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SOFTWARE LICENSING FREQUENTLY ASKED QUESTIONS (FAQ)

A Resource for Tribal Environmental Professionals

INTRODUCTION: Tribal environmental professionals use tools and technology to perform their work and support the implementation of environmental programs. Software is a necessity and an important component in modernizing and streamlining work. A tribal-EPA workgroup examined this issue from the E-Enterprise perspective, focusing on the need for sensible and efficient approaches to software procurement. These FAQs were prepared collaboratively by tribal and EPA representatives with the goal to address common issues or questions that tribes experience when they begin the process of purchasing software. This document provides information on basic terminologies, options for funding software, and links to technical assistance to support common tribal needs.

A Note of Appreciation: Thank you to members of the [Tribal Exchange Network Group](#) and the Tribal EELC members, as well as the staff from [Cherokee Nation](#) and the [Institute for Tribal Environmental Professionals](#), for their assistance in preparing this document for broader dissemination and use. We also appreciate representatives from the Regional Tribal Operations Committees and [Tribal Partnership Groups](#) who shared experiences, as well as creative solutions and resources to this issue. Last, we thank the [E-Enterprise Leadership Council](#) for endorsing this effort in their [2022-2024 Strategic Direction](#).

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DEFINITIONS

What is a software licensing fee?

A software license fee refers to a fee charged for the right to use, access, or maintain software programs. A software license is a document that provides a consumer with the right to one or more copies of a software tool. Without a license, using and redistributing the software would be considered a breach of copyright law.

What are some examples of software operations and maintenance (O&M) costs?

Buying software is not a one and done purchase; it requires upkeep and long-term financing to continue its use. Software licenses often include terms and conditions of maintenance. This part of the agreement can include software updates (renewals, patches, annual fees for software use and cloud hosting subscriptions), as well as support (training, help desk). It is important to keep software updated, often through patches, to ensure it's not a vulnerability to hardware and IT systems.

What is a software life-cycle? What are the steps to consider when purchasing and maintaining the software used to support program implementation or project work?

[This flow chart](#) explains an 11-step life-cycle of software and what should be considered when using federal grant dollars to purchase and support longer-term software needs. The process starts with software pre-planning, which includes the most important first step – project scoping. The process ends when the users no longer need the software and retires it from use (or the project ends, and additional resources are needed). There are 9 steps in-between, and they cover steps such as procurement, deployment, training, updates, renewal, and help desk support.

Tribes often apply for a grant to support a project, which requires a specific software to complete workplan activities. Tribes may complete workplan activities, but then want to continue to use the software. Some tribes apply for continuous funding and use these grants to pay for both the upfront license and then longer-term software costs (operations and maintenance). Some tribes leverage both (a one-time grant or a continuous program grant). The life-cycle addresses these options ([see step 9](#)).

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FUNDING SOFTWARE

Can Tribes use EPA grant dollars to purchase software to build capacity and implement their environmental programs?

Yes, if software is necessary to carry out the tasks in the EPA approved scope of work (workplan), and if the price is reasonable, then Tribes can use EPA grant funds to purchase software. The software licenses being purchased need to be

included in the approved workplan narrative. Grantees need to make sure all workplan activities in their narrative are consistent with the statutory authority, agency requirements, supplemental grant guidance, as well as the grant terms and conditions. Some program grant guidances, but not all, provide additional information on how the grant can be used to support IT/data management and/or maintenance costs, and used to assist with reporting data to EPA. Approval to use the grant to support software operations and maintenance costs should be obtained from the National Program Office, or EPA Project Officer, to whom the Tribe works with.

The following [list of EPA grants](#) may be available to Tribes, however there are two EPA grant distinctions to explain:

1. A competitive grant would be project specific; a tribal grantee may need to procure software to administer the grant workplan activities (such as a deliverable, activity, or specific output). This is a shorter-term effort requiring the purchasing, set up, and deployment of the software.
2. Programmatic grants, support continuing environmental program management; Tribes may need to procure and maintain specific software to implement workplan activities. This is a longer-term effort; and this would support steps after deployment, such as updates, patches, and help desks.

A note about the EPA Exchange Network (EN): [EPA EN grants](#) are often used to acquire software to support workplan activities awarded under the grant. EN grants are competitive and are often used to implement and support data collection, storage, and analysis activities, as well as managing and disseminating information as part of a grant workplan. EN grants do not fund operations and maintenance costs because these costs would overwhelm the program's grant resources. Instead, EPA encourages EN partners to investigate the possibility of using those programmatic grant funds to support operations and maintenance of software needed to implement the program. EPA understands that operations and maintenance expenditures are of concern to Tribes, and EPA has tried to address those concerns by leveraging existing Virtual Exchange Services (i.e., virtual node) to minimize the need.

A note about the Indian Environmental General Assistance Program (GAP): [GAP grants](#) support tribal capacity building to plan, develop, establish, and maintain tribal environmental programs and to implement solid and hazardous waste programs for tribal lands. GAP funds may be used to acquire and maintain software that is necessary for the tribe to participate in EPA programs.

Grantees can also work with their EPA Project Officers, early and often, before developing new workplans or revising workplans so they can accurately include these costs in the [grant budgets](#) (See next Q&A).

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How and where do grantees capture the cost of software in grant workplans?

Grantees should submit the cost of the software licensing in their grant budget. Purchasing software licensing fees and paying for O&M may fit under one of the three budget categories, depending on costs or purpose/use. For it to be an allowable direct charge, the software must be necessary to administer the grant workplan activities. Visit [here](#) for more information on how to develop grant budgets.

1. **Equipment¹ category** - under a grant, equipment is defined as personal property that has a useful life of more than one year and a per unit acquisition cost of \$5,000 or greater unless the recipient's own policies establish a lower per unit purchase threshold. This category includes only equipment the recipient proposes to purchase as a direct cost. Visit [here](#) for the EPA Best Practice Guide for Procuring Services, Supplies, and Equipment Under EPA Assistance Agreements.
2. **Supplies category** - items costing less than \$5,000 per unit unless the recipient's own policies establish a lower threshold are considered supplies. Supplies may include computing devices such as software.
3. **Indirect cost category** - costs that are not readily identifiable with a particular activity but are necessary to the general operation of the organization and the conduct of the proposed project (such as general administration expenses).

Depending on how the software is used, costs for software may be included in the "pool" for determining indirect cost rates. The composition of the "pool" for a recipient's indirect cost rate can be found on the Tribes organization's current Negotiated Indirect Cost Rate (IDC) Agreement. Note that recipients must charge costs as direct or indirect consistently. The costs for the same software license cannot be both included in the indirect cost pool and charged directly to one or more assistance agreements. For example, the software acquisition may be a direct cost, while the maintenance/upkeep may be rolled into the Indirect Cost Rate.

It is important to note that each tribal government calculates the indirect cost rate and determines how and what they will use these funds for; this is not determined by EPA.

How does a grantee use their grant or multiple grants to cover the procurement of software and then the costs associated with operating and maintaining the software?

The grantee should determine what software is needed to conduct workplan activities, taking into consideration the longer-term needs (O&M) for the up-front software procurement. It is best to work with the EPA Project Officer or the point of contact on the RFP to determine the allowable costs for the software acquisition versus the allowable costs for operations and maintenance. A critical step is to assess what software is needed to complete the workplan activities and the estimated costs associated **before applying** for the grant(s) or updating workplans; this is part of the scoping phase.

Most EPA programmatic grants will cover the costs of the entire life-cycle of the software needed to implement the environmental programs. Some EPA grants will cover the costs of software needed to complete a specific project, in which the grantee would buy the software, but then may need to find

¹ These costs are defined as tangible, non-expendable, personal property with a useful life of more than one year and a cost of more than \$5,000 per unit unless the applicant has a lower threshold amount for equipment classification purposes.

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additional funding to continue to use the software if the project ends. If this is the case, a tribe may choose to use a different funding source to keep the software maintained and updated. This may include applying for additional grant dollars or building software O&M into other applicable grant workplan activities. ***Again, the critical step is to scope out the longer-term needs***, before developing the workplan and budget, and ensure the Tribe has a plan to cover the costs of software until it's retired or no longer needed to support the project or program.

Can Tribes request a no-cost extension to pay for longer term software O&M costs?

Yes, Tribes can request a no-cost extension from EPA's Grants Management Office if funds are available in the grant agreement to continue work, which may include the need to cover the associated O&M costs. Tribes should work with their EPA Project Officers when preparing these requests.

Can Tribes use the Indian Environmental General Assistance Program (GAP) and/or Exchange Network grant dollars to support software O&M if the funds are in a Performance Partnership Grant?

Yes, a Tribe may use Performance Partnership Grants (PPGs) for the purchase of O&M software if it is included in their approved work plan. PPGs provide Tribes the flexibility to use PPG funds for any environmental activity that is eligible under the environmental programs listed in 40 CFR §35.501 (except EPA delegated, EPA approved, or EPA authorized activities, which still require delegation, approval, or authorization), regardless of whether a Tribe applied for or was selected for funding under a particular program. We recommend grantees work with their EPA Project Officer and [NEPPS Coordinator](#) to negotiate a PPG work plan that includes software O&M costs.

How can Tribes purchase software jointly to receive a better rate or to share the costs?

Tribes can work together to purchase software jointly under an intergovernmental agreement as authorized by 2 CFR 200.318(e) as this may offer some cost savings. A single Tribe would conduct the competition for the software contract and other Tribes could access that contract to pay for software and related services. Tribes could also leverage an intertribal consortium consisting of two or more federally recognized Tribes to acquire software as authorized by 40 CFR 35.504.

Tribes are encouraged to leverage their Regional Tribal Operations Committee (RTOC) meetings to collaborate around specific software needs. These forums provide an opportunity to discuss the broader needs and approaches to share costs. Furthermore, [EPA Regional Indian Coordinators](#) can provide support and coordination with multiple Tribes that are requesting similar needs (within or across regions).

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The Department of Interior purchases an Environmental Systems Research Institute, Inc. (Esri) software called ArcGIS for tribal partners. Does EPA conduct similar purchases for Tribes?

No, EPA does not have a similar program. The [Branch of Geospatial Support \(BOGS\)](#), which is under the Division of Program Management and Coordination, offers geospatial software and support to authorized: Bureau of Indian Affairs employees, federally recognized Tribal employees, and contracted or compacted Tribal employees (under Public Law 93-638). The current Enterprise License Agreement (ELA) between Esri and DOI is valid through January 31, 2024. The Esri ELA provides the following: ArcGIS core software and limited extensions, courses and workshops, discounts on purchases of other Esri and third-party software products, and technical support. No other examples of other federal agencies who purchase software licenses for Tribes have been identified at this time.

Can EPA procure software for Tribes to support environmental program management?

EPA makes grant funding available to support Tribes in the procurement of software to build capacity and implement environmental programs. EPA may provide “in-kind assistance” in lieu of grant funds in the form of software purchased through EPA contracts, in appropriate cases. If a Tribe would like to explore the in-kind assistance feature, they should contact their EPA Project Officer, who should contact the Office of Grants and Debarment at EPA.²

Can Tribes use federal contract vehicles to purchase IT software?

Yes, GSA offers a [range of services](#) to Tribes to procure commercial products and services. The GSA [Cooperative Purchasing Program](#) allows Tribes to buy software and cloud from [Multi Award Schedules \(MAS\) Information Technology, also known as Schedule 70](#) and through Software Purchase Agreements (formerly known as [SmartBUY](#)). Software Purchase Agreements offers commodity software and services at discounts. Refer to the list of [all Software agreements](#) for publishers and reseller information. Please note, federal contracts are set up for large bulk purchases rather than small purchases and require a long lead time and usually have a service charge to use. GSA services [offers ongoing training](#) on this topic.

² The Federal Grants and Cooperative Agreement Act authorizes agencies to use contracts to purchase goods and services on behalf of grant recipients. This practice may be followed when the use of a contract would be more efficient and effective than providing grant funds.

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TRIBAL SOFTWARE NEEDS

Can Tribes submit grants information electronically, rather than email?

EPA uses www.grants.gov to help streamline the grants application process. All federal agencies post discretionary funding opportunities on this website; it allows grantees to find grants and apply for directly.

After the grant is awarded, EPA does not use a one-stop-shop, portal, or centralized approach for collecting grant files and grant related information such as updated workplans, budgets, progress reports, and federal forms. EPA program offices and EPA regional offices have discretion to use different mechanisms and levels of technology to request files from their grantees. Common applications include email, SharePoint, Max.Gov. Notes about these applications are below:

- **SharePoint:** Microsoft SharePoint can be used as a document management platform that is used by EPA to store, collaborate, and share documents. Grantees can be provided access to select Sharepoint sites that are set up for external user access. Permission is granted by EPA. A SharePoint license is not needed. Due to EPA cybersecurity requirements, there may be SharePoint access issues that need to be resolved to ensure access for non-EPA employees.
- **MS Teams:** Microsoft Teams is a hub used by EPA and non-EPA employees to collaborate and meet virtually. It allows for collaboration, chat, calls, and meetings. A free version of Teams is available from Microsoft here: <https://www.microsoft.com/en-us/microsoft-teams/free>. Versions of Teams with more features are available with paid annual subscriptions.
- **MAX.GOV:** Developed by the Office of Management and Budget, MAX.gov is government-wide advanced collaboration, information sharing, data collection, publishing, and analytical capabilities for Federal agencies and partners. There is no cost or license required to access MAX.

After an EPA Project Officer receives files from the grantee, EPA uses an internal centralized database for maintaining, managing, and storing grant documents. Tribes do not have access to this database.

What software is available for low or no costs to assist Tribes with environmental program management?

Free and open-source software is software that anyone is free to use, change, copy, and study. The source code behind the software is shared and users can often improve the design. These types of software are available for tribes to use as they implement their environmental programs. Please contact [Cherokee Nation](#) or the [Institute for Tribal Environmental Professionals \(ITEP\)](#), as they can access a list of commonly used free, low cost, or commonly used software for tribal environmental program management. This list is not comprehensive of all available open-source software, and not intended as a guide or endorsement of any commercial products. It is available upon request.

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Is there training and support available to Tribes for assist with deploying and using software?

There are several sources of software support and training Tribes can leverage.

1. Software vendors may bundle technical support and training with the software purchase.
2. Training and support can be purchased from third party consultants and trainers.
3. Online communities of practice may be a source for technical support and training.
4. EPA supports the [Tribal Exchange Network Group \(TXG\)](#) through a cooperative agreement that provides training, mentorship, and technical assistance support to Tribes in the area of information management broadly. The TXG facilitates access to training, resources, and tools for improving data management and exchange solutions for tribes across the nation.

What type of training and support can Tribes receive from the Bureau of Indian Affairs on Esri?

The Branch of Geospatial Support (BOGS), under the Division of Program Management and Coordination at the Bureau of Indian Affairs, offers geospatial software and support to authorized groups, including Bureau of Indian Affairs employees, federally recognized Tribal employees, and contracted or compacted Tribal employees (under Public Law 93-638). Visit [here](#) for information on software, [here](#) for information on training, and [here](#) for more information on geospatial technical assistance.

BOGS administers the configuration, distribution, and support of the products provided. The products fall into two categories:

1. DOI-BIA Esri Enterprise License Agreement (ELA)
2. The current ELA between Esri and DOI is valid through January 31, 2024. The Esri ELA provides: ArcGIS core software and limited extensions; select Esri e-Learning courses and workshops; paid maintenance for existing products; a limited number of Esri specialty products; discounts on purchases of other Esri and third-party software products; and technical support.