

Comparison between Regional Group Responses to Federal Register Notice Questions on 180c

<i>Question</i>	<i>Midwest (Final Comments)</i>	<i>Northeast (Draft Comments)</i>	<i>WIEB HLW</i>
<i>1(a) Would \$200,000 be an appropriate amount for the assessment and planning grant to conduct an initial needs assessment?</i>	It would be appropriate for a state to receive up to \$200,000 to conduct an initial needs assessment. As noted earlier, applicants must justify their need for the funding they request, therefore if a state can justify the need for \$200,000, then it would be appropriate for DOE to award that level of funding.	No, should be 500K based on previous costs of public needs/risk assessments The amount of \$200,000, which was recommended by the 180 (c) Topic Group, seems to be an appropriate amount for the assessment and planning grant.	
<i>1(b) Should the amount be the same for each eligible State and Tribe?</i>	Again, if applicants are required to justify their need for the requested funding, there is no reason not to have each state eligible for the same amount for assessment and planning.	Yes, states should be eligible for the same amount of assessment and planning funds. Through the application process DOE will determine whether a state qualifies for that level of funding.	
<i>1(c) Would there be a need to update the initial needs assessment and, if so, at what intervals and should funding be made available for this purpose and in what amount?</i>	Yes, there would be a need to update the initial needs assessment and DOE should make 180(c) funding available for that purpose. The interval at which the updates are needed will depend on each state's specific circumstances (e.g., lapses in shipments, new routes being added). Like the appropriate interval, the amount of funding available to each state for updating the initial needs assessment at any time, for any reason, will depend on the circumstances. Because assessment and planning activities may be continued under the training grants, it might not be necessary in every case to provide a new assessment and planning grant of \$200,000 to a state. In some situations, however, a state might legitimately request the full \$200,000. As we note throughout our comments, DOE should make the funding available as long as applicants can justify their request.	Yes, there may be situations where the needs assessment needs to be updated. For example, if there is a substantial lapse in shipments through a state, or if new routes through a state are added the state may wish to update the initial needs assessment.	
<i>2(a) Would \$100,000 be an appropriate amount for the base award annual training grant?</i>	Consistent with our earlier statements, if a state can justify the need for \$100,000, then it would be appropriate for DOE to award that level of funding.	The amount of \$100,000 seems to be an appropriate base amount for the annual training, provided that states can receive additional funding through the variable component of the training grant.	

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<p><i>2(b) Recognizing that, after commencement of shipments through an eligible State or Tribe, training to maintain capacity may become less costly with increased expertise and efficiency, should the base amount of subsequent annual training grants be adjusted downward to reflect the number of years that annual training grants have been received?</i></p>	<p>No. The premise is false – training to maintain capacity does not become less costly with increased expertise. Not only is there significant turnover in the responder community, but refresher training will take the same effort regardless of how much expertise the trainees have.</p>	<p>No, grant amounts should not decrease with time. Training to maintain capability does not necessarily become less costly, especially when staff turnover is taken into account. The base amount of the training grant should remain the same (adjusted for inflation) throughout the shipping campaign.</p>	
<p><i>2(c) What should be the allocation of available appropriated funds for a fiscal year between the base amount and the variable amount of the annual training grants?</i></p>	<p>If we are establishing that a base grant of up to \$100,00.00 will be available for all eligible states, then the concept of a predetermined overall allocation between base and variable amounts does not make sense. Certainly, funding should be available for each component of the grant, and we recommend that the total funding available under the variable grant be at least equivalent to that available under the base. If applicants do not request their full share, or they cannot justify the need for the amount for which they are eligible, then the left over funding should be put toward funding any unmet needs.</p>	<p>The variable amount should be at the very least equal to the base amount, to account for the wide variability in need among eligible states.</p>	
<p><i>2(d) Should the entire training grant be variable based on the funding allocation formula described herein?</i></p>	<p>No. The base grants will help states and tribes to provide basic program capabilities.</p>	<p>No, the base amount allows states that will be affected by shipments to achieve the necessary basic level of preparedness. Having the total amount based on the variable formula could exclude states that will not have shipments, but have mutual aid agreements with states through which shipments will travel.</p>	
<p><i>3(a) Should the amount of funding be adjusted where a route forms a border between two States, a State and a Tribal reservation, or two Tribal reservations?</i></p>	<p>If a state can justify its request for funding, then DOE should provide the funding.</p>	<p>It seems highly unlikely that a route would actually form a border between two states. The route would actually be located within one state, although it could be located along a border, or in close proximity to a neighboring state. In these instances, the neighboring state may need to plan and</p>	

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		train for routine transportation and emergency preparedness. Neighboring states should therefore be eligible for 180 (c) funding if they can justify this need in their grant application. Funding for an eligible state should not be adjusted downward to provide funding for a legitimate need in a neighboring state. Funds should be made available for each state that has a legitimate need.	
<i>3(b) Should States or Tribes with mutual aid responsibilities along a route outside their borders be eligible for 180(c) grants on the basis of the mutual aid agreement?</i>	See our answer to 3(a)	Yes, these jurisdictions will need to train and prepare for shipments in order to fulfill these agreements. The Draft Notice states that these non-shipment jurisdictions may “work with DOE to receive funding.” More detail is needed regarding how these states will receive funding. Ideally these states would be eligible to apply for the annual training base grant, and additional funds if warranted.	
<i>3(c) If so, how should the amount of funding be calculated, and should the calculation take into account whether or not the State or Tribe would otherwise be eligible for a grant?</i>	The applicant should request funding to cover the proposed activities. If the applicant can justify the need, DOE should provide the funding.	The amount of funding should be determined based on need and should not take into account whether the applicant would otherwise be eligible for a grant.	
<i>3(d) Should the State or Tribe that received notification of eligibility from DOE indicate in their grant application that a neighboring State or Tribe has a mutual aid agreement along a particular route, whereupon DOE would then notify the neighboring State or Tribe of its eligibility?</i>	DOE should work with the states in advance of 180(c) implementation to determine where these types of situations exist.	The amount of funding should be determined based on need and should not take into account whether the applicant would otherwise be eligible for a grant.	
<i>4(a) Do assessment and planning grants need to be undertaken four years prior to an initial scheduled shipment through a State or Tribe’s jurisdiction?</i>	Some states might not wish to conduct assessment and planning four years in advance, but others should have the option of doing so, if they choose.	Yes, states should be given the option of utilizing these grants at least four years prior to shipments. Needs assessments could be used by DOE to estimate how much total funds to request from Congress for annual training grants.	
<i>4(b) Do training grants need to commence three years prior to a scheduled shipment through a State or</i>	As stated above, not all states will begin training three years in advance, but some states	Yes, states should be given the option of utilizing these grants three years prior to	

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<i>Tribe's jurisdiction?</i>	will and they should have the option of doing so.	shipments.	
<i>4(c) Do training grants need to be provided every year that shipments are scheduled?</i>	States should be eligible to apply for training grants annually.	Yes, states may want to provide trainings each year, and thus training grants should be available annually. Continual training may be needed to maintain skill levels of existing staff and to train new staff.	
<i>5(a) Should the Section 180(c) grants be adjusted to account for fees levied by States or Tribes on the transportation of spent nuclear fuel or high-level radioactive waste through their jurisdiction?</i>	The Midwest endorses the original recommendation of the Section 180(c) Topic Group. DOE should not deduct the cost of state fees from a state's Section 180(c) award unless separately negotiated with the state.	No, under DOE's current interpretation of Section 180 (c), these fees are state fees are used to fund operations, such as emergency management, security, and escorts.	
<i>5(b) How should DOE determine if a fee covers all or part of the cost of activities allowed under Section 180(c) grants?</i>	DOE should ask the states to document in their applications whether they will use any part of their fees to pay for the proposed training activities described in the application.	<p>The states should document how their fees are being used to fund any areas covered by 180 (c) funding. However, the fact that states use fee revenue for training does not mean that DOE should adjust their grants because the states' needs for funding may legitimately exceed what DOE is providing under the proposed policy.</p> <p>The instructions require applicants to explain how the proposed funding does not duplicate existing funding sources. Applicants are thus required to explain how the requested funding will be used differently than existing fees.</p>	
<i>5(c) Is the language in this policy, requiring States and Tribes to explain in their grant application how the fees and Section 180(c) grant awards are separate and distinct, sufficient to prevent DOE from paying twice for the same activity?</i>	The language of the policy needs to more explicitly refer to state fees (rather than just "State sources" of funding). With that change, the language will be sufficient to prevent DOE from paying twice for the same activity.	The Northeast agrees with the Midwest's recommendation that state fees be explicitly mentioned as a source of state funding. Once that change is incorporated into the Notice, the language will be sufficient to prevent DOE from paying twice for the same activity. DOE has a legitimate interest in ensuring that federal funds aren't used to pay twice for the same	

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		activity twice.	
<i>6(a) How should Section 180(c) grants be adjusted to reflect other funding or technical assistance from DOE or other Federal agencies for training for safe routine transportation and emergency response procedures?</i>	The criteria for evaluating applications for both assessment and planning grants and the training grants specifically refer to training “for the increment of need specific to NWPA shipments.” The applications for funding will, therefore, reflect the impact of other funding and a sistance on training activities.	Section 180(c) grants should not be adjusted to reflect other funding or technical assistance. The instructions require applicants to explain how their proposed activities are specific to NWPA shipments, how the proposed funding does not duplicate existing funding sources, and how the training and technical assistance will be integrated with assistance received from other federal government sources. In order to satisfy these criteria, applicants will explain how Section 180(c) grants are to be used to supplement, rather than duplicate existing funding and technical assistance.	
<i>6(b) In particular, how should DOE account for TEPP and other similar programs that provide funding and/or technical assistance related to transportation of radioactive materials?</i>	DOE should encourage states to make use of the resources that are currently available through TEPP. However, states should have the flexibility to decide to what extent and in what manner they will use these resources. For example, states should be encouraged to use the MERRTT modules when appropriate, but they should not be expected to have TEPP trainers conduct the training. It should also be noted that reducing 180(c) awards to states that utilize TEPP could create an incentive for states to stop using TEPP.	If other funding that is directly related to NWPA shipments is provided, that should be taken into account. Technical assistance that is provided through programs such as TEPP should not trigger an adjustment in 180 (c) funds.	
<i>6(c) To what extent is Section 180(c) funding necessary where funding and/or technical assistance are being or have been provided for other DOE shipping campaigns such as to DOE’s Waste Isolation Pilot Plant?</i>	Section 180(c) funding will still be necessary for some states regardless of whether they have historically received other DOE funding or technical assistance. As noted earlier, the criteria for evaluating applications for both assessment and planning grants and	Additional funding and training will be necessary for states that have received funding and technical assistance for previous shipping campaigns, given the nature of the NWP shipping campaign. Different modes of transport and different routes will be utilized.	

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	<p>the training grants specifically refer to training “for the increment of need specific to NWPAs shipments.” The applications for funding will, therefore, reflect the impact of other funding and assistance on training activities.</p>		
<p>General comments</p>	<p>The Midwest is pleased that the revised draft policy and procedures reflects so much of the input provided by the Section 180(c) Topic Group of DOE’s Transportation External Coordination Working Group. The states in the region urge DOE to address three additional recommendations from the topic group that did not appear in the revised draft:</p> <ul style="list-style-type: none"> • The Topic Group recommended that DOE commit to funding the same kind of transportation safety programs that are in place for WIPP shipments. The Topic Group’s discussion paper cited the Nuclear Waste Policy Act, which established the Nuclear Waste Fund to “... ensure that the costs of carrying out activities relating to the disposal of such waste and spent fuel will be borne by the persons responsible for generating such waste and spent fuel.” The Midwest feels strongly that DOE needs to work with the states to develop a plan for funding activities related to operations. Without such funding, it will be difficult for states to conduct important activities like state inspections, real-time monitoring of shipments, and public information campaigns. • The Topic Group recommended that DOE issue a policy and then promulgate a rule for implementation of the policy and grant application. The Midwest favors an eventual rulemaking for the Section 180(c) policy and procedures as a means for preserving the system DOE is setting up. With such high turnover in management 	<p>As recommended by the TEC 180 (c) Topic Group, DOE should address contingency re-routing in the 180 (c) Federal Register Notice.</p> <p>The issue of state eligibility needs to be clarified. States which do not have shipments travelling within their borders may still need to provide planning and training for shipments that travel in close proximity of their borders. In some cases these states may have cross-deputization and mutual aid agreements with the state through which the shipment will pass; in some cases, not such agreement exists. Even so these states need federal support to prepare properly for the potential public health and environmental risks that could result from DOE’s shipping campaign.</p> <p>The Draft Notice should state that the amounts for the assessment and planning grant and annual training grants are in 2007 dollars.</p> <p>Intermodal transfer points as “shipping sites?”</p> <p>DOE does not mention what will be done with leftover funds. DOE does not mention whether funds can be carried over from year to year.</p> <p>States should not need to compete for funds.</p>	

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	<p>positions within OCRWM, it is important to make sure the policy and procedures are not revisited whenever there is a change in leadership.</p> <ul style="list-style-type: none"> • The Topic Group recommended that the policy and procedures address contingency re-routing so that the states and tribes will have some assurance that shipments will proceed safely even if circumstances require the use of different routes. Specifically the topic group recommended that, “in the event of unforeseen circumstances, DOE will make funds available, if necessary, and work with state, local and tribal governments as necessary to reach a mutually acceptable solution.” The draft notice does not address what will happen to a state’s 180(c) funding in the event of a lapse in shipments through that state. Consistent with the Topic Group’s recommendation, the Midwestern states feel strongly that, to provide continuity of effort, funding should not cease or diminish during shipment lapses of less than four years. It is difficult to ramp up activities and provide training on short notice. This type of effort must be maintained. Finally, in the event that a national repository is further delayed or abandoned, DOE should take the necessary steps to make Section 180(c) funding available to the states and tribes to prepare for shipments of spent nuclear fuel to centralized storage facilities, whether public or private, and to facilities licensed and operated as part of DOE’s Global Nuclear Energy Partnership (GNEP). 		

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