

UNITED STATES DEPARTMENT OF THE INTERIOR

BIPARTISAN INFRASTRUCTURE LAW SEC. 40601 ORPHANED WELL PROGRAM

TRIBAL GRANT GUIDANCE

FISCAL YEAR 2023

I. INTRODUCTION

President Biden signed the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58) (also known as the Bipartisan Infrastructure Law or BIL) on November 15, 2021, making a once-in-a-generation investment in the Nation’s infrastructure and economic competitiveness. This landmark investment will rebuild America’s critical infrastructure, tackle the climate crisis, address legacy polluted sites, advance environmental justice, and drive the creation of good-paying union jobs. By addressing long overdue infrastructure and environmental improvements and strengthening our resilience to the changing climate, this investment in our communities across the country will grow the economy sustainably and equitably for decades to come. The Department will make every effort to utilize the Buy Indian Act in procurement of goods and services related to carrying out these activities.

Section 40601(d) of the BIL creates an orphaned well site plugging, remediation, and reclamation grant program within the Department of the Interior (DOI) to address orphaned wells and well sites on Tribal lands.¹

This document:

1. Sets forth the application process for Tribes and provides requirements for carrying out activities under Sec. 40601(d) of the BIL; and
2. Describes what the Department of the Interior considers to be the best practices for establishing, conducting, and reporting on the activities of a program to plug, remediate, and reclaim orphaned wells on Tribal lands.

The document indicates what information is required in applications for a Tribal grant and for expenditure of the grant funding. It also includes best practices that can help maximize the benefits and transparency of activities carried out with grant funding. Tribes are encouraged to apply these best practices to promote consistent standards for well plugging and reclamation activities, and proper tracking of the benefits from the program.

This guidance applies to the Fiscal Year 2023 grant cycle. Additional guidance will be developed specific to future fiscal years.

¹ Section 40601 amends Section 349 of the Energy Policy Act of 2005, but for simplicity all references to the amended Section 349 will be written as components of Section 40601 of the BIL in this document.

II. DEFINITIONS

“Administrative costs” identified in Sec. 40601(d)(2)(B), limited to not more than 10 percent of the funds received,² are those costs that cannot be directly attributed to well plugging and site reclamation projects, but instead to general grants management or program administration. Administrative costs can be expended for personnel or non-personnel costs, and can be direct or indirect, but should represent the costs to the Tribe for managing the overall grant-funded work rather than preparation for and execution of individual projects.

“Date of receipt of funds” - as identified in Sec. 40601(d)(6), is the effective date of the grant and the start of its period of performance, as determined by the DOI Agreement Officer and the receiving Tribe.

“Indian Tribe” is defined in Sec. 40601(a)(3) as any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. 1601 et seq.], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

“Orphaned Well” – as defined in Sec. 40601(a)(5), the term “orphaned well” with respect to Tribal land, means a well that is not used for an authorized purpose, such as production, injection, or monitoring, and for which no operator can be located, or the operator is unable to plug the well and unable to remediate and reclaim the well site.

“Pre-Award Costs” – Per 2 CFR 200.458, Pre-Award Costs are those incurred after the award date and before the effective date of the Federal award and only with the written approval of the Federal awarding agency (DOI). DOI will evaluate pre-award costs on a case-by-case basis.

“Tribal land” is defined in Sec. 40601(a)(6) as any land or interest in land owned by an Indian Tribe, the title to which is (A) held in trust by the United States, or (B) subject to a restriction against alienation under Federal law. For purposes of this guidance, this includes plugging, abandonment, and reclamation of wells drilled into minerals that are held in trust or restricted status for a Tribe, even if the surface estate is not; and remediation of surface that is held in trust or restricted status for a Tribe, even if the minerals are not.

² Except as provided by Section 40601(d)(2)(B)(ii), which allows larger amounts to be used for administrative costs necessary for the development of a Tribal orphaned well program.

“Unobligated” - For purposes of determining the deadline for expenditure under Sec. 40601(d)(6), “funds that remain unobligated” covers any funding that is not subject to a definite commitment that creates a legal liability of the Tribe for an immediate or future payment for goods or services ordered or received, including by contract or sub-contract award.³

III. PERMISSIBLE USES AND STIPULATIONS OF TRIBAL GRANT FUNDING

A. As provided under Section 40601(d)(2)(A), a Tribe may use these grant funds to:

- i. plug, remediate, or reclaim an orphaned well on Tribal land;
- ii. remediate soil and restore habitat that has been degraded due to the presence of an orphaned well or associated pipelines, facilities, or infrastructure on Tribal land;
- iii. remediate Tribal land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;
- iv. provide an online public accounting of the cost of plugging, remediation, and reclamation for each orphaned well site on Tribal land;
- v. identify and characterize undocumented orphaned wells on Tribal land; and
- vi. develop or administer a Tribal program to carry out any activities described in activities III A. i through v, above.

B. In lieu of a grant, Sections 40601(d)(1)(B) and 40601(d)(B)(7) provide an Indian Tribe the option to submit a request that DOI administer and carry out plugging, remediation, and reclamation activities relating to an orphaned well on behalf of the Indian Tribe, subject to the availability of appropriations. All use of funds and eligibility requirements listed herein apply to “in lieu of grant” activities. In a given year, a Tribe may exercise the in lieu of option or apply for a grant under Section 40601(d)(1)(A), but not both, unless the application is for a Program Development Grant (see IV. A. ii, below). Once DOI has approved a request of an Indian Tribe to carry out plugging, remediation, and reclamation activities on a particular well or well site, the Indian Tribe is not eligible to receive a Tribal Implementation Grant (described under IV.A.i. below) to plug, remediate, or reclaim the same wells or well sites.

C. Section 40601(d)(2)(B)(i) provides that a Tribe shall not use more than 10 percent of the funds received during a fiscal year for administrative costs. This limitation does not apply to any funds used to carry out an administrative action necessary for the development of a Tribal program the purpose of which is to carry out activities listed under Sec. 40601(d)(2)(A) i through v.

³ See Government Accountability Office definitions at: <https://www.gao.gov/assets/gao-05-734sp.pdf>

- D. Section 40601(d)(6) - Expenditure and Reimbursement: A Tribe that receives funds under the Tribal grant authority shall reimburse the Secretary in an amount equal to the amount of funds that remain unobligated on the date that is **five (5) years** after the date of receipt of the funds except in cases in which DOI has granted the Indian Tribe an extended deadline for completion of the eligible activities after consultation. In other words, absent an approved extension, all funds must be obligated within five years of the date of receipt of funds or unobligated funds shall be reimbursed to the Secretary.
- E. Section 40601(d)(3) - In determining whether to provide to an Indian Tribe a grant under this subsection, the Secretary shall take into consideration -
- i. the unemployment rate of the Indian Tribe on the date on which the Indian Tribe submits an application; and
 - ii. the estimated number of orphaned wells on the Tribal land of the Indian Tribe.
- F. The total amount of funding to be made available for distribution to grant recipients for FY23 will be limited to not more than \$50 million.

IV. INSTRUCTIONS FOR TRIBAL GRANT APPLICATIONS

A. *Grant Types and Deadlines*

Applications may be of three types: 1) Tribal Implementation Grants, 2) Program Development Grants, and 3) work contracted by the Secretary, through the Bureau of Indian Affairs, in lieu of a grant. An Indian Tribe may request funding in more than one category, but not for work at the same orphaned well(s). The Department, through its Office of Environmental Policy and Compliance (OEPC), will allocate funding over the course of multiple years, to allow time for the same Tribe to conduct inventories and then later plug wells and conduct surface reclamation.

i. **Tribal Implementation Grant**

- (a) Tribes may apply for this grant type to undertake activities listed in sections III. A. i-v above.
- (b) Such grants are subject to the 10% administrative cost limitation described in Section 40601(d)(2)(B)(i).
- (c) *Deadline:* Subject to the availability of funds, grant applications are due by 11:59 pm Eastern Time on January 20, 2023.

ii. **Program Development Grant**

- (a) Tribes may apply for this grant type to undertake activities listed in section III.A.vi above.

- (b) Such grants are subject to the administrative cost exception described in Section 40601(d)(2)(B)(ii) and are limited to \$1 million per applicant.
- (c) Program Development is defined as building the capacity to administer and sustain an orphaned well program and, in most cases, to apply for and manage a Tribal Implementation Grant (IV.A.i. above). Such capacity might include grant management, contract management, data management, or the inventory and assessment of orphaned wells, inter alia.
- (d) To be considered for this grant type, the Tribe must provide a Work Plan that clearly describes the following:
 - 1. Why the Tribe expects to find, or is aware of the existence of, orphaned wells on Tribal Lands.
 - 2. The number and purpose of staff hired under this grant,
 - 3. The training and equipment to be received by each personnel and how they relate to an orphaned well program,
 - 4. How inventory and assessment information will be generated and reported to DOI,
 - 5. How the Program Development Grant will evolve into a Tribal Implementation Grant proposal or other orphaned well plugging, remediation, and reclamation actions within 3 years of the effective date.
 - 6. If personnel are to be hired using a program development grant, the Tribe's plan to fund those personnel when the window to obligate funding expires.
- (e) To demonstrate progress in program development, new inventory and assessment data must be reported to DOI beginning 12 months from the effective date and new data reported with each performance report thereafter for the duration of the grant.
- (f) *Deadline:* Subject to the availability of funds, grant applications are due by 11:59 pm Eastern Time on January 20, 2023.

iii. **In Lieu of a Grant**

- (a) A Tribe may request that the Secretary administer and carry out plugging, remediation, and reclamation activities related to orphaned wells on behalf of the Tribe as described in Section 40601(d)(7).
- (b) *Deadline:* Subject to the availability of funds, grant applications are due by 11:59 pm Eastern Time on January 20, 2023.

All applications must be emailed to ECRP@ios.doi.gov. An email acknowledging receipt will be provided to the sender within one business day of receipt.

B. Required Elements

To be complete, the application must include sufficient details, as described below, to provide assurances regarding the ability of the Tribe to carry out and oversee the activities to be funded. To be eligible, an application must include the following:

- i. For the **Tribal Implementation Grant** (IV.A.i above), a description of -
 - (a) the Tribal program for orphaned well plugging, remediation, and restoration, including legal authorities, processes used to identify and prioritize orphaned wells, procurement mechanisms, and other program elements demonstrating the readiness of the Indian Tribe to carry out the proposed activities, or plans to develop such a program; and
 - (b) the activities to be carried out with the grant, including an identification of the estimated health, safety, habitat, and environmental benefits of plugging, remediating, or reclaiming orphaned wells and remediating or reclaiming adjacent land; and
 - (c) an estimate of -
 1. the number of orphaned wells that will be plugged, remediated, or reclaimed under the grant; and
 - (d) the projected cost of -
 1. plugging, remediating, or reclaiming orphaned wells;
 2. remediating or reclaiming adjacent land; and
 3. decommissioning or removing associated pipelines, facilities, and infrastructure.
 4. Identifying and characterizing undocumented orphaned wells

- ii. For the **Tribal Implementation Grant** (IV.A.i above) or the **Program Development Grant** (IV.A.ii above), the following must be submitted by a Tribe. Technical assistance in submitting this material is available from DOI's Interior Business Center.

(a) Federal Forms: To be complete, the following Federal forms must be submitted as part of the request for funding (the application). Forms are available at [Grants.gov](https://www.grants.gov),

1. SF-424v4 Application for Federal Assistance

2. SF-424A Budget Information for Non-Construction Programs
An SF-424A is a standard form that provides an estimate of the work's major cost centers (e.g., Tribal employee labor, training, equipment, contracting and other operational costs), where the sum total of the budget justification equals the overall grant request.
3. SF-LLL Disclosure of Lobbying Activities
4. OMB Form 4040-0010 Key Contacts Form

(b) Detailed Budget Proposal/Justification: This detailed information supports and identifies the estimated costs provided in the SF-424A and should include an itemized budget breakdown with unit costs for the period of the grant funding and the basis for estimating the costs of personnel salaries, fringe benefits, project staff travel, materials and supplies, equipment, and consultants and contracts. This document should also include narrative descriptions of the items included in the project budget.

(c) Project Abstract Summary (OMB Form Number 4040-0019): A project abstract of not more than one page will include the project purpose, activities to be performed, expected deliverables or outcomes, intended beneficiaries, and subrecipient activities (if known).

(d) Work Plan: If grant funds are to be used for field activities, including plugging, remediation, and reclamation of orphaned wells, a complete application also will contain the following information as applicable to the planned work:

1. a description of—
 - a. the Tribal program for orphaned well plugging, remediation, and restoration, including legal authorities, processes used to identify and prioritize orphaned wells, procurement mechanisms, and other program elements demonstrating the readiness of the grantee to carry out proposed activities using the grant;
 - b. the activities to be carried out with the grant, including an identification of the estimated health, safety, habitat, and environmental benefits of plugging, remediating, or reclaiming orphaned wells; and
2. an estimate of—
 - a. the number of orphaned wells that will be plugged, remediated, or reclaimed with the grant;

- b. the amount of that projected cost that will be offset by the forfeiture of financial assurance instruments, the estimated salvage of well site equipment, or other proceeds from the orphaned wells and adjacent land;
 - c. the number of jobs that will be created or saved through the activities to be funded under this grant; and
 - d. the amount of funds to be spent on administrative costs;
3. A description of the plugging standards to be applied, including the witnessing requirements (qualifications of witness, documentation);
4. The methodology to be used to measure and track methane and other gases associated with orphaned wells, including how the Tribe will confirm the effectiveness of plugging activities in reducing or eliminating such emissions;
5. The methodology to be used to measure and track contamination of groundwater and surface water associated with orphaned wells, including how the Tribe will confirm the effectiveness of plugging activities in reducing or eliminating such contamination;
6. The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure;
7. Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template available at: [Legacy Pollution Remediation & Reclamation](#)
8. How the Tribe will use funding to locate currently undocumented orphaned wells;
9. Plans the Tribe has to engage third-parties in partnerships around well plugging and site remediation, or any existing similar partnerships the Tribe currently belongs to;
10. Training programs, registered apprenticeships, and local and economic hire agreements for workers the Tribe intends to conduct or fund in well plugging or site remediation;
11. Plans the Tribe has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project;

12. Procedures the Tribe will use to coordinate with Federal or State agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, Federal, and Tribal land;
13. The Tribe's authorities to enter private property, or a Tribe's procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface;
14. A work schedule covering the period of performance of the grant; and
15. If applicable, a federally approved Indirect Cost Rate Agreement or statement regarding Tribe's intention to negotiate or utilize the de minimis rate.

- iii. For the **In Lieu of a Grant** option (IV.A.iii above), the application consists of a written statement by the Tribe, submitted to the email address provided in IV.A. above, that the Tribe has at least one eligible orphaned well and requests that the Secretary administer and carry out plugging, remediation, and reclamation activities relating to the orphaned well or wells on behalf of the Indian Tribe. The request should include, if available, lease number(s), well name(s), and location data, in addition to any information the Tribe has related to whether proposed wells pose environmental risks or human health hazards. Such information will assist DOI in prioritizing among "in lieu of grant" proposals.

C. Restrictions on funding use

Tribes may not use more than 10 percent of the funds received as authorized under Sec. 40601(d)(2)(B)(i) for administrative costs associated with activities listed in Section III. This limitation does not apply to administrative costs necessary for the development of a Tribal orphaned well program (40601(d)(2)(B)(ii)), i.e., a Program Development Grant.

V. STANDARDS FOR MEASUREMENT, PLUGGING, AND REMEDIATION

A. Pre and Post-Plugging Measurement or Estimation of Air and Water Pollution

- i. As a best practice, Tribes may conduct an inspection of each orphaned well site being considered under this grant to measure or estimate current contamination of surface water and groundwater and to measure or estimate current emissions of methane, hydrogen sulfide, and other gases when performing eligible activities. Tribes also may conduct post-plugging inspections and measurements to verify the lack of gaseous emissions or water contamination from plugged wells and the achievement of vegetation performance standards appropriate to the site's future

land uses. Such post-plugging inspection and measurement may be documented to create a verifiable record of activities performed under the grant.

- ii. Tribes are encouraged to follow a third-party methodology for measurement and verification, such as the American Carbon Registry’s methodology (once finalized).⁴ Tribes must report in their Project Narrative the methodology or methodologies they will use or require their contractors to use.
- iii. Pre- and post-plugging measurements or estimates, by well, of water contamination, gaseous emissions (particularly methane), and acres restored must be included in the Final Performance Report described in Section VII.C. below.

B. Well Plugging and Site Reclamation Standards

- i. Tribes with established and documented well plugging standards and regulations will require their contractors to meet those requirements. For a Tribe that does not have established well plugging standards, the minimum standard will be Bureau of Land Management’s Onshore Oil and Gas Order No. 2 Section III.G for plugging wells
(https://www.blm.gov/sites/blm.gov/files/energy_onshoreorder2.pdf).
- ii. For Tribes with established well abandonment standards (inclusive of those actions necessary to complete surface reclamation and revegetation), all well closures shall meet those requirements. If a Tribe does not have well abandonment standards, then for a well site to be considered plugged and fully abandoned, such that it can be reported as a completed unit, the work must reflect, at a minimum, the Bureau of Land Management’s Reclamation and Abandonment Standards. For additional details, see:
<https://www.blm.gov/sites/blm.gov/files/Chapter%206%20-%20Reclamation%20and%20Abandonment.pdf>

VI. FEDERAL AND STATE COORDINATION

Efficiency and cost-effectiveness in well plugging and site remediation will be maximized by ensuring proper coordination in these activities between States, Tribes, and the Federal government. As early as practical—preferably before Tribal grant applications are submitted—Tribes are encouraged to contact the relevant offices of State or Federal land management agencies to ensure the maximum level of coordination among States, Federal land management agencies, and Tribes that may be conducting similar orphaned well activities in proximity to one another. Tribes may reach out to the IESC or the DOI/OEPC for a list of appropriate contacts.

⁴ <https://americancarbonregistry.org/carbon-accounting/standards-methodologies/plugging-abandoned-orphaned-oil-and-gas-wells>

When undertaking work on Federal land under a cost-sharing, Good Neighbor, or other arrangement with the Federal government, Tribes must collect the data required to be reported under the BIL for wells plugged and sites remediated on Federal land. Early coordination with Federal agencies is encouraged to ensure that Tribes are collecting the proper data in a format that can most easily be transferred to the Federal government.

Tribes are also encouraged to consult with Federal and State agencies to ensure appropriate and efficient collaboration on compliance issues (e.g., cultural resources, endangered species, sacred sites) and to minimize disruption of operations and land management activities, such as planning field activities to avoid special events that might be impacted by the work. Such coordination does not include application of State law or jurisdiction on Tribal land.

VII. Technical Assistance

- A. Technical assistance in the form of training or consultation will be available to grant recipients through OEPC, the Interior Business Center, and the Indian Energy Service Center in the following areas:
 - i. Grant application preparation, grant management, contract management, and related administrative topics.
 - ii. Well inventory and orphan assessment; methane measurement; contamination protocols; well plugging, remediation, and reclamation, including well plug witnessing and documentation.
- B. Requests for technical assistance from any offices of the Department of the Interior may be submitted to the email inbox ECRP@ios.doi.gov. An email acknowledging receipt will be provided to the sender within one business day of receipt.

VIII. REPORTING REQUIREMENTS

- A. *Semi-Annual Reports*: Consistent with 2 C.F.R. § 200.328, Tribes must submit financial and performance reports to the DOI every 6 months, with the first report due 6 months from the date of receipt of funds, and every 6 months thereafter through the grant period of performance. Financial reporting will use [SF-425](#).
- B. *Personal Property report*: Tribes will be required to submit an annual Tangible Personal Property Report (SF-428) if grant funds are used to purchase equipment.
- C. *Final Financial and Performance Reports*: Consistent with 2 C.F.R. § 200.329, Tribes must submit a final financial and performance reports to the DOI within 120 days of period of performance end date. Financial reporting will use [SF-425](#).

D. Data Collection and Reporting

- i. In order to simplify and standardize reporting and tracking requirements and ensure that the Federal resources utilized are well-spent and achieving the statutory objectives, Tribes must track the following data for all actions taken using orphaned well grant funding. As appropriate, data tracking may be accomplished through existing systems such as the Groundwater Protection Council's Risk-Based Data Management Solutions (RBDMS) or provided to DOI in a compatible format (e.g., Excel) for entry into a centralized database:
 - (a) Well location information (e.g., latitude/longitude);
 - (b) Well type (e.g. orphaned production or disposal well);
 - (c) Bureau of Labor Statistics NAICS codes for each of the employees working on each well site, along with the hours each employee spent on each site;
 - (d) The population living within a half mile radius of each wellbeing plugged;
 - (e) Pre-plugging methane emissions (if available);
 - (f) Post-plugging methane emissions;
 - (g) Surface water contamination identified;
 - (h) Surface water contamination remediated;
 - (i) Groundwater contamination identified;
 - (j) Groundwater contamination remediated;
 - (k) Acreage impacted by well and infrastructure (site footprint);
 - (l) Revegetation performance standard monitoring start date;
 - (m) Revegetation performance standard attainment date (project complete);
 - (n) Actual total cost per well of plugging and surface reclamation
 - ii. This list highlights important parameters that DOI will report to Congress annually and is a subset of the larger data set to be reported by the Tribes as part of the semi-annual performance reports (VII.A.) and final report (VII.C.) and detailed in the Orphaned Well Data Reporting Template available on the program website.
- E. After providing the grantee an opportunity to redact personally identifiable or proprietary information, the DOI may post successful grant applications on a publicly available web site.
 - F. The DOI will publish a summary of performance accomplishments on a publicly available web site, following submission by the Tribes of the reports required in Section VII of this guidance.

VIII. DAVIS-BACON ACT REQUIREMENTS

Subject to exceptions described in 42 CFR § 137.379, all laborers and mechanics employed by the applicant, subrecipients, contractors or subcontractors in the performance of construction, alteration, or repair work on an award or project in excess of \$2,000 funded directly by or assisted in whole or in part by funds made available under these grants shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code commonly referred to as the “Davis-Bacon Act” (DBA).

Applicants shall provide written assurance acknowledging the DBA requirements for the award or project and confirming that all laborers and mechanics performing construction, alteration, or repair work on projects in excess of \$2,000 funded directly by or assisted in whole or in part by and through funding under the award are paid or will be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act).

Recipients of funding will also be required to undergo DBA compliance training and to maintain competency in DBA compliance. The U.S. Department of Labor offers free Prevailing Wage Seminars several times a year that meet this requirement, at [DOL Seminars](#).

For additional guidance on how to comply with DBA provisions and clauses, see [Davis-Bacon Act](#)

IX. DOI STANDARD AWARD TERMS AND CONDITIONS

- A. DOI Standard Award Terms and Conditions will be included in all Tribal grants, at the time of award. These standard terms and conditions can be found at: [Standard Award Terms and Conditions](#).
- B. Under 2 C.F.R. § 200.329, the Federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability and oversight. Grant recipients shall provide Federal awarding agency access to relevant documentation in recipient possession and facilitate, to the extent allowable under applicable laws, Federal awarding agency access to project sites.
- C. The DOI Freedom of Information Act Office provides guidelines to requestors of grant applications around what information may be redacted from applications. This information includes patent rights, confidential financial information, personally identifiable information (PII), and detailed budget, consultant, and business assets

information. 2 CFR § 200.338 places limitations on public access to award-related documents.

- D. As required by Section 70914 of the Bipartisan Infrastructure Law on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver.

DRAFT

Attachment A

Annex to the Grant Guidance - This Annex provides instructions and awareness on standard grants management requirements that are part of applying for a Federal award.

1. Unique Entity Identifier and System for Award Management (SAM)
2. Conflict of Interest Disclosure
3. Single Audit Reporting Statement
4. Certification Regarding Lobbying and Disclosure Requirements
5. Data Availability
6. Agency Review Process
7. Additional Reporting Requirements
 - a. Significant Development Reports
 - b. Conflict of Interest Disclosures
 - c. Other Mandatory Disclosures
 - d. Reporting Matters Related to Recipient Integrity and Performance
8. Payments

1. Unique Entity Identifier and System for Award Management (SAM)

Before submitting an application, applicants must be registered in SAM.gov and have a Unique Entity Identifier (UEI) which replaces the Data Universal Numbering System (DUNS) number from Dun & Bradstreet in April 2022. Registration is through the SAM.gov website, which has user guides and other information to assist you with registration under the “Help” tab if you are not already registered. The Grants.gov “Register with SAM” page also provides detailed instructions, and applicants can contact the supporting Federal Service Desk for help as needed. A Federal award may not be made to an applicant that has not completed the SAM.gov registration. Federal award recipients must renew and validate their SAM registration at least once every 12 months to maintain an active SAM.gov registration with current information through the life of their Federal award(s).

Applicants that are registered with SAM just need to login to get their UEI, SAM generates it automatically.

2. Conflict of Interest Disclosure

Per the Financial Assistance Interior Regulation (FAIR), 2 CFR §1402.112, applicants must state in their application if any actual or potential conflict-of-interest exists at the time of submission.

(a) Applicability.

(1) This section intends to ensure that non-Federal entities and their employees take appropriate steps to avoid conflicts of interest in their responsibilities under or with respect to Federal financial assistance agreements.

(2) In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict-of-interest provisions in 2 CFR 200.318 apply.

(b) Notification.

(1) Non-Federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to the DOI awarding agency or pass-through entity in accordance with 2 CFR 200.112.

(2) Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest. The recipient is responsible for notifying the Grants Officer in writing of any conflicts of interest that may arise during the life of the award, including those that have been reported by subrecipients.

(c) Restrictions on lobbying. Non-Federal entities are strictly prohibited from using funds under a grant or cooperative agreement for lobbying activities and must provide the required certifications and disclosures pursuant to 43 CFR part 18 and 31 U.S.C. 1352.

(d) Review procedures. The Grants Officer will examine each conflict-of-interest disclosure on the basis of its particular facts and the nature of the proposed grant or cooperative agreement and will determine whether a significant potential conflict exists and, if it does, develop an appropriate means for resolving it.

(e) Enforcement. Failure to resolve conflicts of interest in a manner that satisfies the government may be cause for termination of the award. Failure to make required disclosures may result in any of the remedies described in 2 CFR 200.339, Remedies for Noncompliance, including suspension or debarment (see also 2 CFR part 180).

3. Single Audit Reporting Statement

All non-Federal entities expending \$750,000 USD or more in Federal award funds in the applicant's fiscal year must submit a Single Audit report for that year through the Federal Audit Clearinghouse's Internet Data Entry System. U.S. States must state if your organization was or was not required to submit a Single Audit report for the most recently closed fiscal year in your application. If your organization was required to submit a Single Audit report for the most recently closed fiscal year, provide the EIN (Tax ID) associated with that report and state if it is available through the Federal Audit Clearinghouse website.

4. Certification Regarding Lobbying and Disclosure Requirements

Applicants requesting more than \$100,000 in Federal funding must certify to the statements in 43 CFR Part 18, Appendix A-Certification Regarding Lobbying. If this application requests more than \$100,000 in Federal funds, the Authorized Official's signature on the appropriate SF-424, Application for Federal Assistance form also represents the entity's certification of the statements in 43 CFR Part 18, Appendix A.

Applicants and recipients must not use any federally appropriated funds (annually appropriated or continuing appropriations) or matching funds under a Federal award to pay any person for lobbying in connection with the award. Lobbying is influencing or attempting to influence an officer or employee of any U.S. agency, a Member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a Member of the U.S. Congress in connection with the award. Applicants and recipients must complete and submit the SF-LLL, “Disclosure of Lobbying Activities” form if the Federal share of the proposal or award is more than \$100,000 and the applicant or recipient has made or has agreed to make any payment using non-appropriated funds for lobbying in connection with the application or award. The SF-LLL form is available with this Funding Opportunity on Grants.gov. See 43 CFR, Subpart 18.100 for more information on when additional submission of this form is required.

These lobbying restrictions and disclosure requirements are not applicable to such expenditures by an Indian Tribe, Tribal organization, or any other Indian organization specifically permitted by other Federal law.

5. Data Availability

Per the Financial Assistance Interior Regulation (FAIR): 2 CFR §1402.315

(a) All data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, valuation products or other scientific assessments in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual, resulting from a financial assistance agreement is available for use by the DOI, including being available in a manner that is sufficient for independent verification.

(b) The Federal Government has the right to:

(1) Obtain, reproduce, publish, or otherwise use the data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, or other scientific assessments, produced under a Federal award; and

(2) Authorize others to receive, reproduce, publish, or otherwise use such data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, or other scientific assessments, for Federal purposes, including to allow for meaningful third-party evaluation.

6. Agency Review Process

The awarding agency conducts a review of the SAM.gov Exclusions database for all applicant entities and their key project personnel prior to award. The awarding agency cannot award funds to entities or their key project personnel identified in the SAM.gov Exclusions database as ineligible, prohibited/restricted or otherwise excluded from receiving Federal contracts, certain subcontracts, and certain Federal assistance and benefits, as their ineligibility condition applies to this Federal program.

Prior to award, the awarding agency will evaluate the risk posed by applicants as required in 2 CFR 200.205. The awarding agency documents applicant risk evaluations using DOI’s

“Financial Assistance Recipient Risk Assessment” form. Prior to approving awards for Federal funding in excess of the simplified acquisition threshold (currently \$250,000), the awarding agency is required to review and consider any information about or from the applicant found in the Federal Awardee Performance and Integrity Information System. The awarding agency will consider this information when completing the risk review. The awarding agency uses the results of the risk evaluation to establish monitoring plans, recipient reporting frequency requirements, and to determine if one or more of the specific award conditions in 2 CFR 200.207 should be applied to the award.

7. Additional Reporting Requirements

Significant Development Reports Events may occur between the scheduled performance reporting dates which have significant impact upon the supported activity. In such cases, recipients are required to notify the awarding agency in writing as soon as the recipient becomes aware of any problems, delays, or adverse conditions that will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of any corrective action(s) taken or contemplated, and any assistance needed to resolve the situation. The recipient should also notify the awarding agency in writing of any favorable developments that enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

Conflict-of-Interest Disclosures Recipients must notify the program immediately in writing of any conflict of interest that arises during the life of their Federal award, including those reported to them by any subrecipient under the award. Recipients must notify the program in writing if any employees, including subrecipient and contractor personnel, are related to, married to, or have a close personal relationship with any Federal employee in the Federal funding program or who otherwise may have been involved in the review and selection of the award. The term employee means any individual engaged in the performance of work pursuant to the Federal award. Recipients may not have a former Federal employee as a key project official, or in any other substantial role related to their award, whose participation put them out of compliance with the legal authorities addressing post-Government employment restrictions. See the U.S. Office of Government Ethics website for more information on these restrictions. The awarding agency will examine each conflict-of-interest disclosure based on its particular facts and the nature of the project and will determine if a significant potential conflict exists. If it does, the awarding agency will work with the recipient to determine an appropriate resolution. Failure to disclose and resolve conflicts of interest in a manner that satisfies the awarding agency may result in any of the remedies described in 2 CFR 200.339 Remedies for Noncompliance, including termination of the award.

Other Mandatory Disclosures Applicants must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that receive a Federal award including the terms and conditions outlined in 2 CFR 200, Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters are required

to report certain civil, criminal, or administrative proceedings to SAM. Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.339 Remedies for Noncompliance, including suspension or debarment.

Reporting Matters Related to Recipient Integrity and Performance If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings in accordance with Appendix XII to 2 CFR 200.

8. Payments

Domestic recipients are required to register in and receive payment through the U.S. Treasury's Automated Standard Application for Payments (ASAP), unless approved for a waiver by the awarding agency program. The recipient will be notified of the ASAP enrollment process, or if already enrolled, the process to link their ASAP account to the Agency.