

EPA Region 6 Fiscal Year 2019 Indian Environmental General Assistance Program (GAP) Announcement

I. Funding Opportunity Description

Introduction/Background/Overview

EPA provides Indian Environmental General Assistance Program (GAP) financial and technical 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, including the Solid Waste Disposal Act (commonly known as the Resource Conservation and Recovery Act, or RCRA). See the *Indian Environmental General Assistance Program Act of 1992* (42 U.S.C. §4368b). EPA administers this program in accordance with the statute, applicable federal regulations, including 40 CFR part 35, subpart B, and national guidance, including the *Indian Environmental General Assistance Program Guidance on the Award and Management of General Assistance Agreements for Tribes and Intertribal Consortia* (2013; hereafter GAP Guidance). EPA's GAP Guidance provides a consistent national framework for building tribal environmental program capacity under GAP and is designed to improve the management of GAP resources.

As described in the GAP Guiding Principles, this support promotes tribal government efforts to develop core environmental program capacities (administrative, financial management, information management, environmental baseline needs assessment, public education/communication, legal, and technical/analytical) and baseline capacities for media-specific programs (e.g., ambient air quality, water quality, managing waste, and other EPA-administered statutory programs).

Guiding Principles

EPA will apply the following Guiding Principles in awarding GAP grants to tribes and intertribal consortia:

1. Ensure tribal governments have the opportunity to build the capacity to:
 - a. Implement federal environmental programs through EPA delegations, authorizations, and primacy designations;¹ and
 - b. Meaningfully participate and engage in environmental protection activities that inform, support, or enhance direct implementation under federal environmental statutes administered by EPA.
2. Promote tribal self-governance by working closely with tribes to:
 - a. Accomplish tribal environmental program goals in EPA-Tribal Environmental Plans that reflect federal environmental program areas of need to protect human health and the environment;

¹ For more information on laws providing for EPA delegation, authorization or primacy designation to tribal governments, visit <https://www.epa.gov/tribal/tribal-assumption-federal-laws-treatment-state-tas>.

- b. Support tribes' development of strong core environmental program capacities for media-specific programs administered by EPA; and
 - c. Foster tribes' capacity to assume the authority to implement programs administered by EPA (e.g., Treatment as a State status or through Direct Implementation Tribal Cooperative Agreements).
3. Promote intergovernmental collaboration and cooperative federalism among EPA, tribes, states, and other partners, and focus EPA financial and technical assistance to protect human health and the environment.
4. Support implementation of established solid and hazardous waste regulatory programs in accordance with the purposes and requirements of applicable provisions of law, including the Solid Waste Disposal Act (commonly known as the Resource Conservation and Recovery Act).
5. Maintain strong national program management practices to produce compelling results that align with EPA's statutory authorities.

These Guiding Principles underscore GAP's role in fostering partnerships between EPA and federally-recognized Indian tribes through collaboration and shared accountability. In addition, they clarify how activities funded under GAP will support EPA's priorities consistent with the Indian Environmental General Assistance Program Act of 1992, *EPA Policy for the Administration of Environmental Programs on Indian Reservations* (1984), *Indian Environmental General Assistance Program Guidance on the Award and Management of General Assistance Agreements for Tribes and Intertribal Consortia* (2013), and the FY 2018-2022 EPA Strategic Plan. EPA's management of GAP will continue to strive to support all federally recognized tribes that are building capacity to implement the full spectrum of environmental regulatory programs administered by the EPA.

Eligible Recipients

Indian tribal governments (tribes) and intertribal consortia are eligible to receive funds under this program.² These terms are defined in 40 CFR 35.502 as follows:

An Indian tribal government (tribe), except as otherwise defined in statute or applicable program specific regulation, is any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is recognized as eligible by the U.S. Department of the Interior for the special services provided by the United States to Indians because of their status as Indians.

An intertribal consortium is a partnership between two or more tribes authorized by the governing bodies of those tribes to apply for and receive assistance under [GAP].

Under EPA's tribal grant regulations, an intertribal consortium is eligible to receive GAP financial assistance when the consortium can adequately document compliance with the

² 40 CFR 35.543.

following requirements:³

1. A majority of its members are eligible to receive GAP grants;
2. All member tribes that meet GAP eligibility requirements authorize the consortium to apply for and receive the award; and
3. Adequate accounting controls are in place to ensure that only members that meet the eligibility requirements will benefit directly from the award and the consortium agrees to an award condition to that effect.

This means that a consortium may receive a GAP grant even if the consortium includes members that are not federally recognized tribes, so long as the consortium meets the three regulatory requirements specified above. Authorization of the consortia to apply for and receive the GAP award is required from all GAP-eligible member tribes. For purposes of determining intertribal consortia eligibility, a “GAP-eligible tribe” is any tribe that meets the definition of Indian tribal government (tribe) in 40 CFR 35.502.

With each new or supplemental GAP grant application, an intertribal consortium must provide EPA with “adequate documentation” of: (1) the existence of the partnership between eligible tribal governments; and (2) authorization by all GAP-eligible member tribes for the consortium to apply for and receive the new or supplemental GAP grant. This documentation ensures clear communication between consortia and member tribes so that EPA is able to appropriately consider individual tribal needs and priorities when awarding GAP funds to intertribal consortia. As an example, tribal authorization may be provided by a tribal council resolution or other written certification from a duly authorized representative of each GAP-eligible member tribe. Applications that do not contain adequate documentation from all GAP-eligible tribes are incomplete.

In accordance with Guiding Principle #2, EPA will award GAP funds to help tribes accomplish their tribal environmental program development goals as outlined in their EPA-Tribal Environmental Plan (ETEP). To further this principle, intertribal consortia are advised to describe how their grant proposals support the program development goals outlined in the ETEPs developed by their GAP-eligible member tribes.

ETEPs

In accordance with the GAP Guidance, EPA will work with each tribe to develop and implement an EPA-Tribal Environmental Plan (ETEP), which sets the stage for stronger environmental and human health protection in tribal communities. The purpose of an ETEP is to develop the complete picture of the particular environmental issues facing the tribe, establish a shared understanding of the issues the tribe will be working on, and a shared understanding of those issues that EPA will address consistent with its responsibility to protect human health and the environment. ETEPs are instrumental for tribes and EPA to define mutual roles and responsibilities for environmental protection program implementation on tribal lands, and help prioritize the tribal work funded under GAP, and work conducted by EPA in the tribal arena. GAP work plans should direct funds toward developing environmental program capacities that support the long-term priorities and

³ 40 CFR 35.504.

goals in the ETEP.⁴

When applying for GAP financial assistance, tribes should describe how their proposals respond to the program development goals documented in their ETEP.

Tribes and EPA should jointly review the ETEP at least annually and update it as appropriate to reflect greater clarity on environmental program administration priorities over time, to adjust performance expectations, or account for changing environmental and administrative conditions. As a result, tribes may include activities to update their ETEP in their work plan proposals.

Consistent with the ETEP completion schedule established pursuant to GAP guidance, Section 4.4 (p. 19 of 22), EPA set a completion date of December 31, 2018, in order for a tribe to apply for and receive GAP funds, including new, incremental or supplemental funding. In accordance with this established schedule, the following guidance applies to any tribe that does not have a complete ETEP (i.e., that includes the four components outlined in the GAP Guidance, Section 4 (p. 13 of 22)), at the time of applying for GAP funding during Federal Fiscal Year 2019 and beyond:

1. The EPA Regional Office may request approval from the director of EPA's American Indian Environmental Office to modify its schedule and have a documented agreement for an ETEP completion date that is later than December 31, 2018, and the tribe's work plan includes a component to finalize the ETEP by the new agreed-upon date. Note: If an EPA regional office fails to establish an ETEP with a tribe in accordance with the approved schedule, EPA may consider the ETEP grant condition to be unmet and the GAP grant could be denied.
2. EPA reserves the right to award new, incremental or supplemental funding only for work plan activities related to finalizing the ETEP.
3. For any tribe seeking GAP funding for the first time or after several years without GAP funding that does not have an ETEP, EPA expects ETEP development to be included as a component of the tribe's work plan.

Authority under the Consolidated Appropriations Act of 2018

The Consolidated Appropriations Act, 2018 (Public Law No:115-141) states: "Funds appropriated for the Indian Environmental General Assistance Program shall be available to federally recognized tribes for solid waste and recovered materials collection, transportation, backhaul, and disposal services." Tribes seeking GAP financial assistance for these unique activities should structure their proposals to identify: (1) where the serviced materials will come from (residential, institutional, or commercial sources); and (2) what type of material will be serviced (solid waste or recovered materials). For more information about waste and recovered materials classifications, see: <https://www.epa.gov/smm/advancing-sustainable-materials-management-facts-and-figures>. Applicants should review the following supplemental GAP guidance before seeking GAP

⁴ See GAP Guidance Section 4: "Developing EPA-Tribal Environmental Plans (ETEPs)" (p. 13 of 22).

funds for solid waste and recovered materials collection, transportation, backhaul, and disposal services: *Allowable Solid Waste and Recovered Resource Program Implementation, Collection, Transportation, Backhaul and Disposal Costs under the Consolidated Appropriations Act, 2016* (available at <https://www.epa.gov/tribal/implementation-activities-related-solid-waste-and-recovered-materials-are-allowable-gap>).

Using Indicators of Tribal Environmental Program Capacity

All GAP grant work plans must include Program Capacity Indicators. When identifying fundable GAP activities, the program capacity building indicators in Appendix 1 of the GAP Guidance will be added to the “Component” section of the GAP Online work plan. Applicants will insert the Capacity Indicator language in the “Measures” box of the appropriate Component. Capacity Indicators are a useful resource because they provide specific examples of milestones that GAP-funded activities, or a combination of activities, could support toward building environmental program capacity, consistent with EPA’s environmental protection programs. These indicators offer a non-exclusive menu of choices organized by category of environmental program development. There is not just one pathway to follow for building environmental program capacity, and as such there are many indicators that can be used to assess and measure progress in the capacity building process. Tribes should contact their EPA Project Officer for further information.

II. Performance Partnership Grants (PPG)

The GAP grant may also be used as part of Tribal Performance Partnership Grants (PPG). A PPG may streamline some administrative requirements, give recipients greater flexibility to direct resources to their most pressing environmental problems, and make it easier to fund efforts that cut across program boundaries. For more information, refer to 40 CFR 35, Subpart B – Environmental Program Grants for Tribes (§35.530), or contact the EPA Project Officer.

If an applicant is interested in submitting a PPG, please notify the EPA Project Officer no later than **January 11, 2019**. This will provide an opportunity to determine appropriate action to identify/notify eligible PPG programs for application.

III. Award Information

We request your GAP application include work plan activities with a budget no greater than \$115,000 per year. Final funding amounts will depend on work plan negotiations with your Project Officer and availability of GAP funds. Some GAP awards may be reduced due to prior GAP performance problems, such as uncompleted deliverables, late reporting and consistently high account balances. GAP awards may also be reduced due to determination of final GAP allocation received from EPA’s American Indian Environmental Office (AIEO) based on Congressional Appropriation. GAP grant project periods may not exceed four years, but at the end of a four-year grant period, tribes and intertribal consortium may apply for new GAP grants. Successful applicants will receive assistance in either the form of a Grant Agreement or a Cooperative Agreement. Applicants are not required to provide any matching share of GAP project costs.

For Fiscal Year 2019, the Region's funding priorities will be:

- 1) Funding of no greater than \$115,000 for eligible tribal applicants;
- 2) Funding for the Tribal Summit and RTOC meeting support;
- 3) Funding of no greater than \$115,000 for a limited number of eligible consortia;

Evaluations of applications will be based on the following:

- 1) Meeting Application Deadlines
- 2) Unliquidated Obligation Account Balances
- 3) Reporting
- 4) Prior Progress and Performance
- 5) Capacity Indicators
- 6) Environmental Capacity Needs
- 7) Components and Commitments
- 8) Long-term and Intermediate Outcomes
- 9) Outcomes and Deliverables
- 10) Reasonable and Allowable Cost
- 11) GAP Guiding Principles (Part I above)

IV. Application Information

Applications

A full grant application must be received by electronic submission through Grants.gov by 11:59 pm CST on **February 15, 2019**.

A full grant application includes the following items:

- 1) Application for Federal Assistance (SF424)
- 2) Budget Information Non-Construction Programs (SF 424A)
- 3) Assurances Non- Construction Programs (SF 424B)
- 4) Certification Regarding Lobbying (EPA Form 6600-06)
- 5) Pre-award Compliance Review Report (4700-4)
- 6) Key Contact Form (Form Approved OMB No: 2030-0020)
- 7) Copy of Negotiated Indirect Cost Rate Agreement

The GAP grant work plan and budget narrative may be submitted through Grants.gov, or through GAP Online 3.0 (GO3). In FY 2019, applicants that receive a standalone GAP grant can use GO3 to develop their work plans. The legacy GAP Online 2.3.5 is no longer accepting new work plans – it remains available for applicants that already have work plans on that system. PPG recipients may also use GO3 if the PO approves.

The following procedure has been outlined for addressing applications not meeting the deadline:

- 1) The Office of Environmental Justice, Tribal and International Affairs (OEJTIA) will contact Tribal leadership and environmental staff by phone or written communication regarding the missed deadline.
- 2) The grantee will be notified that they will be granted a two-week extension for submitting a GAP application. March 1, 2019 will be the new deadline for late GAP proposals to be considered with a budget range of \$75,000 - \$100,000 per year.
- 3) If a GAP application is not received by March 1, 2019, OEJTIA will contact the grantee and inform them that they will be considered only for the base funding amount of \$75,000. An additional time extension will be granted for no longer than March 15, 2019 to submit a GAP proposal for the base amount funding.
- 4) Any GAP application submitted after March 15, 2019 may not be considered for GAP funding.

We are again offering the option of submitting two-year GAP work plans and budgets and encourage tribal partners to do so. Individual work plans and budgets are required for each program year. Please remember that the GAP statute limits project and budget periods to no more than four years. Thus, if you are currently in the third year of your GAP grant and would like to submit a two-year work plan, you must be willing to close your current GAP grant and begin a new grant cycle.

EPA Order 5700.7 “Environmental Results under EPA Assistance Agreements,” requires a direct link between work plan commitments and environmental results. Therefore, the OEJTIA will emphasize well defined outputs and outcomes that can be linked to environmental results and measures. Copies of the Order are available upon request.

An acceptable work plan must be consistent with 40 CFR Part 35.507, which requires work years and funding level estimates for components. A template is available upon request for your use.

V. Award Administration

The Region 6 Grant Office will be emailing assistance agreements and other correspondence to recipients. The Office of Grants and Debarment is eliminating the requirement for recipients to submit a signed Affirmation of Award for new awards or amendments. The Notice of Award section of the agreement will allow recipients to demonstrate their commitment to carry out an award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award mailing date.

Administrative and National Policy Requirements

Regulations governing the award and the administration of environmental programs for tribes and tribal consortium can be found in Title 40 of the Code of Federal Regulations (CFR), Part 35, Subpart B (40 CFR 35.500-35.518) and 2 CFR Parts 200 and 1500.

Reporting

At a minimum, grantees will be required to submit an annual programmatic progress report within 90 days of the end of the fiscal year. However, some grantees may be required or may negotiate to submit either semiannual or quarterly programmatic progress reports. Semiannual reports are due 30 days after the end of the 2nd fiscal quarter and 30 days after the end of the fiscal year. Quarterly reports are due 30 days after the end of each fiscal quarter. Programmatic reports must document the progress in performing the commitments listed in the work plan and the reports must describe any problems with completing the commitments and the recipient's plan for resolving the problems. Programmatic reports must comply with the regulations listed in CFR 200.328 and CFR 40 Part 35.515.

Federal Financial Reports (FFRs) are required and must, at a minimum, be submitted within 90 days of the end of the project period. However, some grantees may be required or may negotiate to submit FFRs more frequently. A Final FFR must be submitted within 90 days of the assistance agreement's expiration. FFRs must comply with all the Assistance Agreement's Terms and Conditions as well as with the regulations listed in CFR 200.327

VI. Agency Contacts

For further information, please feel free to contact the OEJTIA Tribal Team at 800-887-6063. Or via mail at:

U.S. EPA Region 6 (6OEJTIA-T)
Office of Environmental Justice, Tribal and International Affairs
1445 Ross Avenue, 12th Floor
Dallas, Texas 75202-2733

VII. Other Information

A website link to the Indian General Assistance Program information and documents are available at: <http://www2.epa.gov/tribal/indian-environmental-general-assistance-program-gap>.

Please note if the work plan includes purchases of "light refreshments, meals or beverages" to be provided at a planned meeting, conference, training workshop or outreach activity (event), the budget narrative must include an estimate of the costs associated with the light refreshments, meals or beverages. If you have any questions regarding this matter, please contact your EPA Project Officer.

A website link to Catalog of Federal Domestic Assistance (CFDA) Numbers for EPA grants is available at: <https://www.epa.gov/tribal/grant-programs-tribes>.

*The Indian General Assistance Program (GAP) – 66.926

*Performance Partnership Grants (PPG) – 66.605