

STATE OF UTAH
DEPARTMENT OF ENVIRONMENTAL QUALITY

&

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION VIII



PERFORMANCE PARTNERSHIP AGREEMENT
FY 2004

September 26, 2003
FINAL

**PERFORMANCE PARTNERSHIP AGREEMENT BETWEEN THE
UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
AND
THE U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION VIII
FOR FISCAL YEAR 2004**

By entering into this Performance Partnership Agreement (PPA) UDEQ and EPA agree to implementation of the goals and measures contained herein. The EPA commits to fund UDEQ in the amounts specified in the Performance Partnership Grant (PPG) application subject to adjustments based on appropriations and EPA grant allocations. Should final appropriations be considerably less than these amounts, both parties may renegotiate the goals and measures outlined in the agreement.

This PPA covers the period from October 1, 2003 through September 30, 2004 and represents the workplan for the FY 2004 portion of UDEQ's FY 2004/2005 multi-year PPG. However, EPA and UDEQ have agreed to evolve the PPA into a "single definitive document" with the objective of entering into a three year PPA and PPG in October 2004.

FOR THE STATE OF UTAH

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Chapter I

How We Do Business

How We Do Business

The Partnership Concept

The State of Utah, Department of Environmental Quality (UDEQ), U.S. Environmental Protection Agency (EPA) Region VIII and Utah's local health departments (LHDs) continue to discuss roles and responsibilities for delivering Utah's environmental services. Issues surrounding accountability of one level of government to another have been at the heart of many debates. A three-way partnership among EPA, UDEQ and LHDs was conceived to resolve accountability issues and delineate environmental program responsibilities. In 1996, such a partnership was piloted with the Southwest Utah Public Health Department. Additional partnerships were initiated in the Uintah Basin and with the Olympics. During the course of this agreement, UDEQ, LHDs and R8 will continue to explore opportunities for additional partnerships.

The partnership concept recognizes that each partner brings unique experience, capabilities, knowledge and resources to the table and that environmental issues can be effectively addressed by maximizing these assets. UDEQ and EPA recognize the unique opportunity for three levels of government to address common goals with a common vision without one level of government assuming an oversight role. Each partner participates with joint responsibility, which necessitates a new way of thinking and a commitment to each partner's success. UDEQ, EPA and representatives of Utah's LHDs jointly developed the following vision statement, values and operating principles, which serve as the basis for doing business through this partnership.

Partnership Vision Statement

The Environmental Protection Agency, Department of Environmental Quality, and the Local Health Departments work together to solve environmental problems.

Partnership Shared Values

- * We focus our activities at the local level.
- * We solve or prevent problems by using each agency's resources and authority.
- * We take risks, build trust, and listen to community needs.
- * Personal leadership, team work and follow-through will assure success.

Partnership Operating Principles

- * Recognize issues and conflicts as opportunities to build relationships.
- * Focus on results instead of on a ~~set~~ process.
- * Know and respect your audience. Keep the message SIMPLE.
- * Recognize and understand the strengths and limits, the abilities and resources of the people with whom we work.
- * EMPATHIZE. Seek to understand before you are understood.
- * LISTEN, LEARN, ASK. What would you have us do?
- * Be creative in finding cost-effective, timely, workable solutions.
- * Fix the problem, not the blame.
- * Involve others to solve problems.
- * Partners share information, support, and accountability.
- * FOLLOW UP! FOLLOW THROUGH!
- * Recognize the needs of the people and the environment of Utah.

Enlibra Principles Advance Partnership

In 1999, the Western Governor's Association adopted Enlibra as its shared doctrine of environmental management. Enlibra, derived from Latin, was created to mean a balance and stewardship. It is a symbol for a balanced approach to successful environmental and natural resources management.

UDEQ and EPA agree to further advance our partnership approach to solving environmental problems by applying the Enlibra Principles. These principles are:

- * National Standards, Neighborhood Solutions - Assign Responsibilities at the Right Level
- * Collaboration, Not Polarization - Use Collaborative Processes to Break Down Barriers and Find Solutions
- * Reward Results, Not Programs - Move to a Performance-Based System

- * Science For Facts, Process for Priorities - Separate Subjective Choices from Objective Data Gathering
- * Markets Before Mandates - Pursue Economic Incentives Whenever Appropriate
- * Change A Heart, Change A Nation - Environmental Understanding is Crucial
- * Recognition of Benefits and Costs - Make Sure All Decisions Affecting Infrastructure, Development and Environment are Fully Informed
- * Solutions Transcend Political Boundaries - Use Appropriate Geographic Boundaries for Environmental Problems

Partnership Development: Joint Goals and Priorities For Fiscal Year 2004

DEQ and EPA have entered into the National Environmental Performance Partnership System (NEPPS) with the primary goal of delivering environmental services efficiently and effectively at the local level. The UDEQ, EPA, LHD partnerships are one avenue undertaken to reach this goal. In addition to community-based partnership, UDEQ and EPA have committed to reinforce the NEPPS through joint strategic planning. UDEQ and R8 will work with the state EPA Alignment Work Group and PPA Work Group to fortify existing partnerships, identify new partnership opportunities, apply revisions to the state/EPA planning processes with the intent of enhancing UDEQ's participation in these processes.

As such, UDEQ and EPA have evolved the midyear from a meeting wherein the status of programs was evaluated to a meeting where both parties discuss agency strategic goals and then determine joint priorities. This approach enables both agencies to develop a better understanding of the other's unique needs and to focus jointly on cross cutting environmental priorities and to protect and improve the air, land and water of Utah.

DEQ/EPA Joint Priorities for FY 2004

- Agriculture
- Revitalization
- TMDL – Clean Water Act – Direct implementation
- Homeland security
- Safe drinking water
- Water drought – environmental impacts
- Energy

Partnership Evolution: The Single Definitive Document

UDEQ and EPA agree to evolve our partnership as outlined in the draft concept paper entitled, “To A New Era in EPA-State Partnerships-Recognition of State Primacy,” which was discussed at the Utah/EPA Mid-Year meeting in May, 2003. This paper is included in Appendix D.

The approach outlined in the paper includes the evolution of the PPA into the “single definitive document” that recognizes the maturation of the EPA – State relationship, reduces real-time EPA oversight of authorized programs, reduces state reporting burden, and tests innovative approaches to environmental protection. Elements of the anticipated “single definitive document” need to be jointly developed and mutually agreed to during FY04 and will include:

- * Alignment of EPA Region VIII’s new regional planning efforts with UDEQ’s strategic planning process and the PPA joint strategic planning process;
- * Refinement of the current PPA joint evaluation criteria and process, consistent with Part 35.115, to meet the objective of reducing real-time oversight of all authorized programs. A component of this element will be the development of the “Accreditation of Environmental Stewardship” criteria;
- *Refinement of performance measures, originally outlined in the FY 2000 Core Performance Measures, reported annually by UDEQ as part of the PPA End-Of-Year Report, to more appropriately meet results-based management and performance objectives in Utah;
- *Development of “reopener clause”;
- * Resolution of outstanding PPG issues raised at the EPA/UDEQ 2003 mid-year meeting including: making the PPIS grant to Utah non-competitive, including the 103 grant in the PPG, addressing timeliness of the PPG award and developing a consistent PPG carry-over policy; and
- * Commitment of necessary staff resources and development of a timeline to jointly complete these elements before the next PPA negotiations proceed to insure that the next PPA and PPG will span a three-year period.

Chapter II

Role of the EPA

EPA Role in the Performance Partnership Agreement

There continues to be significant national debate concerning the appropriate roles of the federal government and states regarding implementation of federal statutes and regulations. This debate may ultimately have substantial impact on the respective roles of the state and EPA in the implementation of environmental programs to protect human health and the environment. At present, EPA Region VIII has identified ten principles, which govern EPA's role in regard to State/EPA Performance Partnerships. These principles will serve as guidelines for determining the nature and extent of federal activity in the Utah/EPA Performance Partnership for FY 2004.

1. Minimum National Environmental Standards

For many environmental programs, Congress and EPA have established minimum national standards to protect human health and the environment. These standards are applied uniformly to all states. In this partnership, EPA has the responsibility to assure that these standards are established and maintained based on health risk evaluations and other criteria established by Congress. Appropriate federal activity is warranted to monitor consistency, national trends and improvements.

2. Federal Lead Programs and Activities

In some cases, implementation of environmental programs is primarily a federal responsibility (e.g., non-delegated programs, Indian Lands) and EPA has a primary role in addressing these issues. Even so, many of these activities assume effective operation of programs delegated to the states and need state support. An example is Emergency Planning and Community Right-to-Know, which is directly implemented by EPA but relies heavily on state generated information and data. The State/EPA partnership should allow EPA to carry out its direct federal responsibilities more effectively.

3. Equity

EPA will work with the state to assure that no regulated entity obtains an economic benefit from violating laws, standards, regulations, or from illegal pollution. This assures that there is no distinct economic advantage in one state over another at the expense of public health, safety or the environment. In addition, the State/EPA partnership will provide a mechanism to work closely with the regulated community to develop effective tools for minimizing the cost of compliance.

4. Timely and Appropriate Response

The State is responsible for assuring the timeliness and appropriateness of responses to violations of state and federal law in a federally delegated program when the state has primacy. When state responses are not timely and appropriate, EPA may assume a more

active role by taking direct actions to assure compliance with the law.

5. Evaluation of Performance in Delegated Programs

In cases where EPA delegates implementation of an environmental program to the State, the State/EPA partnership must evaluate achievement of environmental program and fiscal goals and requirements. The ability to jointly evaluate these goals and requirements depends on an open relationship where both parties share information freely and work as partners to resolve issues. As such, the State and EPA will continually review program activities and fiscal performance against federal and state statutory, regulatory, and fiscal requirements and goals. During this agreement, UDEQ and EPA will consider ways to enhance joint evaluation in relation to future multi-year single definitive agreements, while also considering the requirements set forth in Parts 31 and 35 and relative to state/EPA work group efforts to improve results based partnerships.

6. Development of National and State Program Capacity

EPA is responsible for determining the federal criteria for implementing environmental laws. The state will determine the program structure consistent with federal criteria. The goals of the State/EPA partnership is to assure that the state has the capacity to implement federal environmental programs. Where needs are identified, EPA will help states build capacity with financial and technical program assistance. The State/EPA partnership will continually evaluate program needs and determine how best to enhance state program capacity.

7. Research and Development

EPA develops standards from the results of research and development, which have been undertaken or funded by the agency. Development and testing of innovative technologies, program and quality assurance methods, health and environmental risk assessments and similar initiatives are valuable components of national environmental programs and provide important information to both EPA and the State. EPA will continue to provide technical and financial support for research and applied technology evaluation.

8. Technical Assistance

Due to the variability of state needs relative to national standards, EPA may be able to provide technical assistance, which may not otherwise be available to the state. EPA will assist the state when requested in areas such as interpretations of federal regulations, technical information from other states, technical reviews of design and operation of processes, researching data, conducting risk assessments and peer review and peer matching. For EPA activities that will not require a major commitment for federal resources, EPA personnel will be available on an on-going basis. For activities that will require a major commitment of EPA resources, the partnership will define the State and EPA roles.

9. Financial Assistance

Most environmental programs included in the State/EPA partnership are partially funded by federal grants administered by EPA. Some of the major goals of state financial assistance include implementation of federal standards in state environmental programs, achievement of national environmental goals and priorities, and assistance in accomplishing state specific goals and priorities. Under the State/EPA partnership, EPA is providing states with increased flexibility in the use of federal funds in exchange for achieving agreed-upon environmental and program goals. This is particularly important in view of flat budget and under funded priorities. In all cases, State expenditure of federal grant funds and state cost shares must be consistent with the purposes and activities specified in the federal and state authorizing statutes and regulations and the commitments associated with the financial assistance.

10. Special Projects/Initiatives

The President, the Administrator of EPA and the State may identify special initiatives of projects, which are a high priority. The State/EPA partnership will determine which of these initiatives will result in significant environmental benefits and develop program goals and activities and respective agency roles to implement these initiatives.