



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 24 2018

Office of
International and
Tribal Affairs

Dear Honorable Leader:

The U.S. Environmental Protection Agency (EPA) Office of International and Tribal Affairs (OITA) is initiating consultation and coordination with federally recognized tribes to gather input on how to improve the Indian Environmental General Assistance Program (GAP) Guidance (issued in 2013) and/or its implementation to better achieve the goals of the program. This guidance describes how EPA administers the GAP Act of 1992 (42 U.S.C. § 4368b). Under the GAP statute, EPA provides GAP financial assistance to tribal governments and intertribal consortia to assist tribes in planning, developing, and establishing the capacity to implement federal environmental programs administered by the EPA, and to assist in implementation of tribal solid and hazardous waste programs in accordance with applicable provisions of law.

In the five years since OITA issued the current GAP Guidance, tribes and consortia have shared a number of concerns about the Guidance. EPA is now initiating a tribal consultation process that seeks additional input on how the Guidance or its implementation can be improved to inform potential revisions and/or adjustments to how EPA implements the current Guidance. Once input from tribal representatives is gathered and fully considered through this tribal consultation and coordination process, EPA may propose revised guidance on the award and management of GAP assistance agreements. The Agency will hold a separate tribal consultation and coordination process to obtain input on any proposed revisions/changes.

This consultation and coordination process will be conducted in accordance with the *EPA Policy on Consultation and Coordination with Indian Tribes* (available at www.epa.gov/tribal/consultation/consult-policy.htm). EPA invites you and your designated consultation representative(s) to participate in this process. EPA's timeline for the consultation and coordination period is **Friday, June 1 – Friday, August 31, 2018**.

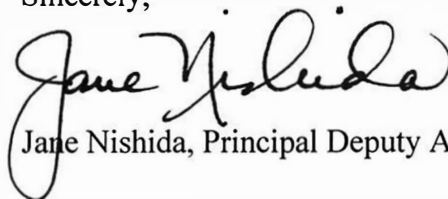
Attached is a consultation and coordination plan for this action that includes a description of the action under consultation and the process EPA intends to follow, including a timeline for the consultation and coordination period and information on how you can provide input on this action (please see *Attachment 1*). Please note that the most up-to-date information on this consultation is available on EPA's Tribal Consultation Opportunities page at <https://tcots.epa.gov/>.

The official EPA contact person for this consultation and coordination process is Rebecca Roose, Senior Advisor in the American Indian Environmental Office. Please do not hesitate to contact Ms. Roose at roose.rebecca@epa.gov or at (202) 566-1387 should you have any questions

regarding this action, or if you would like to request alternate arrangements to the process outlined in the consultation plan.

I look forward to hearing from you on this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jane Nishida". The signature is fluid and cursive, with the first name "Jane" written in a larger, more prominent script than the last name "Nishida".

Jane Nishida, Principal Deputy Assistant Administrator

Attachment

cc: Regional Indian Program Coordinators
Felicia Wright, Acting Director, American Indian Environmental Office
Rebecca Roose, Senior Advisor, American Indian Environmental Office

Attachment 1: Consultation Plan for Gathering Input on EPA's 2013 GAP Guidance

This Consultation Plan provides background information, specific questions that define the scope of this consultation effort, EPA's schedule for receiving input, and a point-of-contact for you and your representatives. EPA's overall timeline for this consultation and coordination period is **Friday, June 1 – Friday, August 31, 2018.**

Background

The Office of International and Tribal Affairs (OITA), EPA's national program manager for GAP, released the current *Guidance on the Award and Management of General Assistance Agreements for Tribes and Intertribal Consortia* in May 2013. The Guidance provides a nationally consistent capacity development framework for EPA and tribes to follow. This framework is intended to empower EPA and tribes to more effectively protect human health and the environment in Indian country by establishing a rational, documented basis for GAP financial resource allocation and award decisions. Specifically, the Guidance connects joint EPA-tribal government strategic planning to development of GAP work plans that are aligned with both the tribe's long-term goals and EPA-administered programs. This approach supports EPA's ability to measure environmental program development progress over time and ultimately improve how EPA allocates GAP financial and technical assistance resources to tribes. For additional discussion of the GAP Guidance, refer to *Indian Environmental General Assistance Program Frequently Asked Questions* (November 2016), available at <https://www.epa.gov/tribal/frequently-asked-questions-about-indian-environmental-general-assistance-program-gap>.

In the five years since OITA issued the current GAP Guidance, tribes and consortia have shared a number of concerns about the Guidance. The most common concerns are associated with administrative burden, the intersection of EPA-Tribal Environmental Plans with GAP eligibility and awards, emphasis on tracking capacity development, use of pre-determined capacity indicators, coverage of certain waste program implementation activities and the use of GAP Online. To assist in your participation during this consultation and coordination period, EPA has developed a summary of past feedback from grantees on the GAP Guidance. You may refer to this document, available in the Tribal Consultation Opportunities Tracking System (TCOTs) at <https://tcots.epa.gov>, to review tribal comments EPA is already considering as part of the GAP Guidance Evaluation.

EPA's GAP Guidance Objectives

The following objectives are important features of any national program guidance and will continue to frame our work as we identify opportunities to improve the 2013 GAP Guidance or its implementation. Any revised GAP Guidance will:

1. Provide for nationally consistent and informed award decisions for all recipients of GAP funding;
2. Include a framework for planning and developing tribal environmental protection program capacity so that (a) GAP funds are directed toward tribal environmental regulatory program capacity development goals, consistent with EPA-administered programs, and (b) EPA can track tribal capacity development progress over time and share with relevant decision makers;
3. Support tribes that wish to develop the capacity to assume the lead role for implementing EPA-authorized environmental regulatory programs (self-governance);
4. Guide use of GAP funds for tribal solid and hazardous waste program implementation; and
5. Minimize administrative burdens for EPA project officers and grantees wherever possible, without jeopardizing national program accountability and effective program management.

Guidance that achieves the objectives above is a critical component of EPA's overall commitment to providing for GAP's long-term success and resiliency, a key OITA priority that supports the FY 2018-2022 EPA Strategic Plan.

Consultation Questions

We have outlined the following questions to help prompt your ideas about how to improve the 2013 GAP Guidance or its implementation.

- Q1: Specifically, how does the 2013 GAP Guidance support your tribe's needs for developing and submitting your GAP applications? Share examples of where the Guidance has been helpful and/or presented challenges.
- Q2: What kinds of environmental program capacity development work are of interest to your tribe? What parts of that work, if any, do you feel are not covered by the current GAP Guidance?
- Q3: What features of tribal environmental protection programs produce the greatest results in terms of managing pollution releases into the environment? More specifically, how can the GAP Guidance better support tribal capacity development for these program features?
- Q4: One goal of developing the GAP capacity indicators was to measure the important outcomes achieved for the wide range of more than 500 GAP grantees and report those results out to EPA, political decision makers, tribal partners, and the public. Given the breadth and scope of the program, what are your suggestions for how EPA could most effectively measure and report on the important outcomes achieved through GAP funding? What measures or program outcomes are most important to your tribal leadership and tribal community? Please feel free to share any measures your tribe used to track environmental outcomes from GAP.
- Q5: To what degree has your tribe used an ETEP as a way of communicating your tribe's priorities and goal-setting with EPA? How has the approach outlined in the GAP Guidance (i.e., ETEPs) been helpful or not helpful? How could joint planning be improved?
- Q6: What are your ideas for how the GAP Guidance could more efficiently and effectively support tribes in achieving their environmental program goals while also ensuring EPA is able to demonstrate overall program results?

In addition to the areas outlined above, AIEO is specifically interested in your feedback in the following areas:

- How the Guidance should work for intertribal consortia, including demonstrating eligibility for GAP grant funding and in accordance with applicable regulatory provisions in 40 CFR 35.504.
- How to clarify capacity building versus ineligible implementation activities for GAP work plans.
- Suggestions for improvements in the definition and use of capacity indicators by tribes and EPA.
- Any other information that you think would be useful for EPA in considering Guidance revisions.

Consultation and Coordination Timeline

Tribal governments may submit written comments on the Guidance through August 31, 2018. AIEO requests that tribes consider the consultation questions in their responses, in addition to any other feedback. Tribes may submit written comments via email to roose.rebecca@epa.gov, or to the following address:

Rebecca Roose, Senior Advisor
American Indian Environmental Office (MC 2690-M)
US Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

OITA has also scheduled several opportunities for tribes to provide verbal comments during this consultation and coordination process. The table below outlines opportunities for tribes to receive information, ask questions and provide verbal comments on this action. All consultation information is also available on EPA’s tribal portal website: <https://tcots.epa.gov>.

Consultation & Coordination Activity	Date
CONSULTATION & COORDINATION PROCESS BEGINS - Consultation notification letter mailed & email announcements sent	Fri, June 1, 2018
Informational Conference Call & Webinar - Provides tribes with an overview of the GAP guidance evaluation consultation scope, process, & timeline Conference call line: 866-299-3188 Conference call code: 202-564-4013# Webinar Registration: http://epawebconferencing.acms.com/aieogge/	Wed, June 20, 2018 03:00 PM – 04:00 PM
1 st National Tribal Consultation Conference Call & Webinar - Provides tribes with an opportunity to ask questions and provide comments Conference call line: 866-299-3188 Conference call code: 202-564-4013# Webinar Registration: http://epawebconferencing.acms.com/aieogge/	Thu, June 28, 2018 03:00 PM – 04:30 PM
2 nd National Tribal Consultation Conference Call & Webinar - Provides tribes with an opportunity to ask questions and provide comments Conference call line: 866-299-3188 Conference call code: 202-564-4013# Webinar Registration: http://epawebconferencing.acms.com/aieogge/	Thu, July 26, 2018 03:00 PM – 04:30 PM
Consultation Process Ends; Tribal Comments Due	Fri, August 31, 2018
<p>Official Agency Point-of-Contact:</p> <p style="text-align: center;">Rebecca Roose, Senior Advisor American Indian Environmental Office (MC 2690-M) US Environmental Protection Agency 1200 Pennsylvania Avenue, NW Washington, DC 20460</p> <p style="text-align: center;">Phone: 202-566-1387 Email: roose.rebecca@epa.gov</p>	

We invite you and your designated consultation representative(s) to participate in one or more of the National Tribal Consultation Conference Call & Webinar events, to submit questions and comments online via EPA’s Tribal Portal website (<https://tcots.epa.gov/>), to submit written comments via letter or email, or to directly contact our official Agency point of contact for the GAP Guidance Evaluation (contact information above).