almost \$20 million from February 1-July 31, 2016 to just over \$4.5 million during the same period in 2017. Delaware received almost \$14 million during this 6-month period in 2016, but has received about \$7.5 million in the comparable interval in 2017. California received more than \$72 million in grants in 2016 and almost \$39 million in the analogous 2017 timeframe. There could be many reasons for these apparent declines, including uncertainties about EPA's budget, the past provision of one-time large grants, the possibility that some grant program disbursements have been delayed for all states in 2017, or the possibility that fewer applications for competitive grants were received from these states. However, in light of the potential that EPA's decision to involve political appointees represents a change in the grant-solicitation process and may be indicative of the politicization of the grant-awarding process, I request your prompt responses to the following requests for information:

1. Please provide a list of all EPA grant programs that will be subject to this new solicitation process.

¹ <https://www.eenews.net/greenwire/2017/08/17/stories/1060058907>

² <https://www.usaspending.gov/DownloadCenter/Pages/DataDownload.aspx>

2. For each such grant program, please describe the deviations from the past process used to solicit grant applications.
3. For each such grant program, please indicate whether political appointees will also be signing off on the recipient of each grant after award recommendations are made by EPA career staff.
4. For your tenure at EPA to date, and quarterly thereafter, please provide a list of grants that were recommended for award by EPA career staff that were subsequently declined, and a list of grants that were recommended for decline by EPA career staff that were subsequently awarded. For each such grant, please provide the name and location of the applicant, the grant program for which the application was submitted, and the reason for over-ruling EPA career staff's recommendations.

Thank you very much for your attention to this important matter. Please provide your response no later than September 22, 2017. If you or members of your staff have further questions, please feel free to ask them to contact Ms. Michal Freedhoff at the Committee on Environment and Public Works at (202) 224-8832.

Sincerely yours,



Tom Carper
Ranking Member

TAB 13



CHESAPEAKE BAY COMMISSION

Policy for the Bay • www.chesbay.us

The Honorable Scott Pruitt, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Mail Code: 1101A
Washington, DC 20460

Dear Administrator Pruitt:

We were impressed at our recent meeting with your willingness to listen and understand the perspectives of the Chesapeake Bay Commission, as both a formal signatory to the 2014 Chesapeake Bay Watershed Agreement and an integral member of the multi-jurisdictional restoration effort. As we noted, the Chesapeake Bay Commission brings a unique perspective to the table, as the only member of the partnership that represents both multiple states and the legislative branch of government. We promised to keep you informed of any significant issues or concerns, which is why we are writing today.

This week the EPA announced that it will terminate a six-year grant to Bay Journal Media, a 501(c)(3) organization, after the completion of its second year this coming February, to produce the *Bay Journal*. Our understanding of the rationale for this action was due to a "shift in priorities." Although the Commission is an integral member of the restoration effort, we are unaware of any change in priorities that would warrant this action, and there was no consideration of this decision by the Bay Program Partnership.

Allow us to detail the significance of the *Bay Journal* to the restoration effort, and why we believe this unilateral decision is a step backwards in our shared goal of removing the Bay from the EPA list of impaired waters. From the very beginning of the Bay Program, it has always been understood that citizen engagement and sound science were critical components of a successful restoration effort. With information comes the empowerment to act with knowledge. And it takes a certain skill set to marry the often technical and jargon-laden language of Bay scientists to the watershed's citizens. The writers and editors at the *Bay Journal* have excelled at this.

Moreover, accountability has always been a cornerstone of the effort and, as State legislators, we know about accountability. The *Bay Journal*, as an independent source of information, has provided objectivity and called for accountability at all levels, both in and out of government. The 2014 agreement specifically calls for increased citizen stewardship and increasing the knowledge of local leadership. With a large print and on-line presence, the *Bay Journal* has become the gold-standard for objective, science-based information about the Bay for all of us, leaders and stakeholders alike.

The simple fact is this – the effort to clean up the Chesapeake Bay is such a significant undertaking that an entire newspaper is dedicated to covering it. By defunding this effort, the EPA sends a clear message that the cleanup, the science and the citizen engagement are not as important. We believe that is the wrong message to send, especially now that such significant results are being seen. The news to report

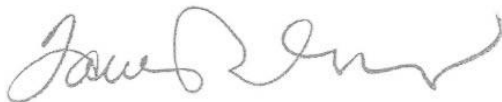
is good. And Bay Journal Media leverages federal funding to increase support from other sources, so value received is several times the current dollars spent.

We would ask that you reconsider this decision, and continue with the existing grant. We also ask that if significant policy or funding changes are anticipated related to the Bay Program, these be fully discussed and vetted with the Partnership members. Only by working together can we succeed.

Sincerely yours,



Garth D. Everett, Chairman
Pennsylvania House of Representatives



Tawanna Gaines, Vice-Chairman
Maryland House of Delegates



L. Scott Lingamfelter, Vice-Chairman
Virginia House of Delegates

CC: Chesapeake Bay Commission Members
Ken Wagner, EPA, Senior Advisor to Administrator for Regional & State Affairs
Cecil Rodriguez, EPA, Region III, Acting Regional Administrator
Nick DiPasquale, EPA, Chesapeake Bay Program, Director

TAB 14



CHAIR
The Hon. Bruce R. Williams
Maryland

VICE CHAIR – At-Large
The Hon. Daniel Chao
District of Columbia

VICE CHAIR – MD
The Hon. Kelly Porter
Maryland

VICE CHAIR – PA
The Hon. Ann Simonetti
Pennsylvania

VICE CHAIR – VA
The Hon. Richard A. Baugh
Virginia

The Hon. James Barnhart
West Virginia

The Hon. Markus Batchelor
District of Columbia

The Hon. Ruby A. Brabo
Virginia

The Hon. Ed Bustin
Pennsylvania

The Hon. Sheila Finlayson
Maryland

The Hon. Jasmine Gore
Virginia

The Hon. J. Richard Gray
Pennsylvania

The Hon. Penelope A. Gross
Virginia

The Hon. Charles Jones
Virginia

The Hon. Leo Lutz
Pennsylvania

The Hon. Andria McClellan
Virginia

The Hon. Brianne K. Nadeau
District of Columbia

The Hon. Donovan Phillips Jr.
Delaware

The Hon. John V. Thomas
Pennsylvania

James Wheeler
Pennsylvania

The Hon. Robert C. Willey
Maryland

September 5, 2017

Dear Administrator Pruitt:

The members of the Local Government Advisory Committee to the Chesapeake Executive Council (LGAC), are concerned about the elimination of funding for the Chesapeake Bay Journal.

The Chesapeake Bay Journal has long been a vital resource for unbiased information about the Chesapeake Bay watershed. I have been receiving the Bay Journal for many years, and find it to be unparalleled in terms of informing readers about a broad range of issues that affect the health of the Bay and communities throughout the watershed.

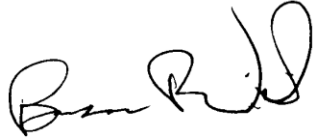
LGAC, which was established by the Chesapeake Executive Council in 1987, has been a tireless proponent for local governments involved in the Bay restoration. Recognizing the need to increase local government officials' knowledge and understanding of watershed protection and restoration, LGAC took great interest in and strongly supported the recently launched Local Government Edition of the Chesapeake Bay Journal.

Representing you at the 2017 Executive Council meeting, Ken Wagner expressed support for the Chesapeake Bay Program Partnership and the vital work that we are doing to clean up the Bay. Unfortunately, eliminating funding for the Chesapeake Bay Journal, including the Local Government Edition, is a step in the wrong direction. We need resources like the Bay Journal, which help us better understand the issues around protection and restoration of our water resources.

As we stated in our 2017 Annual Report and Recommendations to the Executive Council, "every local government official in the Bay watershed should have access to timely, accurate and reliable information about the clean-up efforts and a clear understanding of the role of local governments in meeting the pollution reduction goals established in the Bay TMDL." While it is no substitute for timely, reliable information from the states or EPA, the Bay Journal has long done just that. Therefore, I hope we can count on you to see that the Bay Journal's Cooperative Agreement with the U.S. EPA continues to be fully funded.

Should you wish to discuss this or any other issues raised in our Annual Report and Recommendations, please contact LGAC's Coordinator, Mary Gattis, at lgac@allianceforthebay.org to schedule a meeting. It would be our pleasure to sit down with you to discuss the role of local government in protecting water resources.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce R. Williams". The signature is fluid and cursive, with the first name "Bruce" and last name "Williams" clearly distinguishable.

Bruce R. Williams, Chair, Local Government Advisory Committee

cc: Chesapeake Executive Council

Larry Hogan, Governor of Maryland

Muriel Bower, Mayor of District of Columbia

John Carney, Governor of Delaware

Andrew Cuomo, Governor of New York

Garth Everett, Chesapeake Bay Commission

Jim Justice, Governor of West Virginia

Terry McAuliffe, Governor of Virginia

Tom Wolfe, Governor of Pennsylvania

Nick DiPasquale, Director, USEPA Chesapeake Bay Program

TAB 15

United States Senate

WASHINGTON, DC 20510

October 18, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Administration
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

Dear Administrator Pruitt:

We write in regard to the EPA decision of August 23, 2017, to terminate an ongoing “Cooperative Agreement” with Bay Journal Media, Inc., publisher of the *Bay Journal* newspaper, a source of unique, environmentally focused content throughout the Chesapeake Bay Watershed. We are deeply troubled by this agency action, which would eliminate 40 percent of the organization’s funding and imperil its future.

We are aware of no other examples of high-performing grantees having their EPA funding revoked under similar circumstances, meaning that this action sets a dangerous nationwide precedent. Most troubling, this decision also appears to be based on a flawed premise that the will of the U.S. Congress has somehow shifted away from supporting the restoration of the Chesapeake Bay watershed, which could not be further from the truth.

When contacting Bay Journal Media via email that the agency was taking the highly irregular step of reneging on what amounts to a five-year contract little more than a year into its life, the EPA said the action was due “to a shift in priorities.” Yet the U.S. Congress, which spoke very clearly to its priorities of elevating our national environmental stewardship when passing the Clean Water Act and subsequently creating the EPA Chesapeake Bay Program under its auspices decades ago, has expressed no such change in priorities.

Note, for example, that this summer the U.S. Senate Environment and Public Works Committee acted to advance the reauthorization the EPA Chesapeake Bay Program through 2022 at \$90 million per year. This is more than the program has ever been funded in its history.

Also note that this action builds on a series of intergovernmental agreements that identify the improved conservation of the Chesapeake Bay as a shared goal. In 2000, Congress directed the EPA to ensure that management plans are developed and implementation is begun to meet the goals of the Chesapeake Bay Agreement. In June 2014, the governors of the six states in the watershed signed a new, voluntary Chesapeake Bay watershed agreement to work in partnership with the federal government through the EPA Chesapeake Bay Program.

The mission of Bay Journal Media is directly in line with the priorities of the Congress and other elected officials throughout the Chesapeake Bay watershed. 33 USC Section 1267, which established the Chesapeake Bay Program, states that "The Chesapeake Bay Program Office shall provide support to the Chesapeake Executive Council by ... implementing outreach programs for public information, education, and participation to foster stewardship of the resources of the Chesapeake Bay." For more than a quarter-century, the *Bay Journal* has been a primary means through which that goal is advanced. We believe it has done a sterling job of delivering returns on investments.

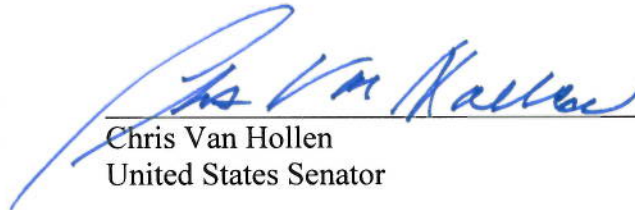
Your own agency has made this clear in its grant and performance evaluations. The most recent EPA performance review, issued only five months ago, said of the *Bay Journal*: "Continued outstanding work in producing independent editorial and news content pertinent to the general public interest in Chesapeake Bay restoration efforts. The most comprehensive coverage of Bay related issues within the watershed. Excellent production in meeting the grant requirements and establishing the standard for coverage of Chesapeake Bay related issues."

There exists no legitimate cause to deprive the residents of the Chesapeake Bay watershed of such a vital source of information. In our conversations, you have voiced support for the Chesapeake Bay restoration effort, so we do not doubt that you understand the importance of sharing the news about the progress we make together. As such, we urge you to immediately reconsider the EPA decision not to continue supporting this coverage.

Sincerely,



Benjamin L. Cardin
United States Senator



Chris Van Hollen
United States Senator

TAB 16

Sept. 22, 2017

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

To Whom It May Concern:

This is a request under the Freedom of Information Act (FOIA).

I request all records concerning communications within the U.S. Environmental Protection Agency and between U.S. EPA and federal or state agencies or outside parties since Jan. 20, 2017 concerning each of the following:

- 1) The “Bay Journal” or “Chesapeake Bay Journal;”
- 2) EPA Grant CB-96342701 awarded to Chesapeake Media Services Inc. (now Bay Journal Media) on 1/20/2016.
- 3) Documentation of any “shift in priorities” for the Chesapeake Bay Program affecting its activities, especially as they relate to grant programs.

Please include any phone calls, call logs, call sheets, Skype calls or videos, emails, letters, hand-written notes, day calendars, memorandums, meeting agenda sheets, text messages, voice and video recordings and other documented forms of communication.

Please search for responsive records to my request in the email accounts affiliated with the following individuals: Scott Pruitt, Ken Wagner, John Konkus, Cecil Rodrigues, John Armstead, and Diana Esher.

If possible, I would like to receive the largest number of records or documents in electronic form.

I am filing this FOIA request as a “representative of the news media,” since I am a reporter for/editor of the Bay Journal. This designation entitles me to a waiver of fees accumulated during the actual search and review process. Nevertheless, if your agency does determine that I should be charged for any part of this request, please contact me before estimate costed exceed \$100.

This request is made as part of news-gathering activity and is not for commercial use.

The information responsive to this FOIA request will contribute to the public’s understanding of EPA and the government at large. This information is not in the public domain, but once your agency responds to this FOIA request, it will be published online at www.bayjournal.com and in our print edition, with a combined readership of nearly 100,000. We expect the information that is produced through this and other FOIA requests to serve as the basis for several articles that explain the government’s actions and operations to the public. For more information about the Bay Journal, please refer to www.bayjournal.com

FOIA requires that if part of a record is exempt from disclosure, you must redact and release all segregated parts. Please describe the deleted material in detail and specify the reasons for believing that the alleged statutory justification applies in this instance.

If my request is denied in whole or in part, please specify which exemption(s) is (are) claimed for each passage or whole document denied. In addition, please give the number of pages in each document and the total number of pages pertaining to this request and the dates of the documents withheld. Such statements will be helpful in deciding whether to appeal an adverse determination.

As required by FOIA, I look forward to hearing from your office within 20 days in response to this request.

If you have any questions about the nature or scope of this request, please call me at 717-428-2819 or email me at kblankenship@bayjournal.com.

Thank you for your prompt attention to this request.

Sincerely,

Karl Blankenship
Editor, Bay Journal
Executive Director, Bay Journal Media

TAB 17

From: White, Candace <White.Candace@epa.gov>
Sent: Tuesday, November 07, 2017 12:57 PM
To: Norman, Erika D.; Karl Blankenship
Subject: RE: Bay Journal FOIA

Follow Up Flag: Follow up
Flag Status: Completed

Hello Erika,
I was actually about to send an email to you as your email came in.

We are drafting correspondence regarding next steps for your FOIA requests and your client's FOIA request and once you have had the opportunity to read the letter and discuss with your client, we can set up a time to discuss the FOIA requests.
If you have any questions please feel free to let me know.

Kind Regards,
Candy

Candace S White
Program Analyst
Office of The Administrator / Office of Public Affairs
U.S. Environmental Protection Agency
202-564-4308 Desk
202-731-3188 Cell
white.candace@epa.gov

Start where you are. Use what you have. Do what you can - Arthur Ashe

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From: Norman, Erika D. [mailto:Erika.Norman@apks.com]
Sent: Tuesday, November 07, 2017 12:43 PM
To: White, Candace <White.Candace@epa.gov>; Karl Blankenship <kblankenship@bayjournal.com>
Subject: RE: Bay Journal FOIA

Candace,

Do you have an update for Wednesday?

Erika

Erika Norman
Associate

Arnold & Porter Kaye Scholer LLP

601 Massachusetts Ave., NW | Washington | DC 20001-3743
T: +1 202.942.6543 | F: +1 202.942.5999 | M: +1 310.995.9821
erika.norman@apks.com | www.apks.com

From: Norman, Erika D.
Sent: Monday, November 06, 2017 2:25 PM
To: 'White, Candace'; 'Karl Blankenship'
Subject: RE: Bay Journal FOIA

Thanks, Candace. I appreciate it. We'll be available on Wednesday.

Erika Norman
Associate

Arnold & Porter Kaye Scholer LLP

601 Massachusetts Ave., NW | Washington | DC 20001-3743
T: +1 202.942.6543 | F: +1 202.942.5999 | M: +1 310.995.9821
erika.norman@apks.com | www.apks.com

From: White, Candace [<mailto:White.Candace@epa.gov>]
Sent: Monday, November 06, 2017 2:15 PM
To: Norman, Erika D.
Subject: Re: Bay Journal FOIA

Erika,

I understand the urgency to have this call as soon as possible which is why I was trying find some time as you originally suggested for Friday or Monday. Had I had know that all parties would not be available to speak with you today I would have suggested later in the week. Since I know today is not feasible, I will get back to you with a time hopefully for Wednesday of this week.

Thank you very much for your understanding as we are trying our best to work with this unprecedented number of FOIA request we now have.

Sent from my iPhone

Cheers,
Candy

Candace S White
Program Analyst

Office of Public Affairs
U.S. Environmental Protection Agency
[202-564-4308](tel:202-564-4308) Desk
[202-731-3188](tel:202-731-3188) Cell
white.candace@epa.gov

On Nov 6, 2017, at 1:59 PM, Norman, Erika D. <Erika.Norman@apks.com> wrote:

Candace,

Our strong preference is to have the call as soon as possible, including later today as originally proposed by you last Friday or tomorrow morning. At the suggestion of the General Counsel's Office, we first reached out to you on October 31, nearly a week ago. As you know, there is urgency here, because the Bay Journal's administrative appeal for termination of its grant is due no later than November 20, 2017 and Mr. Blankenship's September 22 FOIA request seeks information directly relating to the agency's decision to terminate the Bay Journal grant. At this point, weeks after the agency's response to this highly targeted FOIA was due, we need to engage in a substantive discussion concerning the status of the request and the agency's commitment to a firm deadline for the production of responsive documents. We are free for a call this afternoon, tomorrow, and Wednesday at your convenience.

Erika

Erika Norman
Associate

Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW | Washington | DC 20001-3743
T: +1 202.942.6543 | F: +1 202.942.5999 | M: +1 310.995.9821
erika.norman@apks.com | www.apks.com

From: White, Candace [<mailto:White.Candace@epa.gov>]
Sent: Monday, November 06, 2017 12:52 PM
To: Norman, Erika D.
Cc: Karl Blankenship
Subject: Re: Bay Journal FOIA

Hello Erika,
All of the parties that need to be involved on our end are not available today. and I was hoping to get some times that will work for you either Wednesday or Thursday of this week.

Sent from my iPhone

Cheers,
Candy

Candace S White
Program Analyst
Office of Public Affairs
U.S. Environmental Protection Agency
[202-564-4308](tel:202-564-4308) Desk
[202-731-3188](tel:202-731-3188) Cell
white.candace@epa.gov

On Nov 6, 2017, at 12:25 PM, Norman, Erika D. <Erika.Norman@apks.com> wrote:

Candy,

Any update on whether a call will go forward today? Please advise.

Thanks,

Erika

Erika Norman
Associate

Arnold & Porter Kaye Scholer LLP

601 Massachusetts Ave., NW | Washington | DC 20001-3743
T: +1 202.942.6543 | F: +1 202.942.5999 | M: +1 310.995.9821
erika.norman@apks.com | www.apks.com

From: Norman, Erika D.
Sent: Saturday, November 04, 2017 8:03 PM
To: 'White, Candace'
Cc: Karl Blankenship
Subject: RE: Bay Journal FOIA

Thanks, Candy. 2:00 pm on Monday should work.

Erika Norman
Associate

Arnold & Porter Kaye Scholer LLP

601 Massachusetts Ave., NW | Washington | DC 20001-3743
T: +1 202.942.6543 | F: +1 202.942.5999 | M: +1 310.995.9821
erika.norman@apks.com | www.apks.com

From: White, Candace [<mailto:White.Candace@epa.gov>]
Sent: Friday, November 03, 2017 6:04 PM
To: Norman, Erika D.

Cc: Karl Blankenship
Subject: Re: Bay Journal FOIA

Hello Erika,
Im still waiting to hear from my colleagues who are more knowledgeable on this issue as to a time that will work for them. As of now 2:00 on Monday was good for all but I still need to hear back from 1 other person. I'll let you know as soon as I have a concrete time that works for all on our end.

Cheers,
Candy

Candace S White
Program Analyst
Office of Public Affairs
U.S. Environmental Protection Agency
[202-564-4308](tel:202-564-4308) Desk
[202-731-3188](tel:202-731-3188) Cell
white.candace@epa.gov

On Nov 3, 2017, at 12:33 PM, Norman, Erika D. <Erika.Norman@apks.com> wrote:

Candace,

Please let us know your availability for a call on Monday. I understand that Karl is not available today (Friday), but it's important that we speak with you on Monday. Can I suggest 9:30 or 10 a.m.?

Thank you,

Erika

Erika Norman
Associate

Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW | Washington | DC 20001-3743
T: +1 202.942.6543 | F: +1 202.942.5999 | M: +1 310.995.9821
erika.norman@apks.com | www.apks.com

From: Karl Blankenship [<mailto:kblankenship@bayjournal.com>]
Sent: Wednesday, November 01, 2017 3:03 PM
To: white.candace@epa.gov
Cc: Norman, Erika D.
Subject: Bay Journal FOIA

Candace,

Wendell Askew had indicated that you would be in touch to discuss the potential for expediting parts of our pending FOIA request. I am out tomorrow morning, but would be available later this afternoon or tomorrow afternoon to talk if you're available. Please let me know a good time to talk. Our legal counsel is also interested in joining the call.

Thanks

Karl

Karl Blankenship
Editor, Bay Journal
619 Oakwood Dr.
Seven Valleys, PA 17360
717-428-2819
kblankenship@bayjournal.com

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<http://www.apks.com>

TAB 18

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

BAY JOURNAL MEDIA, INC.,
619 Oakwood Drive
Seven Valleys, PA 17360-9395,

Plaintiff,

vs.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,
1200 Pennsylvania Avenue
Washington, DC 20004,

Defendant.

Case No.

COMPLAINT FOR INJUNCTIVE RELIEF

Plaintiff Bay Journal Media, Inc., brings this action under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), against Defendant, United States Environmental Protection Agency (“EPA” or “agency”), to compel Defendant to produce documents regarding the abrupt termination of an EPA grant to the *Bay Journal*, an award-winning regional newspaper that covers environmental issues affecting the Chesapeake Bay and has received funding from the agency for more than two decades.

Jurisdiction and Venue

1. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

3. Because Defendant has failed to comply with the applicable time limit provisions in FOIA, Plaintiff is deemed to have exhausted its administrative remedies pursuant to 5 U.S.C. § 552(a)(6)(C)(i) and 40 C.F.R. § 2.104(a).

Parties

4. Plaintiff Bay Journal Media, Inc., is a not-for-profit organization based in Seven Valleys, Pennsylvania, that produces and distributes the *Bay Journal* newspaper. The paper's mission is to produce independent, unbiased reporting that informs the public about environmental issues affecting the Chesapeake Bay and to inspire effective action by individuals, groups, organizations, and all levels of government to restore, protect, and preserve the cultural and natural heritage of the Chesapeake Bay region. The *Bay Journal* has an editorial staff who have a combined 125 years of experience reporting on the Bay and cover issues such as climate change, conservation, pollution, energy sources, and politics and policy pertaining to the Bay.

5. Defendant EPA is a federal agency within the meaning of FOIA, 5 U.S.C. § 552(f)(1), that is headquartered in Washington, D.C. The EPA has possession, custody, and control of records to which Plaintiff seeks access.

Factual Allegations

Chesapeake Bay Program

6. Efforts to restore and preserve the Chesapeake Bay have been ongoing for more than three decades.

7. The Chesapeake Bay Commission was created in 1980 as a bi-state commission to help Maryland and Virginia collaborate and cooperate on the management of the Chesapeake Bay. Pennsylvania was added to the Commission in 1985.

8. In 1983, the governors of Maryland, Virginia, and Pennsylvania, joined by the Mayor of the District of Columbia, the chairman of the Chesapeake Bay Commission, and the Administrator of EPA signed the first Chesapeake Bay Agreement, a coordinated federal-state effort to reduce pollution and restore the Bay that has been renewed on a periodic basis and remains in effect today. *See* Chesapeake Exec. Council, CHESAPEAKE BAY WATERSHED AGREEMENT (2014).

9. In 1987, Congress amended section 117 of the Clean Water Act (“Act”) to “ratif[y] the Chesapeake Bay Program, [as] a voluntary partnership among several watershed states and EPA” that “supported cleanup efforts [of the Bay] by a program of grants and study.” *Am. Farm Bureau Fed’n v. U.S. Env’tl Protection Agency*, 792 F.3d 281, 308 (3d Cir. 2015) (citing 33 U.S.C. § 1267); *see also* Water Quality Act of 1987, Pub. L. No. 100–4, § 117, 101 Stat. 10 (1987).

10. Pursuant to section 117, EPA must maintain a Chesapeake Bay Program Office that is charged, among other things, with “developing and making available, through publications, technical assistance, and other appropriate means, information pertaining to the environmental quality and living resources of the Chesapeake Bay ecosystem” and “implementing outreach programs for public information, education, and participation to foster stewardship of the resources of the Chesapeake Bay.” 33 U.S.C. § 1267(b)(2).

11. As is relevant here, section 117(d) further provides for “technical assistance[] and assistance grants” that are to be administered by the Administrator of the EPA “in cooperation with the Chesapeake Executive Council,” which is composed of the signatories of the Chesapeake Bay Agreement. *See* 33 U.S.C. § 1267(d).

12. Grants for the Chesapeake Bay Program are awarded by EPA following a competitive process that is governed by detailed federal regulations and guidance issued by the Chesapeake Bay Program Office, and that involves review by both EPA officials and external partners in the Chesapeake Bay Program. *See* 2 C.F.R. Part 200; 2 C.F.R. Part 1500; U.S. EPA & Chesapeake Bay Program Office, U.S. ENVIRONMENTAL PROTECTION AGENCY CHESAPEAKE BAY PROGRAM OFFICE 2017 GRANT AND COOPERATIVE AGREEMENT GUIDANCE (2016).

Defendant's Grant to Bay Journal Media, Inc. and the Termination of the Grant

13. The *Bay Journal* is an award-winning regional newspaper founded in 1991 with nearly 100,000 print and online readers. Since its inception, the *Bay Journal* has received grant funding from EPA as part of the Chesapeake Bay Program. In January 2016, following a competitive application process, Plaintiff¹ was awarded a \$1.95 million, six-year grant by EPA pursuant to section 117(d) of the Act to publish and distribute the *Bay Journal* to raise awareness regarding the Bay and its health.

14. EPA made two distributions of the grant award—\$350,000 in February 2016 and \$350,000 in February 2017—to Plaintiff.

15. Plaintiff since has received two exemplary evaluations from EPA, in November 2016 and April 2017, that each commended Plaintiff's "[c]ontinued outstanding work in producing independent editorial and news content" as well as "[e]xcellent production in meeting the grant requirements and establishing the standard for coverage of Chesapeake Bay related issues."

¹ The grant was initially awarded to Chesapeake Media Service Inc., which has since changed its name to Bay Journal Media, Inc.

16. In July 2017, an employee from EPA emailed Karl Blankenship, the *Bay Journal's* editor, to "confirm" that the *Bay Journal* would be receiving an additional \$325,000 in grant funding in February 2018, and then successive payments of \$325,000 in February 2019, \$300,000 in 2020, and \$300,000 in 2021.

17. Yet, on August 23, 2017, Mr. Blankenship received another email from Defendant, advising that the agency was terminating the grant "[d]ue to a shift in priorities."

18. On September 20, 2017, EPA provided Plaintiff with an Agency Decision reiterating that the grant was being terminated "because of a change in Agency priorities." The Agency Decision did not provide further elaboration on this supposed "change" but made clear that the decision was not a termination based on any failure by Bay Journal Media, Inc., to comply with the terms of the grant.

19. In a departure from past practice, in 2017, EPA charged a political appointee, John Konkus, in the Office of Public Affairs with the task of reviewing the agency's grants, including the Bay Journal grant.

20. Plaintiff is unaware of any change in priorities involving the Chesapeake Bay Program, and EPA has not identified any to Plaintiff.

21. As explained above, Congress created the Chesapeake Bay Program as a unique partnership between EPA and the watershed states and required that section 117(d) grants be awarded by the EPA Administrator "in cooperation with the Chesapeake Executive Council," which is composed of the signatories of the Chesapeake Bay Agreement. 33 U.S.C. § 1267(d).

22. Multiple partners in the Bay Program have written to EPA Administrator Scott Pruitt to request the restoration of the *Bay Journal's* grant funding.

23. The Chesapeake Bay Commission, which is a member of the Chesapeake Bay Executive Council, wrote to Administrator Pruitt that it was “unware of any change in priorities” and that “there was no consideration of this decision by the Bay Program Partnership.” The Commission’s letter, which was signed by state legislators from Maryland, Virginia, and Pennsylvania (watershed states that each are members of the Chesapeake Bay Executive Council), described the *Bay Journal* as “the gold-standard for objective, science-based information about the Bay for all of us, leaders and stakeholders alike” and an “independent source of information [that] has provided objectivity and called for accountability at all levels.” The Commission requested that EPA reverse the “unilateral decision” to terminate the grant.

24. Senators Benjamin L. Cardin and Chris Van Hollen of Maryland have also urged Administrator Pruitt to reconsider the termination, writing that the “mission of Bay Journal Media is directly in line with the priorities of the Congress and other elected officials throughout the Chesapeake Bay watershed” and that there is “no legitimate cause to deprive residents of the Chesapeake Bay watershed of such a vital source of information.”

25. Plaintiff intends to appeal the grant termination through the agency’s administrative process.

26. As described below, Plaintiff submitted a tailored FOIA request to better understand the agency’s true reasons for the grant termination and to assist in the preparation of the administrative appeal, which is due to be filed with the agency by November 20, 2017.

Plaintiff’s FOIA Request to the EPA

27. On September 22, 2017, Plaintiff submitted a FOIA request to EPA seeking access to all records within EPA and between EPA and federal or state agencies or other outside parties since January 20, 2017 concerning each of the following:

- (1) The “Bay Journal” or “Chesapeake Bay Journal;”
- (2) EPA Grant CB-96342701 awarded to Chesapeake Media Services Inc. (now Bay Journal Media) on 1/20/2016.
- (3) Documentation of any “shift in priorities” for the Chesapeake Bay Program affecting its activities, especially as they relate to grant programs.

A copy of the September 22, 2017 request is attached hereto as Exhibit A and incorporated herein (“September 22 FOIA Request”).

28. Plaintiff’s September 22 FOIA Request further specified that the agency should search for responsive records in “email accounts affiliated with the following individuals: Scott Pruitt, Ken Wagner, John Konkus, Cecil Rodrigues, John Armstead, and Diana Esher.” September 22 FOIA Request at 1.

29. Plaintiff also sought a waiver of fees accumulated during the search and review process as a “representative of the news media.” *Id.*

30. EPA confirmed receipt of Plaintiff’s September 22 FOIA Request on September 22, 2017, and assigned it a tracking number of EPA-HQ-2017-011741.

31. On October 31, 2017, EPA notified Plaintiff by email that a fee waiver disposition had been reached and that the fee waiver request “has been determined to be not applicable.”

32. Also on October 31, 2017, EPA provided Plaintiff with a letter, stating that because the “request does not reach the minimum billable amount, therefore, no charges are associated in processing your request.” The letter further stated: “The Office of the Administrator will be responding to your information request.”

33. On October 31, 2017, counsel for Plaintiff contacted EPA’s Office of General Counsel to inquire about the agency’s response to the September 22 FOIA Request. Counsel for

Plaintiff was told that the request had been routed to EPA's Office of Public Affairs for processing and that they should contact an individual in that office for further information regarding the request. Counsel for Plaintiff left a voicemail for the specified individual on October 31, 2017. Plaintiff sent an email on November 1, 2017, to the same individual to set a time for a call to discuss the request. After counsel followed up by email, the EPA representative suggested—and then withdrew—November 6 and November 8 as dates for calls to discuss the request. On November 7, 2017, after counsel advised the EPA representative by email of Plaintiff's need for the documents due to the upcoming November 20 deadline in the grant termination administrative appeal, the EPA representative wrote to say that the agency was "drafting correspondence regarding next steps" and offered to "set up a time to discuss" following receipt of that correspondence. As of this filing, no correspondence has been received from the agency.

34. Notwithstanding the statutory obligation to make a determination of Plaintiff's request within 20 working days, EPA has made no determination on Plaintiff's request, nor has the agency produced any materials in response to that request.

35. Through EPA's failure to respond within the statutory time limit, Plaintiff has constructively exhausted its administrative remedies and seeks immediate judicial review.

36. EPA's expeditious response is necessary to permit Plaintiff to discover—and present—evidence relevant to the administrative appeal.

Claim for Relief

37. By failing to respond to Plaintiff's request within the statutorily prescribed time limit, Defendant has violated its duties under 5 U.S.C. § 552, including, but not limited to, the

duties to conduct a reasonable search for responsive records, to take reasonable steps to release all non-exempt information, and to not withhold responsive records.

WHEREFORE, Plaintiff prays that this Court:

1. Order Defendant to conduct a search for any and all responsive records to Plaintiff's FOIA request using search methods reasonably likely to lead to discovery of all responsive records;
2. Order Defendant to produce, by a date certain, any and all non-exempt responsive records and a *Vaughn* index of any responsive records withheld under a claim of exemption;
3. Enjoin Defendant from continuing to withhold any and all non-exempt responsive records;
4. Award Plaintiff its costs, attorneys' fees, and other disbursements for this action; and
5. Grant any other relief this Court deems appropriate.

Dated: November 13, 2017

Respectfully submitted,

/s/ Joel M. Gross

Joel M. Gross
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001
(202) 942-5705
Joel.Gross@apks.com

Erika D. Norman *pro hac vice forthcoming*
Arnold & Porter Kaye Scholer LLP
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Erika.Norman@apks.com

DEMOCRACY FORWARD FOUNDATION
Josephine Morse* *pro hac vice forthcoming*
P.O. Box 34553
Washington, D.C. 20043
(202) 448-9090
jmorse@democracyforward.org

*Admitted in New York; practicing under the supervision of members of the D.C. Bar while D.C. Bar application is pending.

Exhibit A

Sept. 22, 2017

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

To Whom It May Concern:

This is a request under the Freedom of Information Act (FOIA).

I request all records concerning communications within the U.S. Environmental Protection Agency and between U.S. EPA and federal or state agencies or outside parties since Jan. 20, 2017 concerning each of the following:

- 1) The “Bay Journal” or “Chesapeake Bay Journal;”
- 2) EPA Grant CB-96342701 awarded to Chesapeake Media Services Inc. (now Bay Journal Media) on 1/20/2016.
- 3) Documentation of any “shift in priorities” for the Chesapeake Bay Program affecting its activities, especially as they relate to grant programs.

Please include any phone calls, call logs, call sheets, Skype calls or videos, emails, letters, hand-written notes, day calendars, memorandums, meeting agenda sheets, text messages, voice and video recordings and other documented forms of communication.

Please search for responsive records to my request in the email accounts affiliated with the following individuals: Scott Pruitt, Ken Wagner, John Konkus, Cecil Rodrigues, John Armstead, and Diana Esher.

If possible, I would like to receive the largest number of records or documents in electronic form.

I am filing this FOIA request as a “representative of the news media,” since I am a reporter for/editor of the Bay Journal. This designation entitles me to a waiver of fees accumulated during the actual search and review process. Nevertheless, if your agency does determine that I should be charged for any part of this request, please contact me before estimate costed exceed \$100.

This request is made as part of news-gathering activity and is not for commercial use.

The information responsive to this FOIA request will contribute to the public’s understanding of EPA and the government at large. This information is not in the public domain, but once your agency responds to this FOIA request, it will be published online at www.bayjournal.com and in our print edition, with a combined readership of nearly 100,000. We expect the information that is produced through this and other FOIA requests to serve as the basis for several articles that explain the government’s actions and operations to the public. For more information about the Bay Journal, please refer to www.bayjournal.com

FOIA requires that if part of a record is exempt from disclosure, you must redact and release all segregated parts. Please describe the deleted material in detail and specify the reasons for believing that the alleged statutory justification applies in this instance.

If my request is denied in whole or in part, please specify which exemption(s) is (are) claimed for each passage or whole document denied. In addition, please give the number of pages in each document and the total number of pages pertaining to this request and the dates of the documents withheld. Such statements will be helpful in deciding whether to appeal an adverse determination.

As required by FOIA, I look forward to hearing from your office within 20 days in response to this request.

If you have any questions about the nature or scope of this request, please call me at 717-428-2819 or email me at kblankenship@bayjournal.com.

Thank you for your prompt attention to this request.

Sincerely,

Karl Blankenship
Editor, Bay Journal
Executive Director, Bay Journal Media