

# Pipeline Safety

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Bruce Harris, Professional Staff  
Energy and Air Quality Subcommittee  
Energy and Commerce Committee  
U.S. House of Representatives

Dear Mr. Harris,

We have been asked to review the criteria that the Pipeline and Hazardous Materials Safety Administration (PHMSA) has drafted (attached) regarding the award of Pipeline Safety Information Grants to Communities as authorized in 49 U.S.C. 60130 first passed in the Pipeline Safety Improvement Act of 2002. We find PHMSA's draft criteria to be problematic because they do not adequately reflect community and public interest needs and seem to conflict in some ways with the basic spirit we understood Congress approved these grants for.

In 2002 when these grants became law it was our understanding that Congress wanted to provide local communities and groups of individuals who were or might be affected by pipelines a means to hire technical assistance to review and provide an independent analysis on a range of pipeline issues and proceedings. This independent analysis would either verify industry and regulators' analyses thus increasing trust in pipeline safety, or point out possible shortcomings that could then be addressed to make pipelines safer.

The draft PHMSA criteria undermine the important independent nature of these grants by requiring local communities to seek a pipeline company to co-sponsor the grants. This requirement alone could preclude grants in areas where they may be needed the most, such as communities where pipeline operators have had a pipeline failure and the spill may be affecting the environment or drinking water.

One of PHMSA's criteria also requires that an applicant "produces an assessment of the risks" that a pipeline poses to the community or the community to the pipeline. We don't know exactly what PHMSA means by this criteria, but such risk analysis is extremely expensive and may require applicants to spend the entire grant on such an analysis whether that is their desired goal or not. A small city in California recently spent \$50,000 for a risk analysis of a pipeline that crossed a proposed sports field complex. Risk analysis may be the desire of some communities, but requiring one may make it nearly impossible to review other pertinent areas of pipeline safety. A local community that, for example, wants to hire technical assistance to help draft building codes for structures near pipelines, or review the noise analysis for a new compressor station, or review groundwater contamination data from a previous spill should not be burdened with performing an unrelated risk analysis.

One other concern we noted was that the criteria requires that an "applicant's project scope includes a high consequence geographic area." PHMSA has never released to the public information regarding which sections of pipelines are within high consequence areas, so this would be an impossible criterion for a group of individuals to determine if they are meeting. Additionally, because many in the public believe that PHMSA's definitions of high consequence areas (HCAs) are too narrow to adequately protect the public and the environment, grants examining whether particular areas should be classified as HCAs would be precluded.

We hope that a way can be found to move these grants forward with a competitive process that meets the intent that Congress had when these grants were authorized. It is nearly impossible from the little bit of information that was provided us from PHMSA to know how they intend to use these criteria, but it is clear that there are significant problems with some of the criteria provided. We have taken the liberty on the next page to include an alternative criteria proposal that we believe more closely aligns with the original intent of Congress. We have also attached an overview of the Technical Assistance Grants that EPA provides to groups of individuals which, we believe, more closely reflects the type of grant program that PHMSA needs to develop.

Thank you for your interest in these Pipeline Safety Information Grants to Communities. If we can provide any more information please let us know.

Sincerely,

Carl Weimer  
Executive Director

SEE BELOW

## **Pipeline Safety Information Grants to Communities**

Authorized under 49 U.S.C. 60130

### **Grant Descriptions – Intended Uses**

1. To provide technical assistance to local communities and groups of individuals to review, interpret, and report on information related to pipeline incidents.
2. To provide technical assistance to local communities and groups of individuals to review, interpret and report on safety, environmental, and health concerns related to specific pipelines.
3. To provide technical assistance to local communities and groups of individuals the ability to participate in official proceedings such as rule makings, standards development, and other pipeline safety initiatives.

### **What are the award criteria?**

After determining applicant meets eligibility requirements, PHMSA considers whether and how successfully an applicant meets four equally-weighted criteria:

- (1) The applicant's representation of local communities, groups and individuals affected, or potentially affected, by the pipeline safety issue or proceeding.
- (2) The applicant's plans to use the services of a technical advisor.
- (3) The applicant's ability and plan to inform others in the community, government, and the pipeline industry of the information provided by the technical advisor.
- (4) The potential for the information learned through the grant to be valid and transferable to other local communities and groups of individuals in other parts of the country.

### **Eligibility**

Eligible local communities and groups of individuals include:

1. Those that have been, or may be, affected by a pipeline incident or other pipeline safety concern, or have the ability to positively participate in pipeline safety proceedings.
2. Those that can demonstrate they have reliable procedures for record-keeping and financial accountability in managing a grant, and in the case of groups of individuals are willing to incorporate as a nonprofit organization in the state(s) where they are located by the date of first payment under the grant.
3. Those that are not an academic institution, a for-profit company, or a group established or presently sustained by either of the aforementioned entities.

### **Definitions**

**Technical Assistance Defined** - The term 'technical assistance' means engineering and other scientific analysis of pipeline safety issues, including the promotion of public participation in official proceedings.

**Local Communities Defined** - Cities, towns, villages, counties, parishes, townships, and similar governmental subdivisions, or consortiums of such subdivisions.

**Groups of Individuals Defined** - Group of affected or potentially affected individuals who are, or are willing to become, incorporated as a non-profit organization in the state where they are located.

**Proposed Criteria for Award of  
Pipeline Safety Information Grants to Communities  
Under 49 U.S.C. § 60130**

Applicant's project scope includes a high consequence geographic area which could be adversely affected by a pipeline failure.

Applicant produces assessment of the risks pipelines pose to the affected geographic area and/or the risk the community poses to the pipeline.

Applicant's proposal is cosponsored by an operator in their community, or operators in the region or state.

Benefits of the applicant's project can be described in improved performance, in areas such as engineering, damage prevention, land use, public education, emergency response, and can produce a safety outcome over time.

Applicant produces a project plan with goals, objectives and milestones, and estimate of project costs.

Applicant can demonstrate likelihood of open project communication between grant recipient, operator (s) and the community, with preference to multiple operators and communities.

Applicant demonstrates successful experience in conducting partnerships of government and community organizations and/or private/public partnerships and has experience promoting public participation in partnership efforts.

Applicant has a plan for evaluating and disseminating results.

Applicant's project scope has potential for learning or technology transfer.