



Performance Partnership Agreement

Between the Rhode Island Department of

Environmental Management

and the

**US Environmental Protection Agency
Region 1**

Fiscal Years 2017-2019

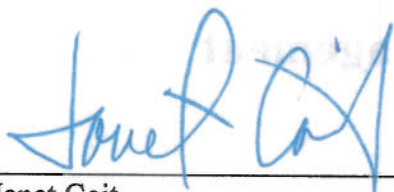
October 1, 2016 through September 30, 2019

EXECUTION OF THE AGREEMENT

This Performance Partnership Agreement (Agreement or PPA) between the Rhode Island Department of Environmental Management (RIDEM) and the U.S. Environmental Protection Agency, Region I - New England (EPANE), covers the time period from October 1, 2016 to September 30, 2019. It is consistent with the principles embodied in the U.S. Environmental Protection Agency and the Environmental Council of the States joint agreement to develop an effective National Environmental Performance Partnership System (NEPPS).

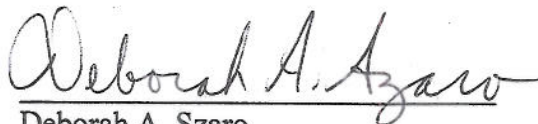
By entering into this Agreement, both agencies commit to: 1) improving communications using agreed upon outcomes and environmental measures; 2) aligning and integrating both agency's goals objectives, and targets; 3) investing resources on the identified Areas for Collaboration; and 4) ensuring that limited staff and financial resources are used judiciously to address the most significant environmental and programmatic issues in the state and region.

The undersigned execute this Agreement between the RIDEM and the EPANE for federal fiscal years 2017 - 2019. The Agreement, including the Areas for Collaboration, will be reviewed annually (as will the associated EPANE Priorities & Commitments Lists and RIDEM Comprehensive Work Plans), and modified as necessary to ensure that it remains relevant and up-to-date.



Janet Coit
Director

This, the 29th day of September 2017.



Deborah A. Szaro
Acting Regional Administrator

This, the 3rd day of October 2017.

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Appendix 1 - Priorities & Commitments List for FY17 Reopeners

INTRODUCTION

This is the twelfth Rhode Island Performance Partnership Agreement (PPA) between the Rhode Island Department of Environmental Management (DEM) and United States Environmental Protection Agency - Region 1 (EPA) within the National Environmental Performance Partnership System (NEPPS). This PPA builds on previous PPA efforts to allocate resources to environmental priorities and to focus on producing environmental results. The PPA covers the FY 2017-2019 performance period.

DEM/EPA STRATEGIC PLAN ALIGNMENT

As in past agreements, the concept that strong environmental protection relies on effective State, Tribal and Local partnerships remains especially relevant today. Good government, as well as the reality of scarce resources, requires that DEM and EPA work in concert with local governments, and our sister state and federal agencies that constitute our country's environmental protection enterprise, to ensure the efficiency, efficacy, and coordination of our overlapping and complementary efforts. Work must be shared, roles must be refined, and stronger, more efficient and cost-effective partnerships must be built to ensure our continued joint success.

A. RI 2017 Strategic Plan

Goal I: Continue Leadership as a Transparent, Customer-driven Agency

- Objective 1. Invest in our work force
- Objective 2. Strengthen communication
- Objective 3. Improve business practices

Goal II: Support a Healthier, Greener Environment

- Objective 1. Promote compliance
- Objective 2. Promote clean air
- Objective 3. Promote healthy lands
- Objective 4. Protect public & animal health.

Goal III: Protect & Improve Water Quality

- Objective 1. Improve storm water management
- Objective 2. Reduce nutrient and bacteria pollution
- Objective 3. Improve water quality in Upper Narragansett Bay
- Objective 4. Strengthen watershed planning

Goal IV: Conserve & Manage Natural Resources

- Objective 1. Promote public safety
- Objective 2. Protect open spaces
- Objective 3. Promote stewardship
- Objective 4. Support healthy forests & community trees

Goal V: Promote & Expand Natural Resource Based Economies

- Objective 1. Support local fishermen & a strong commercial fishing industry

- Objective 2. Promote & expand outdoor recreation in Rhode Island
- Objective 3. Support sustainable fish & wildlife populations & habitat
- Objective 4. Promote & expand the local food sector
- Objective 5. Promote & expand nursery & forest industries

B. EPA Strategic Plan (2014-2018)

EPA’s strategic plan outlines five strategic goals for advancing EPA’s environmental and human health mission outcomes, as well as, five cross-cutting fundamental strategies. The cross-cutting strategies set expectations for changing the way EPA approaches its work. The strategies are geared to inform the work of all the EPA programs and to help meet the environmental challenges faced at this time. The EPA’s strategic plan is available at:

www.epa.gov/planandbudget/strategicplan.html.

Table 1: *Side by side comparison of environmental and public health goals from EPA and RI DEM Strategic Plans*

RI Strategic Plan (2017)	US EPA Strategic Plan (2014 – 2018)
Goal 1: Continue Leadership as a transparent, customer-driven agency	Cross Agency Strategy 4: Embracing EPA as a High-Performing Organization
Goal 2: Support a healthier, greener environment	Goal 5: Protecting Human Health and the Environment by Enforcing Laws and Assuring Compliance Goal and Goal 1: Addressing Climate Change and Improving Air Quality
Goal 3: Protect & improve water quality	Goal 2: Protecting America’s Waters
Goal 4: Conserve & Manage Natural Resources	Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution
Goal 5: Promote & expand natural resource based economies	Goal 3: Cleaning Up Communities and Advancing Sustainable Development

SCOPE OF THE AGREEMENT

This Performance Partnership Agreement (Agreement or PPA) between the Rhode Island Department of Environmental Management (RIDEM) and the U.S. Environmental Protection Agency, Region I - New England (EPANE), covers the time period from October 1, 2016 to September 30, 2019. This agreement provides an overview of the work to be undertaken by the parties as set forth in Appendix 1, the 2016-2017 Rhode Island Priorities & Commitments List with Reopeners. Appendix 1 will be revised annually and will serve as the annual work plan under this multi-year agreement.

The DEM and EPA met to share priorities and develop the new PPA and Priorities and Commitments list. Program managers from both agencies negotiate the Priority and

Commitments Lists. The Priority and Commitments List contained in Appendix 1 reflects the agreements reached during these discussions. There were no instances where agreements could not be reached.

Due to the economic climate in Rhode Island, DEM has been under pressure, as have all state agencies, to constrain spending. Coupled with a significant number of very experienced employees who retired over the past few years, this has resulted in DEM being challenged to perform duties that it would normally complete. All programs noted that, due to the state of the State's budget, there is very little ability for the programs to add staff. All work that was being committed to would have to be accomplished with existing staff.

AREAS FOR COLLABORATION

As noted previously, both DEM and EPA are facing the prospects of continually declining resources. In the face of that reality, we commit to a continuing dialogue, focused on our shared priorities, that identifies the most effective way to achieve our goals and objectives for protecting public health and the environment. In particular, we will work together to examine our joint or overlapping business processes over the course of this agreement.

DEM Director Janet Coit has established improving customer service as a continuing high priority of the Department. In the regulatory side of the agency, the key to improving customer service was to provide clear, predictable, and transparent permitting processes. To achieve these goals, the Bureau of Environmental Protection undertook a lean government initiative to review the permitting processes that are closely linked to economic development activities in the State. The Lean Government process involves comprehensively mapping regulatory processes to define and understand what is really happening now and identifying "waste" (as defined in context of Lean analysis) in those processes and formulating plans to eliminate it, making sure the process results in compliance (positive outcomes) in a timely, predictable manner.

DEM will continue this Lean Government initiative throughout the term of this PPA and will look for opportunities to engage EPA in a joint partnership to improve programs implemented by both agencies in Rhode Island.

ENVIRONMENTAL EQUITY/JUSTICE IN RHODE ISLAND

DEM and EPA will continue to ensure that environmental justice (EJ) is an integral consideration in the development and implementation of all programs.

RIDEM's Environmental Justice Policy: RIDEM's policy states that "Environmental Justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, English language proficiency, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and

policies.”³ (see: <http://www.dem.ri.gov/envequity/pdf/ejfinal.pdf>).. RIDEM believes that, “[EJ] will be achieved when everyone enjoys a fair share of environmental benefits and the same degree of protection from environmental and health hazards, as well as equal access to the decision-making process to help ensure a healthy environment in which to live, learn, and work.”⁴

There is a growing body of evidence that suggests that, in certain instances around the country, minority and lower income citizens or neighborhoods or communities have faced an inequitable share of the risks associated with environmental hazards. The core issue is the fairness in siting, monitoring, and/or clean-up of facilities and the regulation of activities that represent environmental hazards. The documentation on this issue suggests that for a variety of reasons, not necessarily discriminatory by intent, minority and lower income populations have sometimes borne a disproportionate share of the risks from activities which cause air, water, or soil pollution.

The EPA’s EJSCREEN tool shows that the EJ index for the state of RI is in the 81st national percentile for proximity to traffic and the 70th national percentile for proximity to hazardous waste. RI’s EJ considerations are based on communities that are socially and economically vulnerable.

RI is envisioning a growing economy that does not disproportionately expose communities to environmental risks associated with the fossil fuel industry or other sources and will work with EPA, through this Performance Partnership, to achieve this goal.

Key Project Areas – Action Items to be Incorporated in the Priorities & Commitments List for FFY 2018-2019 in the first quarter of FFY 2018:

1. *ProvPort* – Explore opportunities to engage with port owners and businesses to monitor, benchmark and reduce the air and water pollution and overall environmental impact of the port area, particularly as it relates to the surrounding community that is disadvantaged. Engage and partner with community organizations and stakeholder to begin to address their environmental needs.
2. *EJ 2020* – Work with EPA Region I and the entire Agency to help RIDEM to integrate environmental justice into everything they do, cultivate strong partnerships to improve on-the-ground results, and chart a path forward for achieving better environmental outcomes and reducing disparities in the nation’s most overburdened communities.
3. *EJSCREEN* – Where appropriate, use EPA’s new environmental justice (EJ) mapping and screening tool called EJSCREEN to help to identify target communities and

3 Policy for Considering Environmental Justice in the Review of Investigation and Remediation of Contaminated Properties. August 8, 2009. Page 2. <http://www.dem.ri.gov/envequity/pdf/ejfinal.pdf>

4 Policy for Considering Environmental Justice in the Review of Investigation and Remediation of Contaminated Properties. August 8, 2009. <http://www.dem.ri.gov/envequity/pdf/ejfinal.pdf>

issues.

4. *EJ Policy* - Expand RIDEM EJ Policy to include all applicable programming in order ensure the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Presently the policy only applies to site remediation.
5. *Clean Air* - Work to comply with state and federal climate policies to cut the carbon pollution that is driving climate change and to prepare communities for the impacts of climate change. RIDEM will work with its stakeholders to provide the necessary outreach to make members of the EJ community aware of its policies and opportunities to become more resilient.
6. *Resiliency Programming* –RIDEM and EPA will continue to collaborate with climate change adaptation partners in planning workshops; providing outreach materials to EJ communities about climate change and its impacts.
7. *Title VI and Limited English Proficiency* – RIDEM will continue to ensure that it, as well as its sub-recipients, comply with Title VI of the Civil Rights Act of 1964 as well as Executive Order 13166's Limited English Proficiency Requirements. (See LEP.gov and EPA's civil rights webpage for additional information).
8. *Solid and Hazardous Waste* – Continue to work to ensure fairness in siting, monitoring, and/or clean-up of facilities and the regulation of activities that represent environmental hazards.
9. *Title V/Major New Source Review Permitting Programs* – Work with Prevention of Significant Deterioration (PSD) permit applicants to address potentially disproportionately high and adverse impacts to low income or minority communities during the permit process. Also, continue to promote public involvement, particularly for major permitted activities that may significantly impact overburdened communities.
10. *Clean Water* - Continue to work with EPA to support the most vulnerable communities on updating aging wastewater treatment infrastructure, and with reducing storm water runoff. Continue to take the appropriate steps to reduce exposure to contaminants..
11. *Training* - Work with EPA to host an EJ training that will cover EJSCREEN and Title VI, by December of 2017.

GRANTS MANAGEMENT

A. Budget Narrative

This Performance Partnership Agreement (PPA) covers federal fiscal years 2017 – 2019 (October 1, 2016 to September 30, 2019). The PPA, together with work plans (as represented by the associated P&C Lists), set forth the goals, sub-goals, objectives, programs, activities, deliverables, and measures of progress to address the full range of cooperative federal-state environmental programs under the Department's jurisdiction. The Performance Partnership Grant (PPG) is a key vehicle for implementing the Agreement, in combination with other federal and state funding sources. The PPG currently combines the following federally-funded programs:

- Air Pollution Control- Clean Air Act, Section 105
- Hazardous Waste Program- Resource Conservation and Recovery Act, Section 3011
- Underground Storage Tank Program- Solid Waste Disposal Act, Section 9010
- Underground Injection Control Program, Safe Drinking Water Act, Section 1443(b)
- Water Pollution Control- Clean Water Act, Section 106
- Wetlands Development Grants Program – Clean Water Act, Section 104(b)(3)
- Nonpoint Source Management- Clean Water Act, Section 319
- Pesticides Cooperative Enforcement – FIFRA Sec.23(a)(1)
- Pesticide Applicator Certification and Training – FIFRA Sec. 23(a)(2)
- Pesticide Program Implementation – FIFRA Sec. 23(a)(1)

The Agreement and the associated work plans also include additional non-PPG funded work that is necessary to accomplish the environmental and public health goals set forth in the Department's and EPANE's Strategic Plans. RIDEM and EPANE will continue to explore opportunities for grant efficiencies, and measurement of environmental results.

Consistent with GPI 12-06, Timely Obligation, Award, and Expenditure of USEPA Grant Funds, for multi-year awards, RIDEM should apply for the total amount of funds expected for the period covered by the award and include any required match in the application. The work plan should also cover the same time period. USEPA will fund the application incrementally as funds become available.

To be allowable under Federal awards, costs must meet the following general criteria, found in 2 CFR Part 200 (Subpart E), Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Award:

- Be necessary and reasonable for proper and efficient performance and administration of Federal awards.
- Be allocable to Federal awards under the provisions of this Circular.
- Be authorized or not prohibited under State or local laws or regulations.
- Conform to any limitations or exclusions set forth in these principles, Federal laws, terms and conditions of the Federal award, or other governing regulations as to types or amounts of cost items.

- Be consistent with policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the governmental unit.
- Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- Except as otherwise provided for in this Circular, be determined in accordance with generally accepted accounting principles.
- Not be included as a cost or used to meet cost sharing or matching requirements of any other Federal award in either the current or a prior period, except as specifically provided by Federal law or regulation See also § 200.306 Cost sharing or matching paragraph (b).
- Be the net of all applicable credits.
- Be adequately documented. See also 2 CFR §§ 200.300, *Statutory and national policy requirements* through §200.309, *Period of performance of this part*.

B. Federal Regulations and Key Policies

All categorical environmental state grants, including PPGs, are governed by 40 CFR Part 35, State and Local Assistance, Subpart A, Environmental Program Grants (commonly referred to as Part 35); and all state grants are subject to 40 CFR Part 31, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; all grants and agreements are also subject to 2 CFR Part 200 and 2 CFR Part 1500, Subpart E, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. PPGs and PPAs do not supersede any laws, regulations, or delegation agreements.

Some environmental program grants are awarded through a competitive process. An applicant and the Regional Administrator may agree to add funds available for a competitive grant to a Performance Partnership Grant. If this is done, the work plan commitments that would have been included in the competitive grant must be included in the Performance Partnership Grant work plan. After the funds have been added to the Performance Partnership Grant, the recipient does not need to account for these funds in accordance with the funds' original environmental program source, but remains accountable for delivering on work plan commitments.

Programmatic requirements. In order to include funds from an environmental program grant listed in §35.101 of this subpart in a Performance Partnership Grant, applicants must meet the requirements for award of each of the environmental programs from which funds are combined in the agency's Performance Partnership Grant, except the requirements at §35.268(b) and (c), 35.272, and 35.298 (c), (d), (e), and (g). These requirements can be found in the CFR beginning at §35.140.

PPG work plans are subject to the same requirements as any other grant work plan. The requirements can be found at 40 CFR 35.107. An approvable work plan must specify the following:

- The work plan components to be funded under the grant;
- The estimated work years and the estimated funding amounts for each work plan

- component;
- The work plan commitments for each work plan component and a time frame for their accomplishment;
- A performance evaluation process and reporting schedule in accordance with 40 CFR 35.115; and
- The roles and responsibilities of the recipient and USEPA in carrying out the work plan commitments.

The work plan must also be consistent with applicable federal statutes, regulations, circulars, Executive Orders, and USEPA delegations, approvals, or authorizations. The PPA or portion thereof that serves as a grant work plan must meet the same work plan requirements as for any state program grant. The portion(s) of a PPA that serve as a work plan must be clearly identified and distinguished from the rest of the PPA. The regulation at 40 CFR 35.107(c) states:

“An applicant may use a Performance Partnership Agreement or a portion of a Performance Partnership Agreement as the work plan for an environmental program grant if the portions of the Performance Partnership Agreement that serve as all or part of the grant work plan: (1) Are clearly identified and distinguished from other portions of the Performance Partnership Agreement; and (2) Meet the requirements in §35.107(b). A PPG work plan should be the product of joint planning, priority setting and mutual agreement between the state and USEPA. The PPG grant work plan is the result of negotiations between USEPA and state program managers and staff. Successful PPG work plan negotiations rely on a predictable process that fosters prompt resolution of issues, including elevation of issues to senior management levels if necessary. In successful work plan negotiations USEPA and the state will reach a mutual understanding and agreement about what will be accomplished under the agreement.”

Opportunities for Grant Process Streamlining (GPI 12-06, Timely Obligation, Award, and Expenditure of USEPA Grant Funds):

- ***Estimating Budgets:*** Consistent with applicable National Program Managers (NPM) Guidance, USEPA should request States to develop and/or submit their work plans and applications based on the previous year’s award amount or the amount derived from the President’s budget, whichever is higher. If amounts based on the President’s budget are not known, negotiations should be based on the previous year’s award amount.
- ***Focus Negotiations on New Priorities:*** Assuming that the level of funding is not significantly different from the previous year’s grant amount, the primary focus of work plan negotiations should be on new priorities consistent with applicable NPM guidance. Less emphasis should be placed on negotiating recurring activities/commitments where there is a satisfactory record of grant performance.
- ***Multi-Year Grant Awards:*** For multi-year grant awards, applicants should apply for the total amount of funds expected for the period covered by the award and include any required match in the application. The work plan should also cover the same time period. USEPA will fund the application incrementally as funds become available.

- **Pen and Ink Changes:** If the final amount of funding is lower than the amount applied for, Regions will work with States to identify necessary changes. The State will not need to submit a revised work plan or new application. Regions will document and date through pen and ink changes/email correspondence, agreed upon revisions to the work plan, budget narrative, and application forms.

Environmental Results (USEPA Order 5700.7, Environmental Results Under USEPA Assistance Grants)

USEPA Order 5700.7 directs program offices to ensure that the work plan contains well-defined outputs and outcomes. For state assistance agreements under 40 CFR 35, Subpart A, program offices may satisfy this requirement by ensuring compliance with 40 CFR 35.107 as stated above. Prior to approving an assistance agreement work plan, program offices must ensure that they can link the work plan to USEPA's Strategic Plan architecture.

The term "output" in USEPA Order 5700.7 means an environmental activity, effort, and/or associated work product related to an environmental goal or objective that will be produced or provided over a period of time or by a specified date. Outputs may be quantitative or qualitative but must be measurable during an assistance agreement funding period.

The term "outcome" means the result, effect or consequence that will occur from carrying out an environmental program or activity that is related to an environmental or programmatic goal or objective. Outcomes may be environmental, behavioral, health-related or programmatic in nature, must be quantitative and may not necessarily be achievable within an assistance agreement funding period. Note: These terms and their uses are similarly defined in 40 CFR 35.102.

C. Range of Activities

RIDEM will use the Performance Partnership Grant, subject to the requirements below, to fund any activity that is eligible for funding under at least one of the environmental programs from which funds are combined into the grant.

RIDEM will use the Performance Partnership Grant to fund multi-media activities that are eligible and have been agreed to by the Commissioner and the Regional Administrator. The range of activities vary as needed by program, but may include staff time for program design and implementation to achieve measurable environment and public health results. Examples of activities include multi-media permitting and enforcement; pollution prevention, sampling, analysis, ecosystem management, community-based environmental protection, and/or other innovative approaches and activities.

D. Work Plan Development Process

Starting with FFY 2016, USEPA released a two-year NPM Guidance planning process and encouraged the Regions and the States to move towards multi-year work plans. For FFY 2016 and FFY 2017, EPANE and the Region I States agreed to pilot an on-line (via a Microsoft SharePoint site), two-year P&C List process for documenting negotiated Performance Partnership Grant commitments for the time period FFY 2016 - 2017. Under this approach, there is an expectation that the negotiated work plan commitments will cover a two-year period absent changed circumstances, as defined below. The benefits of this approach include minimizing/eliminating the need for extensive work plan negotiations at the mid-point of a two-year cycle, with recurring commitments from year one typically carrying over into year two. This approach should also better align the priorities communicated through the NPM and individual programmatic grant guidances with the commitments and flexibilities negotiated in grant work plans.

Adjustments to year-two commitments will be necessary if there are changed circumstances such as changes in Administrator/NPM priorities, revisions required by USEPA's Annual Commitment process, a substantial reduction or increase in USEPA funding, and similar issues experienced at the state levels.

E. Strategic Investment/Disinvestment Process

EPANE continues to shift away from a time when it unilaterally leads the conversation on issues and possible solutions and towards a more collaborative, partnership effort (i.e., joint governance) where EPANE and the States pool their expertise, insights, and resources and work together with the states to protect the environment and public health in New England.

In response to the New England State Commissioners' request for greater flexibility in addressing budget shortfalls and reduced staffing, the EPANE Regional Administrator/Deputy Regional Administrator initiated a dialogue with the Commissioners in May 2013 resulting in an agreement for each state to submit proposals that represented high-priority, major shifts (i.e., strategic investments and disinvestments) in commitments in order to provide flexibility to direct resources to their most critical environment and public health needs.

To date, the Investment/Disinvestment work has given state partners the flexibility to identify priority investments and disinvestments to support the most critical environmental and public health priorities— operationalizing NEPPS in a new way. Through this PPA, any necessary disinvestment will be addressed and documented in the two-year P&C Lists.

F. Reporting & Measures for Evaluating Performance

Federal regulations require that the Performance Partnership Agreement include a description of a process for jointly evaluating and reporting progress and

accomplishments under the work plan that addresses the following four elements:

1. A discussion of accomplishments as measured against work plan commitments;
2. A discussion of the cumulative effectiveness of the work performed under all work plan components;
3. A discussion of existing and potential problem areas; and
4. Suggestions for improvement including where feasible, schedules for making improvements.

RI DEM and EPA may agree to changes in the work plan based on new priorities or challenges that were not evident when the PPA was signed. The deliverables and target dates in the work plan are based on current staffing levels and budgets. They may be revised if circumstances change. Agreed upon updates to the work plans will be completed by the end of September in each year covered by the Performance Partnership Agreement.

Federal Regulations also require that RIDEM, submit an annual performance report within 90 days of the close of the federal fiscal year. The performance report will contain brief information on the following: a comparison of actual accomplishments to the objectives established for the period and reasons for slippage if established objectives were not met. The DEM Priorities and Commitments List in Appendix 1 is in a format that will facilitate electronic tracking and reporting. EPA will provide review comments to RID EM within 45 days of the submittal. RIDEM, if necessary, will respond to EPA's comments either through a meeting or in writing, within 30 days.

RIDEM will satisfy this requirement with a report that updates the Priorities and Commitments list incorporated into this agreement. This report will provide EPA a status update of each deliverable in the PPA. In addition, DEM will compile a list of major deliverables not completed and provide an explanation, based on the reporting system, of the reasons the deliverables were not completed.