WESTERN REGIONAL AIR PARTNERSHIP
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November 12, 2015

Ms. Elena Gonzalez, Director
Office of Collaborative Action and Dispute Resolution
U.S. Department of the Interior
801 N. Quincy Street, Suite 400
Mail Stop: MIB 5123
Arlington, VA 22203

via E-Mail

Subject: Request for meeting to discuss grant management by the Interior Department's Joint Fire Sciences Program

Dear Ms. Gonzalez:

The Western Regional Air Partnership (WRAP) is a regional air quality analysis and planning organization spanning a 15-state region of the western U.S., a partnership of public air quality management agencies with common interests and objectives. We conduct our work through the Western States Air Resources Council (WESTAR). The state, tribal, and local air agency members of WRAP are writing this letter to formally object to the manner in which the Bureau of Land Management's Joint Fire Sciences Program (JFSP) is imposing inappropriate conditions on its grantees. If WESTAR/WRAP were to comply with these conditions, all of the member agencies that comprise the Partnership would be negatively impacted. Furthermore, implementing those conditions would be contrary to governing federal grant management standards.

Over the past few years, WRAP conducted two projects for JFSP and, in late 2013, applied for a grant to fund a capstone project. After the 2013 application was submitted and the work approved, we were advised that proposals requesting funds for indirect rates higher than twenty (20) percent would not be considered and that we must impose this same 20 percent indirect rate cap on private sector contracts awarded under this grant. As discussed further below, WESTAR/WRAP allocates indirect costs in accordance with a federally approved Cost Allocation Plan, the provisions of which would be violated if we were to comply with the JFSP conditions. JFSP funding provides important and needed fire and smoke research that furthers quality regional air management decision-making in the West, and, while it is disappointing that the most recent grant application submitted to JFSP by WESTAR/WRAP was rejected over this issue, our greater concern is the long term implication that future projects will not even be considered.

WESTAR/WRAP currently allocates its indirect costs to grantors using the Direct Allocation Method[1] which is implemented in accordance with a Cost Allocation Plan approved by the Department of the Interior on behalf of all federal agencies. The cost basis used in that Plan is total direct payroll costs, not all total direct expenses. Using the payroll expenses of WESTAR/WRAP's three direct-funded employees as the base for the rate calculation, WESTAR/WRAP's indirect rate would be over 100%, far in excess of the 20% cap imposed by JFSP. Other federal agencies from which WESTAR/WRAP receives grants, including other branches of the Department of the Interior and programs within the

[1] Appendix IV to CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

Bureau of Land Management, as well as state and private funders, have awarded grants and contracts to WESTAR/WRAP based on the federally approved Cost Allocation Plan. OMB guidance states that once the cognizant federal agency has agreed to the Plan, it is to be accepted by all federal agencies. In short, JFSP is imposing its own grant rules to the detriment of the WRAP member agencies.

We are especially troubled by JFSP's extension of this 20 percent indirect cap to private sector contractors. WESTAR/WRAP selects contractors in accordance with a long-standing procurement policy. That policy has been reviewed by independent auditors and the Inspector General's office on numerous occasions and has been accepted as compliant with applicable federal procurement standards[2]. Nowhere in OMB's governing regulations is there a requirement for a non-profit recipient of a federal grant to impose indirect cost caps on contractors - for good reason. The imposition of an indirect cap would require the non-profit to implement an oversight and compliance program to limit the risk that payments by the non-profit to the contractor were subsequently determined to be unallowable, having exceeded a capped indirect rate. Thus, the indirect cost cap for private sector contractors imposes risk and cost for WESTAR/WRAP that is not commensurate with the certainty of the firm fixed price contracts proposed to, and previously approved by the JFSP in their review of the technical and cost proposals from WESTAR/WRAP. WESTAR/WRAP contracts are exclusively firm fixed price.

In summary, complying with JFSP's requirements would place WESTAR/WRAP at risk as an organization, potentially increase costs for all other WESTAR/WRAP grantors disproportionately and unfairly, violate our procurement policies, and would impose unacceptable conditions on contractors in a manner that would be contrary to our procurement policies - all inconsistent with OMB guidance and contrary to the federally-approved Cost Allocation Plan. JFSP should be encouraging and enabling projects to analyze fire and smoke impacts on air quality in the West, not creating administrative obstacles. We ask JFSP to reconsider its puzzling and seemingly arbitrary terms and conditions that deviate from current Department of the Interior and OMB policies and requirements.

We are confident that, working as partners, these problems can be solved. We ask for a meeting with the appropriate representatives from the Department of the Interior to identify solutions through which JFSP can encourage and enable these important projects.

WRAP and WESTAR look forward to further consultation on the matters identified in this letter. Please contact Tom Moore, WRAP Air Quality Program Manager, at 970-491-8837, or by E-Mail at: tmoore@westar.org.

Sincerely,

Eric C. Massey	Randy Ashley
WRAP State Co-Chair	WRAP Tribal Co-Chair

[2] 2 CFR Part 200.317-326

CC: Robert Fisher, Senior Program Manager, Office of Collaborative Action and Dispute Resolution, U.S. Department of the Interior

Trevor H. Needham, National Partnerships Program Lead, Division of Education, Interpretation, and Partnerships, Bureau of Land Management, U.S. Department of the Interior

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Christine Shaver, Grants & Agreements Specialist, Idaho State Office, Bureau of Land Management, U.S. Department of the Interior

John Cissel, Program Manager, Joint Fire Science Program