

**MISSOURI DEPARTMENT OF NATURAL RESOURCES**  
**Solid Waste Management Program**  
**General Terms and Conditions**  
**Attachment 2**

**I. Administrative Requirements**

These general terms and conditions highlight requirements which are especially pertinent to solid waste management district grant awards made by the Missouri Department of Natural Resources (MDNR), Solid Waste Management Program (SWMP) to Missouri's Solid Waste Management Districts (districts). These general terms and conditions do not set out all of the provisions of the applicable laws and regulations, nor do they represent an exhaustive list of all requirements applicable to this award. A certain number of these requirements are emphasized here because they are frequently invoked and their violation is of serious concern. Definitions of terminology used within these general terms and conditions are set forth in Section III of this document.

These general terms and conditions apply to district grant applications approved and signed by the district's executive board for use of Solid Waste Management Funds (SWMF). In addition to these terms and conditions, the district and district subgrantee must comply with all governing requirements of the district's subgrant award.

**A. Use and Award of Solid Waste Management Funds**

1. All district funds shall be used for implementation of a solid waste management plan, district operations, solid waste management, waste reduction, recycling and related services as approved by the district executive board and the SWMP.
2. District grant or subgrant funds shall be awarded by the district for projects contained within the district's approved solid waste management plan. These funds will be used for solid waste management projects as approved by the SWMP. However, no district grant or subgrant funds will be made available for incineration without energy recovery.
3. Effective with the amended 10 CSR 80-9.050 Solid Waste Management Fund (SWMF) – District Grants: A district may elect to use more than one fiscal year's allocation of funds to finance a project. Prior to the SWMP encumbering funds for this project, the district shall submit a request to the SWMP for approval that provides justification and financial supporting documentation. Following the SWMP's approval, the district may request that these funds be transmitted to the district. All interest income earned by the district shall be obligated to this project until the total amount needed is reached.
4. District grant or subgrant funds shall not be awarded for a project whose applicant is directly involved in the evaluation and ranking of that particular project.
5. District grant or subgrant funds shall not be awarded for a project that displaces existing resource recovery services, unless the proposed project demonstrates how it will result in improvement or expansion of services.
6. District grant or subgrant funds shall not be awarded for a project that collects solid waste for disposal on a continuous basis.
7. Any funds awarded and disbursed to a district, which are not expended or encumbered, for the purpose for which the funds were awarded, will be repaid by the district to the SWMP for deposit into the SWMF.
8. District grant or subgrant funds may be withheld or may be required to be repaid if the district has an unresolved audit with significant findings or questioned costs.

9. *Expires on the effective date of the amended 10 CSR 80-9.050: Any district grant funds made available to a district but not awarded or expended within twenty-four (24) months of the state fiscal year in which it was allocated due to insufficient or inadequate projects, as determined by the district's executive board or SWMP may be reallocated pursuant to the Solid Waste Management Law. Effective with the amended 10 CSR 80-9.050: Any district funds allocated to a district but not requested by the district following the procedures outlined in 10 CSR 80-9.050, Solid Waste Management Fund (SWMF) - District Grants within twenty-four (24) months of the end of the state fiscal year in which the funds were allocated may be reallocated by the SWMP pursuant to section 260.335.2, RSMo.*
10. Special terms and conditions may apply to grantees or subgrantees considered "high risk" in accordance with 260.335.5, RSMo.
  - a. The SWMP in conjunction with the Solid Waste Advisory Board (SWAB) shall review the performance of districts and district subgrantees.
  - b. The SWMP may determine a district or district subgrantee is "high risk", if the district or district subgrantee:
    - i. has a history of unsatisfactory performance;
    - ii. is not financially stable;
    - iii. has a management system which does not meet the management standards set forth in these general terms and conditions;
    - iv. has not conformed to terms and conditions of previous awards; or
    - v. is otherwise not responsible.
  - c. If SWMP determines that an award will be made during the "high risk" designation period, special conditions and/or restrictions shall be set to correspond to the high risk condition and shall be included in the award.
  - d. Special conditions or restrictions may include:
    - i. payment on a reimbursement basis;
    - ii. withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given funding period;
    - iii. requiring additional, more detailed financial reports;
    - iv. requiring additional project monitoring;
    - v. requiring the grantee or subgrantee to obtain technical or management assistance; or
    - vi. establishing additional prior approvals.
  - e. If the SWMP decides to impose such conditions, the SWMP will notify the grantee or subgrantee as early as possible, in writing, of:
    - i. the nature of the special conditions/restrictions;
    - ii. the reason(s) for imposing the special conditions/restrictions;
    - iii. the corrective actions which must be taken before the special conditions/restrictions will be removed and the time allowed for completing the corrective actions; and
    - iv. the method of requesting reconsideration of the special conditions/restrictions imposed.
11. In consideration for the ability to utilize SWMF monies, the district and the district subgrantee agree to comply with all applicable terms and conditions of the Financial Assistance Agreement (FAA) and any documents incorporated therein, including these

general terms and conditions. Districts must incorporate the general terms and conditions into the district's subgrantee FAAs and any documents incorporated therein and either provide copies or make copies available to the subgrantees.

B. Project and Budget Periods

1. Effective with the amended 10 CSR 80-9.050: District Operations: The district's grant and budget period shall cover up to a one (1) year time period, unless otherwise approved by the SWMP.
2. Plan Implementation and District Subgrantee Projects:
  - a. Districts are to assign project and budget periods for district grants to allow for up to a two (2)-year time period for project completion.
  - b. A maximum of one (1) six (6)-month extension may be allowed beyond the two (2) year completion period when approved by the executive board. All project and budget period extensions must be documented in executive board meeting minutes.
  - c. Any extension of the project or budget periods beyond two (2) years and six (6) months must have the prior approval of the executive board and the SWMP.

C. Method of Payment

1. The district must be in compliance with all reporting requirements to receive disbursements.
2. Payments from SWMP to District.
  - a. Plan Implementation Projects. Funds allocated to the district are disbursable to the district by the SWMP for all allowable and eligible approved expenses for performing the agreed upon scope of services identified in the approved application, required attachments, and supporting documentation, if applicable. In order to receive funds, the district shall submit original invoices for payment to the SWMP as agreed upon per the Attachment 1 of the approved and fully executed FAA. No disbursements will be made for district plan implementation expenditures incurred before the SWMP approval date or after the closing budget date. Budget closing dates can be extended when prior approval has been granted by the SWMP. (Note: Effective with the amended 10 CSR 80-9.050, some eligible costs definitions are modified and should be reviewed by the district at that time to ensure appropriate use of funds.)
  - b. (Effective with the amended 10 CSR 80-9.050) District Operations. Funds allocated to the district are disbursable to the district by the SWMP for all allowable and eligible approved expenses for performing the agreed upon scope of services identified in the approved application, required attachments, and supporting documentation, if applicable. In order to receive funds, the district shall submit original invoices for payment to the SWMP as agreed upon per the Attachment 1 of the approved and fully executed FAA. For districts electing to enter into FAA's for district operations, no disbursements will be made for such expenditures incurred before the SWMP approval date or after the closing budget date. Budget closing dates can be extended when prior approval has been granted by the SWMP. (Note: Effective with the amended 10 CSR 80-9.050, some eligible costs definitions are modified and should be reviewed by the district at that time to ensure appropriate use of funds.)
  - c. District Subgrantee Projects. Funds are disbursable to the district by the SWMP for all allowable and eligible expenses as specified in the agreed upon scope of services

identified in the approved district subgrantee project application(s). In order to receive funds, the district shall submit original invoices and a copy of the fully, executed district subgrantee FAAs supporting the amounts requested from the SWMP, as agreed upon per the Attachment 1 of the SWMP's Financial Assistance Agreement (FAA). No disbursements will be made for district subgrantee project expenditures incurred before the SWMP approval date or after the district subgrantee project closing date. Project closing dates can be extended when prior approval has been granted by the district's executive board and SWMP as provided for in section B., above.

- d. Invoices submitted by districts to the SWMP must:
  - i. provide the project name, identification number, and the amount of allocation funds requested for disbursement for each project;
  - ii. include the award amount set forth in the FAA fully executed by the district or district's subgrantee; and
  - iii. include as attachments, copies of fully executed FAAs for each project for which the district is requesting funds.
- e. All disbursement requests must have the following signed certification by the authorized district official: I certify that to the best of my knowledge and belief the data above are correct and that all outlays were made or will be made in accordance with the subgrant and that payment is due and has not been previously requested.
- f. No disbursements will be made for costs incurred before or after the project's approved budget period or for costs incurred prior to the approval of the project by SWMP.
- g. No disbursements will be made for expenditures incurred after the closing budget period unless a budget time period extension has been granted. (See section B., above.)

3. Payments from District to District Subgrantee.

- a. The approved and fully executed FAA between the district and the district subgrantee must provide:
  - i. the district issued sequential identification project number;
  - ii. the district subgrantee's name;
  - iii. the project name;
  - iv. the project start and completion dates;
  - v. a breakdown of award amount from allocation, carryover, and interest;
  - vi. the subgrantee and district authority signatures;
  - vii. an executive summary;
  - viii. tasks;
  - ix. a budget summary/notes contained in the district subgrantee project application;
  - x. for a 15% retainage (until district executive board gives approval to the district subgrantee's final report and final accounting of project expenditures);
  - xi. for a 3 year record retention;
  - xii. for a minimum 4 year security interest in buildings, building site improvements, or equipment purchased using \$5,000 or more SWMF monies; and
  - xiii. a copy of the district's Special and/or General Terms and Conditions, if referred to.
- b. Invoices submitted to the district by the district's subgrantee must:
  - i. include the award amount provided in the FAA fully executed by the district and the district's subgrantee; and

- ii. provide the project name, identification number, and the amount of funds being requested for reimbursement.
  - c. All disbursement requests must have the following signed certification by the authorized district subgrantee official: I certify that to the best of my knowledge and belief the data above are correct and that all outlays were made or will be made in accordance with the subgrant and that payment is due and has not been previously requested.
  - d. No reimbursements will be made for costs incurred before or after the project's approved budget period by the district or for costs incurred prior to the approval of the project by the SWMP.
  - e. No reimbursements will be made for expenditures incurred after the closing budget period unless a budget time period extension has been granted (See section B., above).
  - f. Where the district requires match, payments under non-construction subgrants are to be based on the subgrant sharing ratio as applied to the total project cost. Each invoice submitted to the district must be based on the subgrant sharing ratio unless the district's subgrant specifically provides for advance payments. Advance payments may only be made upon a showing of good cause or special circumstances, as determined by the SWMP. Advance payments will only be made on a monthly basis to cover estimated expenditures for a 30-day period or as otherwise agreed. The SWMP will not approve the district advancing more than 25% of the total amount of the subgrant unless the subgrantee demonstrates good cause.
  - g. The district shall retain 15% of the funds awarded to the project until a district subgrantee's final report has been provided to the district and the executive board approves the project's final report and final accounting of expenditures.
  - h. Effective with the amended 10 CSR 80-9.050: The district has the option of making payment directly to a vendor instead of reimbursing the district subgrantee. In order for payment to be made directly to the vendor, the executive board must approve such direct payment for goods or services being purchased by the district subgrantee and the goods or services must have been received. Payment directly to the vendor does not relieve the executive board from the requirement for retaining 15% of the project funds until completion and submittal of the final report and final accounting of expenditures.
  - i. Effective with the amended 10 CSR 80-9.050: For reimbursements or disbursements the executive board may release the 15% retainage prior to completion of the subgrantee project with prior approval of the executive board and the SWMP.
- D. Withholding of District Funds
- 1. The SWMP may withhold or reduce district grant awards until the district is in compliance with the following:
    - a. Solid Waste Management Law and regulations;
    - b. Planning requirements pursuant to section 260.325, RSMo;
    - c. All general and special terms and conditions of the district's FAA;
    - d. Audit requirements;

- e. Significant audit findings and questioned costs resolution plans; and
  - f. All reporting requirements and plan revisions detailed in 10 CSR 80-9.050.
2. Effective with the amended 10 CSR 80-9.050: The SWMP may immediately withhold funds for significant audit findings. For other issues, the SWMP shall provide written notice of noncompliance prior to the withholding of funds, and such notice shall allow a minimum of thirty (30) days for the district to submit the documentation or conduct other tasks as indicated in the SWMP's notice.
  3. Effective with the amended 10 CSR 80-9.050: For receipt of reports, the SWMP shall use the postmark date as the date required performance and other reports are submitted by the district. If no postmark date is available, the SWMP shall use the date the SWMP receives the report.
    - a. If a district fails to submit to the SWMP a complete quarterly report, annual report, or plan revision (i.e., assessment inventory) by the due date indicated in the MDNR's notice of noncompliance, the SWMP shall withhold and reallocate funds equal to one percent (1%) of the district's most recent quarterly allocation for each day past the notice due date.
    - b. Extensions from the required due dates are allowed if the following provisions have been met:
      - i. The district has requested an extension prior to the notice due date and the SWMP has granted an extension; and
      - ii. The district has submitted a complete report by the date indicated in the SWMP approved extension.
  4. Effective with the amended 10 CSR 80-9.050: For questioned costs that the SWMP determines to be inappropriate or unnecessary, the district shall repay the SWMP or the SWMP shall withhold from the district's allocation the amount of the cost, following the SWMP's written request.
  5. Effective with the amended 10 CSR 80-9.050: For funds withheld from a district or repaid by a district, the SWMP shall reallocate these funds to all districts that, at the time of the reallocation, are in compliance with all requirements and have addressed all deficiencies identified in a district's audit to the satisfaction of the SWMP. The reallocation shall be made to districts in accordance with the allocation criteria pursuant to section 260.335, RSMo.

E. Retention and Custodial Requirements For Records

1. The district or district subgrantee shall retain financial records, supporting documents, and other records pertinent to the subgrant for a period of three years starting from the date of submission of the final financial status report.
2. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the 3-year period, the district or district subgrantee shall retain records until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.
3. The rights to access such records must not be limited to the required retention period but shall last as long as the records are retained.

4. The SWMP and the Missouri State Auditor's Office or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of the district or district subgrantees which are pertinent to the subgrant, in order to make audits, examinations, excerpts, and transcripts.
5. The retention period for equipment and building or site improvements records begins from the date of the disposition, replacement, or transfer of the asset at the direction of the SWMP or district.
6. The district will ensure that a provision for compliance with the record retention requirements of these General Terms and Conditions is placed in every subgrant.
7. The district's records shall be maintained as public records pursuant to Chapter 610, RSMo.

F. Program Income

1. The district or district subgrantee is encouraged to earn income to defray program costs.
2. Program income shall be deducted from outlays (i.e., expenditures) which may be both district grant funds and non-district grant funds as described below, unless the Solid Waste Management Fund - District Grant regulations, 10 CSR 80-9.050 or the FAA specify another alternative (or a combination of the alternatives). In specifying alternatives, the SWMP may distinguish between income earned by the district and income earned by district subgrantees and between the sources, kinds, or amounts of income. When the SWMP authorizes the alternatives in paragraphs 2.b. and 2.c. of this section, program income in excess of any limits stipulated shall also be deducted from outlays.
  - a. Deduction. Ordinarily program income shall be deducted from total allowable costs to determine the net allowable costs. Program income shall be used for current costs unless the SWMP authorizes otherwise. Program income which the district or district subgrantee did not anticipate at the time of the award shall be used to reduce the SWMP and district contributions rather than to increase the funds committed to the project.
  - b. Addition. With the prior written approval of the SWMP, program income may be added to the funds committed to the FAA by the SWMP and the district. The program income shall be used for the purposes and under the conditions stated in the FAA.
  - c. Cost sharing or matching. With the prior written approval of the SWMP, program income may be used to meet the cost sharing or matching requirement of the FAA, if applicable. The amount of the district grant award remains the same.
  - d. Program income after the award period.
    - i. Program income generated from project activities occurring after the expiration of the FAA between the district and district subgrantee remains with the district subgrantee.
    - ii. Program income generated from project activities funded from district grant funds occurring after the expiration of the district's FAA with the SWMP must be expended in compliance with 10 CSR 80-9.050.

G. Interest Income

1. Expenditure of interest income earned on district grant agreement funds must be in

compliance with 10 CSR 80-9.050.

2. Interest income earned from grant monies may be used to fund costs as long as those costs are reimbursable under the provisions established in 10 CSR 80-9.050 and directly benefit the district subgrant program and are budgeted and spent as part of a subgrant approved by the SWMP.
3. The expenditure of interest income, like other grant expenditures, must be reported to the SWMP quarterly on forms provided by the SWMP.

#### H. Match or Cost Share Funding

1. At this time, the SWMP does not require districts to match state funds allocated pursuant to 260.335, RSMo.
2. The district may elect to require a matching share from their district subgrantees. The matching share will usually be prescribed as a minimum percentage. In-kind (noncash) contributions are allowable project costs when the in-kind contributions directly benefit and are specifically identifiable to the project or program. Any in-kind match must be assigned a fair market value stated in dollars and the rationale used to calculate the value must be provided. Neither costs nor the values of third party in-kind contributions count towards satisfying a cost sharing or matching requirement of a subgrant agreement if such costs have been or will be counted towards satisfying a cost sharing or matching requirement of another SWMF subgrantee agreement, a SWMF procurement contract, or any other award of SWMF funds. MDNR funds from another MDNR grant or subgrant shall not count towards satisfying a cost sharing or matching requirement of a district subgrant agreement. Any match funds are considered state funds and may only be used for purposes allowed by 10 CSR 80-9.050.

#### I. Financial Management Systems

The financial management systems of districts and district subgrantees must be in accordance with generally accepted accounting principles and meet the following standards:

1. Financial Reporting. Accurate, current, and complete disclosure of financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the subgrant;
2. Accounting Records. Maintain records which adequately identify the source and application of funds provided for financially assisted activities. These records must contain information pertaining to subgrant awards and authorizations, restrictions on use of funds, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income, permit preparation of reports required by the SWMP, permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes;
3. Internal Control. Effective control and accountability must be maintained for all district and district subgrantee cash, real and personal property, and other assets. Subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes;
4. Budget Control. Actual expenditures or outlays must be compared with budgeted amounts for each subgrant;
5. Allowable Costs. Allowability of costs shall be determined in conformance with the Solid Waste Management Law and the implementing rules as well as cost principles contained

in Office of Management and Budget Circular No. A-87 for state and local governments (Attachment A), and Office of Management and Budget Circular No. A-122 (Attachment B) for nonprofit organizations. State agency program rules and regulations, and the subgrant scope of work will be followed in determining the reasonableness, allowability, and allocability of costs. The district and its' executive board are responsible for ensuring proper use of the SWMF. Districts will repay the amount of any improperly expended funds to the SWMP.

6. Eligible and Ineligible Costs. Eligible and ineligible costs may vary depending on the services, materials, and activities being performed. The district shall refer to 10 CSR 80-9.050(2)(D) for specifics for district fund use. Items not listed in 10 CSR 80-9.050(2)(D) or in sections (3)(A) District Operations, Eligible Costs and (4)(B) Plan Implementation Projects, Eligible Costs should be discussed with the SWMP (Note: References contained in this paragraph are specific to the amended 10 CSR 80-9.050 becoming effective during the term of this agreement. *Costs eligible prior to the effective date of the amended rule may also be found in 10 CSR 80-9.050 effective August 30, 2000.*);
7. Source Documentation. Accounting records must be supported by such source documentation as canceled checks, paid bills, payrolls, time and attendance records, contract and subgrant award documents. Appropriate electronic verification of cleared checks may also be considered source documentation in lieu of actual cancelled checks. The documentation must be made available by the district or district subgrantee at the SWMP's request; and
8. The district shall have procedures in place to minimize the time lapsed between money disbursed by the SWMP and money spent by the district or district subgrantee.

J. Reporting of Program Activities

The district shall submit to the SWMP:

1. District Annual Report. The district shall submit within 120 days following the close of the just completed state fiscal year the following information:
  - a. Goals and accomplishments;
  - b. Types of projects and results during fiscal year;
    - i. Projects resulting in tonnage diversion from landfills. Include number and cost of projects, tons diverted, average cost per ton diverted. Identify separate statistics for items banned and not banned from landfills;
    - ii. Projects not resulting in tonnage diversion including the number and cost of projects; and
    - iii. Projects closed.
  - c. Description of grant proposal evaluation process; and
  - d. District council and executive board members: list names along with organization represented.
2. Quarterly Report(s). On quarterly status report forms provided by the SWMP, the district shall submit the following information to the SWMP thirty (30) days after the end of each state fiscal year quarter (Note: State fiscal year quarters end on September 30, December 31, March 31, and June 30. Quarterly reports are due on: October 30, January 30, April 30, and July 30 respectively.):
  - a. Project status. For each plan implementation and district subgrantee project in

- progress the district shall provide:
- i. The details of progress addressing the project tasks outlined in the plan implementation application or subgrantee financial assistance agreement;
  - ii. Problems encountered in project execution;
  - iii. Budget adjustments made within budget categories, with justifications;
  - iv. The weight in tons of waste diverted for each type of recovered material utilized in the project for the most recent quarter following the implementation of the diversion activity or other measurable outcomes, as appropriate;
  - v. A copy of an amended subgrantee financial assistance agreement, if appropriate;
  - vi. Other information necessary for proper evaluation of the progress of the projects; and
  - vii. In the event that a time period for a project is less than a full year, only quarterly information appropriate to the project time period need be included in the district report.
- b. District Operations Status: For the district operations status report, the district shall provide:
- i. The details of progress in completing the district operations tasks outlined in the district operations application;
  - ii. Problems encountered in district operations;
  - iii. Required budget amendments; and
  - iv. Other information necessary for proper evaluation of district operations.
- c. Project Financial Summary. For each grant (district operations, plan implementation and district subgrantee project) the district shall provide:
- i. The original award amount taken from the accrued allocation held by the SWMP;
  - ii. Any district carryover used to fund a project or district operations;
  - iii. Any accrued interest income used to fund a project or district operations;
  - iv. Total grant award for that project or district operation. (The total J.2.c.i, J.2.c.ii, and J.2.c.iii);
  - v. Cumulative amount of district disbursement of funds to each district subgrantee or to the district during that reporting period;
  - vi. Balance of that district subgrant project or district operations during that reporting period;
  - vii. Any carryover funding held by the district that has not been obligated for projects or district operations; and
  - viii. Any accrued interest income held by the district that has not been obligated for projects or district operations.
3. Final Project Reports. The district shall submit to the SWMP a final report for each plan implementation or district subgrantee project that shall contain the same information as described for project status in J.2.a. as well as a comparison of actual accomplishments to the goals established and a description of how goals were met, not met, or were exceeded. Final Project Reports shall be provided along with the next quarterly report submitted by the district (i.e., thirty (30) days after the end of the next state fiscal year quarter.).
4. Assessment Inventory: Pursuant to section 260.325, RSMo, the board shall review the district's solid waste management plan at least every twenty-four (24) months for the purpose of evaluating the district's progress in meeting the requirements and goals of the plan, and shall submit plan revisions to the department and executive board or council. At a minimum, the executive board shall submit plan revisions by April 1 of each odd numbered year that include, but are not limited to:
- a. An inventory of solid waste services in the planning area on forms provided by the SWMP. Service information shall include:

- i. the solid waste collection services available to residential and commercial customers;
    - ii. the recycling services available to residential and commercial customers;
    - iii. the services available for management of items banned from Missouri landfills, pursuant to section 260.250, RSMo; and
    - iv. the services available for management of household hazardous wastes.
  - b. Pursuant to section 260.320.3, RSMo, a list of advisory boards, members of each and documentation of meetings; and
  - c. A description of illegal dumping identification, public education, and household hazardous waste activities and programs established by the executive board, pursuant to section 260.320.3, RSMo.
- 5. Financial Audit Requirements:
  - a. The executive board shall have their records audited by a certified public accountant or firm of certified public accountants pursuant to section 260.325, RSMo. Districts receiving two hundred thousand dollars or more of financial assistance shall have annual independent financial audits and districts receiving less than two hundred thousand dollars of financial assistance shall have independent audits at least once every two (2) years. *Expires on the effective date of the amended 10 CSR 80-9.050: Districts shall arrange to have the audit conducted and submit to the SWMP a complete audit report prepared by the certified public accountant or firm of certified public accountants within one hundred twenty (120) days of the end of the period covered by the audit.* Effective with the amended 10 CSR 80-9.050: The new due date for audit reports will be within one hundred eighty (180) days of the close of the district's fiscal year.
  - b. *Expires on the effective date of the amended 10 CSR 80-9.050: The district executive board shall address all deficiencies identified in a district's audit to the satisfaction of the department. Districts failing to adequately address deficiencies identified in the audit may not be eligible to receive any further funding and may be required to repay any and all disbursements of funds.*
  - c. Effective with the amended 10 CSR 80-9.050: The district's executive board shall address all deficiencies identified in a district's audit to the satisfaction of the SWMP. Districts failing to adequately address deficiencies identified in the audit may have funds withheld or may be required to repay any and all disbursements of funds in accordance with 10 CSR 80-9.050(9) Withholding of District Funds.
  - d. Effective with the amended 10 CSR 80-9.050: For questioned costs that the SWMP determines to be inappropriate or unnecessary, the district shall repay the SWMP or the SWMP shall withhold from the district's allocation the amount of the cost.
  - e. Effective with the amended 10 CSR 80-9.050: The SWMP may withhold or reduce district grant awards until the district is in compliance with the audit requirements, and has resolved significant audit findings and questioned costs.
  - f. The audited financial statements shall, at a minimum, provide for all fund types and account groups and include the following statements:
    - i. Financial Statements with the following minimum account categories:
      - 1) Total Assets: cash, investments, receivables, fixed assets.
      - 2) Total Liabilities: accounts payable, deferred grant revenue obligated for grants, deferred interest revenue obligated for grants.
      - 3) Net Assets: fund balance.
    - ii. Statement of Revenues, Expenditures, and Changes in Fund Balance with the

following minimum account categories:

- 1) Beginning Fund Balance.
  - 2) Revenues: grant revenue, interest revenue, other revenue sources.
  - 3) Expenditures: salaries, fringe benefits, travel, equipment, supplies, contractual, subgrant expenditures.
  - 4) Ending Fund Balance
- iii. Report on Internal Controls Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards, issued by the Comptroller General of the United States.
  - iv. Statement of Subgrant Expenditures that provides expenditures by subgrant and provides clear references to the projects as agreed to in the Financial Assistance Agreement.

K. Performance Audits and Other Examinations or Reviews

The SWMP or its designees have the right to conduct audits, examinations or reviews of districts or district subgrantees at any time.

1. Audits or examinations must confirm that records accurately reflect the operations of the district, the internal control structure provides reasonable assurance that assets are safeguarded, and the district or district subgrantee is in compliance with applicable laws and regulations.
2. A district or a district subgrantee receiving SWMF which are audited shall address all deficiencies identified in the audit to the satisfaction of the SWMP and/or the district.
3. *Expires on the effective date of the amended 10 CSR 80-9.050: The district executive board shall address all deficiencies identified in a district's audit to the satisfaction of the department. Districts failing to adequately address deficiencies identified in the audit may not be eligible to receive any further funding and may be required to repay any and all disbursements of funds.*
4. Effective with the amended 10 CSR 80-9.050: The district's executive board shall address all deficiencies identified in a district's audit to the satisfaction of the SWMP. Districts failing to adequately address deficiencies identified in the audit may have funds withheld or may be required to repay any and all disbursements of funds in accordance with 10 CSR 80-9.050(9) Withholding of District Funds.
5. Effective with the amended 10 CSR 80-9.050: For questioned costs that the SWMP determines to be inappropriate or unnecessary, the district shall repay the SWMP or the SWMP shall withhold from the district's allocation the amount of the cost.
6. Effective with the amended 10 CSR 80-9.050: The SWMP may withhold or reduce district grant awards until the district is in compliance with the audit requirements and has resolved significant audit findings and questioned costs.

L. Budget and Scope of Work Revisions

The district and district subgrantees are permitted to rebudget within the approved direct cost budget to meet unanticipated requirements. However, the district and district subgrantees must request approval in writing to revise budgets and scopes of work under the following conditions:

1. For non-construction projects, the district and district subgrantees shall obtain the prior approval of the SWMP, unless waived in writing by the SWMP, for cumulative transfers among direct cost categories, or, if applicable, among separately budgeted programs,

projects, functions, or activities when the accumulative amounts of such transfers exceed or are expected to exceed 10% of the current total approved budget which includes current year grant award amount, carryover amount, and interest income amount, whenever the SWMP's share exceeds \$100,000.

2. For construction and non-construction projects, the district and district subgrantees shall obtain prior written approval from the SWMP for any budget revision which would result in the need for additional SWMF monies.
3. For combined non-construction and construction projects, the district and district subgrantee must obtain prior written approval from the SWMP before making any fund or budget transfer from a non-construction project to a construction project or vice versa.
4. The district or district subgrantee under non-construction projects must obtain prior written approval from the SWMP whenever contracting out, subgranting, or otherwise obtaining a third party to perform activities, which, are central to the purpose of the award.
5. Changes to the scope of services described in the application and FAA must receive prior approval from the district or SWMP, as applicable. Approved changes in the scope of work or budget shall be incorporated by written amendment to the FAA with copies immediately provided to SWMP upon the obtaining of the district and district subgrantee's official signatures.
6. To extend the subgrant past the original completion date, see section B., above.

#### M. Equipment

Equipment is defined in Section III below. The district and district subgrantee agree that any equipment purchased pursuant to this agreement shall be used for the performance of services under the FAA during the term of the FAA. Notwithstanding anything to the contrary contained in this agreement, the equipment shall not be removed from the State of Missouri without the written approval of the SWMP.

The following standards shall govern the utilization and disposition of equipment acquired with district or district subgrant funds:

1. Title to equipment acquired under a grant or subgrant will vest with either the district or district subgrantee upon acquisition.
  - a. Equipment shall be used by the district or district subgrantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by SWMF. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by the SWMP or MDNR.
  - b. The district or district subgrantee shall not transfer, sell, or pledge any assets including equipment purchased using SWMF monies during the term of the grant and for 3 years thereafter without first obtaining the prior written consent of the SWMP.
  - c. The district or district subgrantee shall not sell, give away, relocate, or abandon the assets including equipment without the SWMP's prior written approval.
  - d. The district or district subgrantee shall also make equipment available for use on other projects or programs currently or previously supported by the SWMP or other MDNR programs, if such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be

given to other programs or projects supported by the SWMP or MDNR. User fees should be considered, if appropriate. This fee may be considered program income see Section F, above.

- e. The district or district subgrantee must not use equipment acquired with SWMF to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically allowed by state law.
  - f. When acquiring replacement equipment, the district or district subgrantee may use the equipment to be replaced as a trade-in or sell the equipment and use the proceeds to offset the cost of the replacement equipment, subject to the prior written approval of the SWMP or district.
  - g. The district or district's subgrantee hereby agrees that any equipment purchased pursuant to this agreement shall be used for the performance of services under this agreement during the term of this agreement, and for three years thereafter. The district or district's subgrantees shall annually submit a statement as provided by the district certifying that the use(s) of said equipment is for project activities. Use(s) of said equipment for activities not related to the performance of services of this agreement must be reported in quarterly reports required by this agreement.
2. Equipment Management. The district's and district subgrantee's procedures for managing equipment (i.e., including replacement equipment), whether acquired in whole or in part with subgrant funds, will, at a minimum, meet the following requirements until disposition takes place:
- a. Equipment records must be maintained that include a description of the equipment, a serial number or other identification number, the source of equipment, who holds title, the acquisition date, cost of the equipment, percentage of federal or state participation in the cost of the equipment, and the location, use and condition of the equipment, and any ultimate disposition data including date of disposal, and sale price of the equipment.
  - b. A physical inventory of the equipment must be taken and the results reconciled with the equipment records at least once every two years.
  - c. A control system must be developed to ensure adequate safeguards to prevent against loss, damage, or theft of the equipment. Any loss, damage, or theft shall be reported to and investigated by local authorities.
  - d. The control system shall include permanent tagging of equipment to identify the equipment as belonging to the district or being funded by district grant funds.
  - e. For all equipment purchased, in whole or in part, with SWMF, the district or district subgrantee shall procure and maintain insurance covering loss or damage to equipment purchased with a district or district subgrantee award, with a financially sound and reputable insurer in such amounts and covering such risks as are usually carried by similarly situated companies engaged in the same or similar business.
  - f. The district and district subgrantee must develop adequate maintenance procedures to keep the equipment in good condition.
  - g. If the district or district subgrantee is authorized or required to sell the equipment, proper sales procedures must be established to ensure the highest possible return.
3. Security Interest in Equipment.

- a. The district hereby grants to the SWMP, its successors and assigns a security interest in all equipment purchased by the district for \$5,000 or more, in whole or in part, with SWMF monies.
- i. The district hereby agrees to apply the funding provided for equipment to the purchase of the equipment specified in the FAA as negotiated with the SWMP.
  - ii. The security interest in equipment owned by the district shall be equivalent to the amount of funding provided by SWMP for the purchase of the equipment. Unless the SWMP notifies the district in writing of a material breach of the FAA or any documents incorporated herewith, the security interest of SWMP shall decrease at a rate of 25% of the provided funding per year, beginning on the start date of the project period as set forth in the FAA between the SWMP and the district.
  - iii. The district hereby covenants that it will not transfer, sell, or pledge the SWMP's security interest in the equipment as collateral for any indebtedness without first obtaining the prior written consent of the SWMP. When the security interest is fully depreciated, the SWMP will, on written demand by the district, send the district a termination statement that the SWMP no longer claims a security interest in the financing statement (identified by file number).
  - iv. If the equipment owned by the district is purchased with SWMF monies and is required to be titled through the Missouri Department of Revenue (MDOR), the SWMP must be listed as a lien holder on said title. The district must provide the SWMP a clear title to be held until the security interest (lien) has been fully depreciated. In the case of more than one lien holder, the district must provide the SWMP with documentation that the SWMP is listed as a lien holder on the title.
  - v. If the equipment owned by the district is purchased with SWMF monies and is not required to be titled through the MDOR, the district must provide the SWMP with documentation that the SWMP is listed as a lien holder either on the certificate of title or UCC-1 form, whichever applies.
  - vi. It is the responsibility of the district to obtain the proper forms and meet all requirements regarding the use of such forms. This documentation must be obtained within 30 days of purchase.
- b. The district subgrantee hereby grants to the district, its successors and assigns a security interest in all equipment purchased by the district subgrantee for \$5,000 or more, in whole or in part, with SWMF monies.
- i. The district subgrantee hereby agrees to apply the funding provided for equipment to the purchase of the equipment specified in the FAA as negotiated with the district.
  - ii. The security interest in equipment owned by the district subgrantee shall be equivalent to the amount of funding provided by the district for the purchase of the equipment. Unless the SWMP or district notifies the district subgrantee in writing of a material breach of the FAA or any documents incorporated herewith, the security interest of the district may decrease at a rate of 25% per year, beginning on the start date of the project period as set forth in the FAA between the district and the district subgrantee.
  - iii. The district subgrantee hereby covenants that it will not transfer, sell, or pledge the district's security interest in the equipment as collateral for any indebtedness without first obtaining the prior written consent of the district. When the security interest is fully depreciated, the district will, on written demand by the district subgrantee, send the district subgrantee a termination statement that the district no longer claims a security interest in the financing statement (identified by file number).
  - iv. If the equipment owned by the district subgrantee is purchased with SWMF monies and is required to be titled through the MDOR, the district must be listed

as a lien holder on said title. The district's subgrantee must provide the district a clear title to be held until the security interest (lien) has been fully depreciated. In the case of more than one lien holder, the district's subgrantee must provide the district with documentation that the district is listed as a lien holder on the title.

- v. If the equipment owned by the district subgrantee is purchased with SWMF monies and is not required to be titled through the MDOR, the district's subgrantee must provide the district with documentation that the district is listed as a lien holder either on the certificate of title or UCC-1 form, whichever applies.
  - vi. It is the responsibility of the district's subgrantee to obtain the proper forms and meet all requirements regarding the use of such forms. This documentation must be obtained within 30 days of purchase.
4. When original or replacement equipment acquired by the district or district subgrantee with SWMF monies is no longer needed for the original project or program or for other activities currently or previously supported by the MDNR, the equipment shall be disposed of as follows:
- a. Items of equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of with no further obligation to the SWMP or the district.
  - b. For items of equipment with a current per unit fair market value of \$5,000 or more:
    - i. When the equipment is district owned, the SWMP shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the SWMP's remaining interest in the equipment as established in M.3.a.iv of this agreement.
    - ii. When the equipment is owned by a district subgrantee, the district shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the district's remaining interest in the equipment as established in M.3.b.iv of this agreement.
  - c. When appropriate disposition actions are not taken by the equipment owner:
    - i. For district owned equipment, the SWMP may direct the district on how to dispose of the equipment.
    - ii. For district subgrantee owned equipment, the district may direct the district subgrantee on how to dispose of the equipment.
  - d. If the equipment owner is put on notice by either the SWMP or the district that grant assets are not being used for the intended purpose, then:
    - i. For district owned equipment, the district shall not sell, give away, move, relocate, abandon or dispose of the asset without the SWMP's prior written approval.
    - ii. For district subgrantee owned equipment, the district's subgrantee shall not sell, give away, move, relocate, abandon or dispose of the asset without the district's prior written approval.

#### N. Buildings or Site Improvements

Building or site improvements is defined in Section III below. The district or district subgrantee agrees that any buildings or site improvements purchased pursuant to this agreement shall be used for the performance of services under the FAA during the term of the FAA.

Notwithstanding anything to the contrary contained in this agreement, the buildings or site improvements shall not be removed from the State of Missouri without the written approval of the SWMP.

The following standards shall govern the utilization and disposition of buildings or site improvements acquired with district funds:

1. Title to buildings or site improvements acquired under a grant will vest with either the district or district subgrantee upon acquisition.
  - a. The funding provided for buildings or site improvements specified in the FAA as negotiated with the SWMP or district shall be used for acquisition of the buildings or site improvements.
  - b. The district or district subgrantee shall not transfer, sell, or pledge any assets including buildings or site improvements purchased using SWMF monies during the term of the grant and for 3 years thereafter without first obtaining the prior written consent of the SWMP.
  - c. The district or district subgrantee shall not sell, give away, relocate, or abandon the assets including buildings or site improvements without the SWMP's prior written approval.
  - d. The district or district subgrantee must not use the buildings or site improvements acquired with SWMF to unfairly compete with private companies that provide equivalent services, unless specifically permitted or contemplated by state law.
  - e. Buildings or site improvements constructed or purchased pursuant to this agreement shall be used for the performance of services under this agreement during the term of the FAA, and for three years thereafter. Annually a statement must be submitted certifying that the use of said buildings or site improvements is for project activities. The district shall provide and use a form for such statement.
2. Buildings or Site Improvements Management. The district's or subgrantee's procedures for managing buildings or site improvements whether acquired in whole or in part with subgrant funds, will, at a minimum, meet the following requirements until disposition takes place:
  - a. A control system must be developed to ensure adequate safeguards to prevent against loss, damage, or theft of the buildings or site improvements. Any loss, damage, or theft shall be reported to and investigated by local authorities.
  - b. For all buildings or site improvements purchased, in whole or in part, with SWMF, the district or district subgrantee shall procure and maintain insurance covering loss or damage to buildings or site improvements, with a financially sound and reputable insurer in such amounts and covering such risks as are usually carried by similarly situated companies engaged in the same or similar business.
3. Security Interest in Buildings or Site Improvements.
  - a. When buildings or site improvements are acquired with SWMF monies under this agreement, the following conditions apply or equivalent conditions are required to be set by the district and certified as appropriate by the district's legal counsel:
  - b. The district shall grant to the SWMP, its successors, and assigns a security interest or lien in all buildings or site improvements purchased or constructed for \$5,000 or more, in whole or in part, with SWMF monies.
    - i. For such buildings or site improvements to be owned by the district, the SWMP must be granted a security interest or lien and be listed as the lien holder. The district shall complete a deed of trust or certificate of title, whichever applies, and return a copy of such document along with the FAA packet to the SWMP.

- ii. The security interest or lien shall be equivalent to the amount of funding provided by the SWMP.
  - iii. The district hereby covenants that it will not transfer, sell or pledge the SWMP's security interest in the buildings or site improvements as collateral for any indebtedness whatsoever without first obtaining the prior written consent of the SWMP.
  - iv. If the district is granting the security interest to SWMP, the district must provide a copy of the documentation to the SWMP showing that the SWMP is listed as a lien holder either on the certificate of title or the deed of trust.
  - v. Unless the SWMP notifies the district in writing of a material breach of the FAA or any documents incorporated herewith, the security interest of the SWMP shall decrease at a rate of 25% per annum, beginning on the start date of the project period as set forth in the FAA between the SWMP and the district.
  - vi. When the security interest is fully depreciated, the SWMP will, on written demand by the district, send the district a termination statement that a security interest in the financing statement is no longer claimed.
- c. The district subgrantee hereby grants to the district, its successors, and assigns a security interest or lien in all buildings or site improvements purchased or constructed by the district subgrantee for \$5,000 or more, in whole or in part, with SWMF monies.
- i. For such buildings or site improvements to be owned by the district subgrantee, the district must be granted a security interest or lien and be listed as the lien holder. The district subgrantee shall complete a deed of trust or certificate of title, whichever applies, and return a copy of such document along with the FAA packet to the district.
  - ii. The security interest or lien shall be equivalent to the amount of funding provided by the district.
  - iii. The district subgrantee hereby covenants that it will not transfer, sell or pledge the district's security interest in the buildings or site improvements as collateral for any indebtedness whatsoever without first obtaining the prior written consent of the district.
  - iv. If the district subgrantee is granting the security interest to the district, the district subgrantee must provide the district a copy of the documentation showing that the district is listed as a lien holder either on the certificate of title or the deed of trust.
  - v. Unless the SWMP or the district notifies the district subgrantee in writing of a material breach of the FAA or any documents incorporated herewith, the security interest of the district may decrease at a rate of 25% per annum, beginning on the start date of the project period as set forth in the FAA between the district and the district subgrantee.
  - vi. When the security interest is fully depreciated, the secured party will, on written demand by the debtor, send the debtor a termination statement that a security interest in the financing statement is no longer claimed.
4. When a building or site improvement acquired by the district or district subgrantee is no longer needed for the original project or program or for other activities currently or previously supported by the MDNR, the building or site improvement shall be disposed of as follows:
- a. Buildings or site improvements with a current fair market value of less than \$5,000 may be retained, sold or otherwise disposed of with no further obligation to the SWMP or the district.
  - b. For a building or a site improvement with a current fair market value of \$5,000 or more:
    - i. When a building or a site improvement is district owned, the SWMP shall have a

right to an amount calculated by multiplying the current market value or proceeds from sale by the SWMP's remaining interest in the building or site improvement as established in N.3.a.v of this agreement.

- ii. When the building or a site improvement is owned by a district subgrantee, the district shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the district's remaining interest in the building or a site improvement as established in N.3.b.v of this agreement.
  
- c. When appropriate disposition actions fail to be taken by the building or site improvement owner:
  - i. For district owned buildings or site improvements, the SWMP may direct the district on how to dispose of the building or site improvement.
  - ii. For district subgrantee owned buildings or site improvements, the district may direct the district subgrantee on how to dispose of the building or site improvements.
  
- d. If the building or site improvement owner is put on notice by either the SWMP or the district that grant assets are not being used for the intended purpose, then:
  - i. For district owned buildings or site improvements, the district shall not sell, give away, move, relocate, abandon or dispose of the asset without the SWMP's prior written approval.
  - ii. For district subgrantee owned building or site improvements, the district's subgrantee shall not sell, give away, move, relocate, abandon, or dispose of the asset without the district's prior written approval.

O. Supplies

- 1. Title to supplies acquired under a subgrant will vest, upon acquisition, in the district or the district's subgrantee.
- 2. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value upon termination or completion of the grant or subgrant award, and if the supplies are not needed for any other SWMF sponsored programs or projects, then the district or district subgrantee shall compensate the SWMP or district for its share.

P. Inventions and Patents

- 1. If any district or district subgrantee produces subject matter, which is or may be patentable in the course of work sponsored by the subgrant, the district or district subgrantee shall promptly and fully disclose such subject matter in writing to the SWMP and district.
- 2. In the event that the district or district subgrantee fails or declines to file Letters of Patent or to recognize patentable subject matter, the SWMP reserves the right to file the same.
- 3. The SWMP grants to the district or district subgrantee the opportunity to acquire an exclusive license, including the right to sublicense, with a royalty consideration paid to the SWMP. Payment of royalties by the district or district subgrantee to the SWMP will be addressed in a separate royalty agreement.

Q. Copyrights

- 1. Except as otherwise provided in the terms and conditions of this subgrant, the author, the district or district's subgrantee is free to copyright any books, publications, or other copyrightable material developed in the course of this subgrant.

2. The SWMP and district reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, with the approval of the SWMP, the work for government purposes.

R. Prior Approval For Publications

1. The district or district's subgrantee shall submit to the SWMP and district two draft copies of each publication and other printed materials which are intended for distribution and are financed, wholly or in part, by SWMF monies.
2. The district or district subgrantee shall not print or distribute any publication until receiving written approval by the SWMP.

S. Mandatory Disclosures

District and district subgrantees receiving grant funding from the SWMF shall identify the MDNR as a funding source on all equipment, buildings, site improvements, publications and other printed materials which are intended for distribution.

1. Identification shall include the MDNR's logo with the full "Missouri Department of Natural Resources" name.
2. This requirement applies to publications, news releases, videos, displays, signs, and all other projects from which information may be obtained by reading, watching, hearing, or simply seeing the material.
3. Camera ready copies of the MDNR logo will be provided to any district requesting the copies by the SWMP. The districts will provide logos to district subgrantees requesting copies of the logos.
4. For other projects, such as audiocassette tapes and news releases, the SWMP shall be identified audibly by including its full name. Guidelines pertaining to placement of logos along with the "Missouri Department of Natural Resources" name and audible identification of the "Missouri Department of Natural Resources" can be obtained from the SWMP.

**Deleted:** Subgrantee agrees that all statements, press releases, requests for proposals, bid solicitations, and other documents describing the program/project for which funds are now being awarded will include a statement of the percentage of the total cost of the program/project which is financed with federal and state money, and the dollar amount of federal and state funds for the program/project

T. Procurement Standards

District or district subgrantees shall use their own procurement procedures provided that procurement conforms to standards set forth in the "Uniform Administrative Requirements For Grants and Cooperative Agreements to State and Local Governments", "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, or Other Non-Profit Organizations, or 34.040, RSMo, State Purchasing and Printing, as applicable.

1. Except as otherwise provided by law, within eighteen months after the effective date of 10 CSR 80-9.050 (anticipated to be October 30, 2007), the executive board shall use a competitive bid process to obtain administrative services, office space rental, and other district operation services, except for employees who are directly employed by the district. Contracts shall not exceed five (5) years in duration.
2. No work or services, paid for wholly or in part with state funds, will be contracted without the written consent of the SWMP.
3. The district and/or district subgrantee agree that any contract, interagency agreement, or equipment to be procured under this award which was not included in the approved

workplan must receive formal SWMP approval prior to expenditure of funds associated with that contract, interagency agreement, or equipment purchase.

#### U. Conflicts of Interest

No party to this subgrant, nor any officer, agent, or employee of either party to this subgrant, shall participate in any decision related to such subgrant which could result in a real or apparent conflict of interest, including any decision which would affect their personal or pecuniary interest, directly or indirectly.

1. Effective with the amended 10 CSR 80-9.050: The executive board shall adopt a conflict of interest policy regarding subgrants to district subgrantees. The policy shall include a requirement that any non-governmental member of the executive board, or the business or institution to which the member is affiliated, who applies for district subgrants shall not review, score, rank, or approve any of the subgrantees applications in the same grant call.
2. The district or district subgrantee is advised that no state employee or former state employee, as defined in Chapter 105, RSMo, shall perform any service for consideration paid by the district or district subgrantee for one year after termination of the employee's state employment by which the former state employee attempts to influence a decision of a state agency. A state employee who leaves state employment is permanently banned from performing any service for any consideration for any person, firm or corporation after termination of his or her office or employment in relation to any case, decision, proceeding or application with respect to which he or she was directly concerned or in which he or she personally participated during the period of his or her service or employment with the state.

#### V. State Appropriated Funding

1. The district and district subgrantee agree that funds expended for the purposes of this subgrant must be appropriated and made available by the Missouri General Assembly for each fiscal year included within the subgrant period, as well as being awarded by the state agency supporting the project. Therefore, the subgrant shall automatically terminate without penalty or termination costs if such funds are not appropriated and/or granted.
2. In the event that funds are not appropriated and/or granted for the subgrant, the district or district subgrantee shall not prohibit or otherwise limit the SWMP's right to pursue alternate solutions and remedies as deemed necessary for the conduct of state government affairs. The requirements stated in this paragraph shall apply to any amendment or the execution of any option to extend the subgrant.

#### W. Eligibility, Debarment and Suspension

By applying for this award, the district or district subgrantee verifies that it, its board of directors, and all of its principals are currently in compliance with all state and federal environmental laws including those referenced below and court orders issued pursuant to those laws, and that all environmental violations have been resolved (for example, no pending or unresolved Notices of Violation (NOV)) at the time of application.

1. If compliance issues exist, the district or district subgrantee shall disclose to the SWMP all pending or unresolved violations noted in an NOV, administrative order, or civil and criminal lawsuit, but only where those alleged violations occurred in the past two years in the State of Missouri.
2. The SWMP will not make any award at any time to any party which is debarred or suspended, under federal or state authority, or is otherwise excluded from or ineligible for

participation in federal assistance under Federal Executive Order 12549, "Debarment and Suspension."

3. The district or district subgrantee shall complete a Debarment/Suspension form when required by the SWMP. Furthermore, the district or district subgrantee is also responsible for written debarment/suspension certification of all subcontractors receiving funding through a state funded grant.

X. Restriction on Lobbying Costs

Lobbyists as defined in section 105.470, RSMo, and related costs are ineligible for district grant funds.

Y. Recycled Paper

The district or district subgrantee receiving SWMF are required to use recycled paper consisting of at least 30% post consumer waste for all reports and materials which are prepared as part of this grant award and delivered to the SWMP or otherwise distributed as part of this subgrant.

1. If paper containing 30% post consumer material is not reasonably available, does not meet reasonable performance requirements, or is available at an unreasonable price, then the district or district subgrantee shall use paper containing no less than 20% post consumer material.
2. The chasing arrows symbol representing the recycled content of the paper will be clearly displayed on at least one page of any materials provided to any and all parties other than the SWMP.
3. This requirement applies even if the cost of recycled paper is higher than that of virgin paper.

Z. Contracting with Small and Minority Firms, Women's Business Enterprise, and Labor Surplus Area Firms

In order for the SWMP to meet the provisions of Executive Order 05-30, it is desired the district and district subgrantees secure participation of certified MBEs and WBEs in providing the products and/or services obtained with district grant funds. The targets of participation recommended by the State of Missouri are 10% MBE and 5% WBE of the total dollar value of the products and/or services obtained.

The district or district subgrantee agrees to take all necessary affirmative steps required to assure that small and minority firms, women's business enterprises and labor surplus area firms are used when possible as sources when procuring supplies, equipment, construction and services related to the subgrant. The district or district subgrantee agrees to include information about these requirements in solicitation documents. Affirmative steps shall include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Ensuring that small and minority and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by small and minority and women's business enterprises;

4. Establishing delivery schedules, where the requirements of work will permit participation by small and minority and women's business enterprises;
5. Using the services of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce; and
6. Requiring any prime contractor or other subgrantee, if subgrants are to be allowed, to take the affirmative steps in subparagraphs a. through e. of this section.

#### AA. Subgrants

The district is responsible for the day-to-day operations of subgrant supported activities. The district must monitor subgrant supported activities to assure compliance with applicable state requirements and that performance goals are being achieved. Subgrant monitoring must cover each program, function, or activity.

#### AB. Later Disallowances and Adjustments

The closeout of a subgrant does not affect:

1. The SWMP's right to disallow costs and recover funds on the basis of a later audit or other review.
2. The district or district subgrantee's obligation to return any funds due as a result of later refunds, corrections, or other transactions.
3. Records retention as required by section E above.
4. Equipment and building or site improvements management requirements as required by sections M and N above.
5. Audit requirements in sections J and K.

#### AC. Dispute Resolution

1. Effective with the amended 10 CSR 80-9.050: The district and the SWMP shall attempt to resolve disagreements concerning the administration or performance of the district.
2. If an agreement cannot be reached within ninety (90) days of the issuance of the notice of noncompliance, the MDNR's SWMP director will provide a written decision. The SWMP director may consult with the SWAB prior to providing this decision. Such decision of the SWMP director shall be final unless a request for review is submitted to the MDNR's Division of Environmental Quality (DEQ) director within thirty (30) days of the receipt of the SWMP director's decision. The DEQ director shall provide a final decision within thirty (30) days of the receipt of the district's request. Such district request shall include:
  - a. A copy of the SWMP director's written decision;
  - b. A statement of the amount in dispute;
  - c. A brief description of the issue(s) involved; and
  - d. A concise statement of the objections to the final decision.
3. A decision by the DEQ director shall constitute final MDNR action.

#### AD. Termination

1. Termination for Cause.

a. By MDNR:

- i. The MDNR may terminate any subgrant, in whole or in part, at any time before the date of completion whenever it is determined that the district or district subgrantee has failed to comply with the terms and conditions of the subgrant.
- ii. The MDNR shall promptly notify the subgrantee in writing of such a determination and the reasons for the termination, together with the effective date.
- iii. The MDNR reserves the right to withhold all or a portion of grant funds if the district or district subgrantee violates any term or condition of the subgrant.

b. By District:

- i. The district may terminate any subgrant, in whole or in part, at any time before the date of completion whenever it is determined that the district subgrantee has failed to comply with the terms and conditions of the subgrant.
- ii. The district shall promptly notify the subgrantee in writing of such a determination and the reasons for the termination, together with the effective date.
- iii. The district reserves the right to withhold all or a portion of subgrant funds if the district subgrantee violates any term or condition of the subgrant.

1. Termination for Convenience.

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The MDNR, the district, or the district's subgrantee may terminate the subgrant, in whole or in part, when the parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds.

2. This agreement is not transferable to any person or entity.

AE. Enforcement: Remedies for Noncompliance

If a district or district subgrantee falsifies any award document, fails to maintain records or submit reports, refuses the SWMP access to records, fails to meet the SWMP's performance standards, or materially fails to comply with any term of a grant, award, or subgrant, then the SWMP may take one or more of the following actions, as appropriate:

1. Suspend or terminate, in whole or part, the award or grant of current or future funds;
2. Disallow all or part of the cost of the activity or action not in compliance;
3. Temporarily withhold cash payments pending subgrantee's correction of the deficiency;
4. Withhold further awards from the district or district subgrantee;
5. Compel the repayment of funds provided to the district or district subgrantee pursuant to the award or grant;

6. Order the district or district subgrantee not to transfer ownership of assets purchased with district grant funds without prior SWMP approval; or

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7. Pursue any other remedies that may be legally available, including cost recovery, breach of contract, and suspension or debarment with respect to the district, the district subgrantee, or both.

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AF. District's and District Subgrantee's Signature

In consideration for the ability to utilize SWMF monies, the district's and district subgrantee's

signature on the application, FAA, and other award documents signify the district or district subgrantee's agreement to all of the terms and conditions of the award which include the FAA and the documents incorporated therein, including these general terms and conditions.

## II. Statutory Requirements

The district and district subgrantees must comply with all federal, state and local laws relating to environmental compliance, employment, nondiscrimination, construction, research, and other activities associated with grants from the MDNR including, but not limited to those referenced in Sections A through K below. Failure to abide by these laws, or their implementing regulations, may trigger the remedies for noncompliance set forth in Section I.AE. above. For a copy of state and federal laws that typically apply to grants from the SWMP, contact the SWMP Resource Planning Section.

Any district or district subgrantee, in connection with its application for financial assistance, shall certify that the district or district subgrantee, its board of directors and principals are in compliance with the specific federal and state employment and nondiscrimination laws set out below. Further, the district and district subgrantee shall report to the SWMP any instance in which the district or district subgrantee or any member of its board of directors or principals is determined by any administrative agency or by any court in connection with any judicial proceeding to be in noncompliance with any of the specific federal or state laws set forth below. Such report shall be submitted within ten (10) working days following such determination. Failure to comply with the reporting requirement may be grounds for termination of this grant or subgrant or suspension or debarment of the subgrantee.

### A. Laws and regulations related to nondiscrimination and employment:

1. Chapter 213 of the Missouri Revised Statutes, which prohibits discrimination on the basis of race, color, religion, national origin, sex, age, and disability;
2. Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, as amended, which prohibits discrimination on the basis of race, color or national origin;
3. Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, as amended, which prohibits discrimination on the basis of race, color, religion, national origin, or sex;
4. Civil Rights Restoration Act of 1987, 20 U.S.C. § 1687, 29 U.S.C. § 794, 42 U.S.C. § 2000d-4a, and 42 U.S.C. § 6101, as amended;
5. Civil Rights Act of 1991, 42 U.S.C. § 1981a and 42 U.S.C. §§ 2000e-2(k) - (n), as amended;
6. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, as amended, which prohibits discrimination on the basis of disability;
7. Age Discrimination in Employment act of 1967 (ADEA), 29 U.S.C. § 621 et seq., as amended, which prohibits discrimination on the basis of age;
8. Drug Abuse Office and Treatment Act of 1972, P.L. 92-255, 21 U.S.C. § 1101 et seq., as amended, relating to nondiscrimination on the basis of drug abuse;
9. Comprehensive Alcohol Abuse and Alcoholism Prevention Treatment and Rehabilitation Act of 1970, P.L. 91-616, 42 U.S.C. § 4541 et seq., as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
10. Family and Medical Leave Act of 1993 (FMLA), 29 U.S.C. § 2601 et seq.;

11. The Americans with Disabilities Act of 1990 (ADA), P.L. 101-336, 42 U.S.C. § 12101 et seq., as amended, relating to nondiscrimination against individuals with disabilities; and

12. Fair Labor Standards Act of 1938 (FLSA), 29 U.S.C. § 201 et seq., as amended.

B. State and Federal Environmental Laws:

1. The Federal Clean Air Act, 42 U.S.C. § 7401 et seq., as amended, which prohibits the award of assistance by way of grant, loan, or contract to noncomplying facilities.
2. The Federal Water Pollution Control Act (Clean Water Act), 33 U.S.C. § 1251 et seq., as amended, prohibiting award of assistance by way of grant, loan, or contract to noncomplying facilities.
3. The Federal Safe Drinking Water Act, 42 U.S.C. § 300f et seq., as amended, which prohibits the award of assistance by way of grant, loan, or contract to noncomplying facilities.
4. The Federal Solid Waste Disposal Act, 42 USC 6901 et seq., as amended.
5. The Federal Comprehensive Environmental Response, Compensation, and Liability Act, 42 USC 9601 et seq., as amended.
6. The Federal Toxic Substance Control Act, 15 USC 2601 et seq., as amended.
7. The Federal Insecticide, Fungicide and Rodenticide Act, 7 USC 136 et seq., as amended.
8. The Federal Endangered Species Act, 16 USC 1531 et seq., as amended.
9. The National Environmental Policy Act of 1969, 42 U.S.C. § 4321 et seq., as amended, particularly as it relates to the assessment of the environmental impact of federally assisted projects.

10. Earthquakes - Seismic Building and Construction Ordinances, §§ 319.200 - 319.207, RSMo relating to the adoption of seismic design and construction ordinances by certain cities, towns, villages and counties.

11. The Missouri Clean Water Law, Chapter 644, RSMo.

12. Chapters 260 and 319, RSMo including the Missouri Hazardous Waste Management Law, and the Missouri Solid Waste Management Law including laws relating to petroleum storage tanks.

13. The Missouri Air Conservation Law, Chapter 643.

14. Chapter 444, RSMo including the Metallic Minerals Waste Management Act, the Land Reclamation Act and the Surface Coal Mining Law.

C. Chapter 105, RSMo, as it relates to conflicts of interest and lobbying.

D. Chapter 610, RSMo, Governmental Bodies and Records commonly referred to as the Missouri "Sunshine Law".

E. The Archaeological and Historic Preservation Act of 1974 (Public Law 93-291) relating to potential loss or destruction of significant scientific, historical, or archaeological data in

**Deleted:** Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin

**Deleted:** Title VII of the Civil Rights Act of 1964 found at 42 U.S.C. §2000(e) et.seq. which prohibits discrimination on the basis of race, color, religion, national origin, or sex:

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connection with federally assisted activities.

- F. The Wild and Scenic Rivers Act of 1968 (16 U.S.C. § 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
- G. The flood insurance purchase requirements of § 102(a) of the Flood Disaster Protection Act of 1973 (Public Law 93-234) which requires Subgrantees in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
- H. The Privacy Act of 1974, P.L. 93-579, as amended prohibiting the maintenance of information about any individual in a manner which would violate the provision of the Act.
- I. Public Law 93-348 regarding the protection of human subjects involved in research, development and related activities supported by this award of assistance.
- J. The Laboratory Animal Welfare Act of 1966 (P. L. 89-544), 7 U.S.C. § 2131 et seq., pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
- K. The following additional requirements apply to projects that involve construction:
  - 1. ~~The Davis-Bacon Act as amended, 40 U.S.C. §276a et seq.~~
  - 2. The Copeland (Anti-Kickback) Act, 18 U.S.C. § 874, 40 U.S.C. § 276c.
  - 3. The Contract Work Hours and Safety Standards Act, 40 U.S.C. § 327 et seq.
  - 4. ~~Convict labor shall not be used on construction projects unless by convicts who are on work release, parole, or probation~~
  - 5. The Lead-Based Paint Poisoning Prevention Act (42 U. S. C. § 4801 et seq.) which prohibits the use of lead paint in construction or rehabilitation of residence structures.
  - 6. The National Historic Preservation Act of 1966, 16 U.S.C. § 470 et seq., as amended, relating to the preservation of historic landmarks.

**Deleted:** The Davis-Bacon Act, as amended, 40 U.S.C. § 276a et seq., respecting wage rates for federally assisted construction contracts in excess of \$2000.

**Deleted:** Convict labor shall not be used on construction projects unless by convicts who are on work release, parole, or probation.

### III. Definitions

As used in these general terms and conditions:

- A. "Accrued expenditures" mean the charges incurred by the grantee during a given period requiring the provision of funds for: (1) Goods and other tangible property received; (2) Services performed by employees, contractors, subgrantees, subcontractors, and other payees; and (3) Other amounts becoming owed under programs for which no current services or performance is required, such as annuities, insurance claims, and other benefit payments.
- B. "Accrued income" means the sum of: (1) Earnings during a given period from services performed by the grantee and goods and other tangible property delivered to purchasers, and (2) Amounts becoming owed to the grantee for which no current services or performance is required by the grantee.
- C. "Acquisition cost of an item of purchased equipment" means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protective in-transit

insurance, shall be included or excluded from the unit acquisition cost in accordance with the grantee's regular accounting practices.

- D. "Administrative requirements" mean those matters common to grants in general, such as financial management, kinds and frequency of reports, and retention of records. These are distinguished from programmatic requirements, which concern matters that can be treated only on a program-by-program or grant-by-grant basis, such as kinds of activities that can be supported by grants under a particular program.
- E. "Allocated district funds" means the monies from the Solid Waste Management Fund that are set aside to be disbursed to each district by the MDNR.
- F. "Awarding agency" means (1) with respect to a grant, the SWMP of the MDNR, and (2) with respect to a subgrant, the party that awarded the subgrant.
- G. "Building or site improvements" includes any structures or appurtenances of a permanent nature related to real estate, excluding movable machinery and equipment.
- H. "Competitive bid process" means the procurement of goods or services that follows the guidelines outlined in 1 CSR 40.
- I. "Contract" means (except as used in the definitions for grant and subgrant in this section a procurement contract under a grant or subgrant, and means a procurement subcontract under a contract.
- J. "Disposal cost" means fees charged to collect, transport or deposit solid waste in a landfill, transfer station or other approved facility.
- K. "District" refers to one of the twenty solid waste management districts established pursuant to the Solid Waste Management Law, 260.200 through 260.345, RSMo.
- L. "District subgrantee" refers to the district or other entities receiving district subgrant awards of SWMF from the SWMP or a district.
- M. "District administrative grant" means a grant for the planning and organizational grants disbursed by the department to each district prior to August 28, 2004.
- N. "District carryover" means any remaining district funds of any completed grants that have been disbursed by the department to each district for district administrative grants, district operations grants, plan implementation grants or district subgrants.
- O. "District funds" means the revenue generated from the solid waste tonnage fee collected and deposited in the Solid Waste Management Fund that is allocated to each district pursuant to section 260.335.2, RSMo, plus district carryover, interest income earned and state required local match funds.
- P. "District funds paid" means funds paid to each district or subgrantee.
- Q. "Equipment" means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.
- R. "Executive board" means the board established by each district's solid waste management council or by the alternative management structure chosen by a district as provided for in section 260.315.4(2), RSMo.

- S. "Financial Assistance Agreement or FAA" refers to the agreement entered into by the SWMP and the district or the district and a district subgrantee and includes these general terms and conditions and other incorporated documents.
- T. "Government" means the federal, state or a local government.
- U. "Grant" means an award of financial assistance, including cooperative agreements, in the form of money to an eligible grantee.
- V. "Grantee" means the government or other entity to which a grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant award document.
- W. "Interest income" means all interest earned by each district from the holding of revenue generated from the Solid Waste Management Fund.
- X. "Local government" means a county, municipality, city, town, township, local public authority school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under State law), any other regional or interstate government entity, or any agency or instrumentality of a local government.
- Y. "Missouri Department of Natural Resources or MDNR" refers to the Missouri Department of Natural Resources including its agents, successors, or assignees.
- Z. "Obligations" means the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period.
- AA. "Outlays or Expenditures" mean charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of actual cash disbursement for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the amount of cash advances and payments made to contractors and subgrantees. For reports prepared on an accrued expenditure basis, outlays are the sum of actual cash disbursements, the amount of indirect expense incurred, the value of in-kind contributions applied, and the new increase (or decrease) in the amounts owed by the grantee for goods and other property received, for services performed by employees, contractors, subgrantees, subcontractors, and other payees, and other amounts becoming owed under programs for which no current services or performance are required, such as annuities, insurance claims, and other benefit payments.
- AB. "Program income" means gross income received by the grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period. Examples of program income include income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from the sale of commodities or items fabricated under the subgrant, and from payments of principal and interest on loans made with subgrant funds. Program income does not include items such as interest on grant funds, rebates, credits, discounts, or refunds and any interest earned on these items.
- AC. "Project" means all approved components of an organized undertaking described in a proposal, including any supporting documents as required by project type.
- AD. "Share, when referring to the awarding agency's portion of building or site improvements, equipment or supplies" means the same percentage as the awarding agency's portion of the acquiring party's total costs under the grant to which the acquisition costs of the property was

charged. Only costs are to be counted--not the value of third-party in-kind contributions.

- AE. "Solid Waste Management Fund or SWMF" means the fund created in section 260.330, RSMo, to receive the tonnage fee charges submitted by sanitary and demolition landfills for waste disposed of in Missouri and transfer stations for waste transported out of state for disposal.
- AF. "Solid Waste Management Program or SWMP" refers to the Missouri Department of Natural Resources, Division of Environmental Quality, Solid Waste Management Program or any other departmental organization to whom the SWMP duties may be assigned in the future.
- AG. "State" means the State of Missouri or any agency or instrumentality of the state.
- AH. "State required local match funds" means funds committed by local governments to each district as match for district administrative grants.
- AI. "Subgrant" means an award of financial assistance in the form of money made under a grant by a grantee to an eligible subgrantee. The term includes financial assistance when provided by contractual legal agreement, but does not include procurement purchases.
- AJ. "Subgrantee" means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided.
- AK. "Supplies" means all tangible personal property other than equipment, building or building site improvements, as defined in this part.
- AL. "Suspension" means depending on the context, either (1) temporary withdrawal of the authority to obligate grant funds pending corrective action by the grantee or subgrantee or a decision to terminate the grant, or (2) an action taken by the SWMP to immediately exclude a person from participating in grant transactions for a period, pending completion of an investigation and such legal or debarment proceedings as may ensue.
- AM. "Termination" means permanent withdrawal of the authority to obligate previously-awarded grant funds before that authority would otherwise expire. It also means the voluntary relinquishment of that authority by the grantee or subgrantee. Termination does not include: (1) Withdrawal of funds awarded on the basis of the grantee's underestimate of the unobligated balance in a prior period; (2) Withdrawal of the unobligated balance as of the expiration of a grant; (3) Refusal to extend a grant or award additional funds, to make a competing or noncompeting continuation, renewal, extension, or supplemental award; or (4) Voiding of a grant upon determination that the award was obtained fraudulently, or was otherwise illegal or invalid from inception.
- AN. "Terms of a grant or subgrant" mean all requirements of the grant or subgrant, whether in statute, regulations, the award document, or any documents incorporated therein.
- AO. "Unencumbered district funds" means the district funds that have not been obligated in the form of purchase orders for goods and services.
- AP. "Unliquidated obligations for reports prepared on a cash basis" mean the amount of obligations incurred by the grantee that have not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the grantee for which an outlay has not been recorded.
- AQ. "Unobligated balance" means the portion of the funds authorized by the SWMP that has not been obligated by the grantee and is determined by deducting the cumulative obligations from the cumulative funds authorized.

