

GAP Eligible and Ineligible Activities

The following list of allowable activities and general restrictions is not comprehensive but illustrates the most common scenarios that arise under the GAP.

Sample of GAP Allowable Activities

Funding is provided under GAP for the purposes of planning, developing, and establishing tribal environmental protection programs consistent with programs and authorities administered by the EPA.

GAP Program Priorities:

- Developing and maintaining core environmental program capacities (administrative, financial management, information management, environmental baseline needs assessment, public education/communication, legal, and technical/analytical);
- Engaging with the EPA to negotiate joint EPA-Tribal Environmental Plans (ETEPs, discussed in Section 4 of the 2013 Guidance) that reflect intermediate and long-term goals for developing, establishing, and implementing environmental protection programs;
- Linking GAP-funded assistance agreement work plans to the ETEPs;
- Developing baseline capacities for media-specific environmental protection programs that are related to the needs of the recipient and to EPA statutory programs (e.g., ambient and indoor air quality; water quality; managing wastes; managing asbestos, lead-based paint, pesticides, toxics, and pollution prevention programs); and
- Implementing waste management programs (see Appendix I, “Guidebook for Building Tribal Environmental Program Capacity,” Section E).

Allowable Activities:

- Planning, developing and establishing tribal capacities for implementing environmental protection programs administered by the EPA, including the administrative, technical, legal, communications, outreach, compliance assurance, and enforcement components of a program.
- Activities to establish baseline environmental conditions, including assessing environmental conditions for land a tribe is planning to acquire.
- Establishing an environmental protection program may include performing a “test drive” of the program to determine whether the tribe is ready to move into the program implementation phase.
- Tribes with limited jurisdiction to implement environmental regulatory programs may develop program capacities for purposes consistent with the extent of their authorities, such as: evaluating environmental conditions; developing voluntary or partial environmental protection programs; participating in environmental policy making;

SAMPLE OF GAP Ineligible ACTIVITIES:

GAP funds cannot be used to fund activities not closely related to planning, developing, and establishing tribal environmental protection program capacity consistent with programs administered by EPA.

Examples include:

- Animal husbandry, community gardens, the repatriation of Native American cultural items, and feral animal control.
- Implementing environmental protection programs once established, except for solid and hazardous waste programs as discussed in Appendix I, *Section E.
- Conducting Natural Resource Damage Assessments are deemed to be part of program implementation under Agency policy and should not be funded under GAP.
- Planning, developing, or establishing programs that primarily support ongoing litigation, for profit enterprises, or any commercial purposes (e.g., utility company, gas station, gaming enterprise).
- Planning, developing, or establishing natural resource management programs that are generally not administered by EPA. Examples of these types of unallowable activities include: silviculture projects (e.g., tree farming); beaver dam control programs; programs to manage invasive species; and fishery operations.
- Repairing, upgrading, and/or replacing facilities and equipment are typically deemed to be implementation costs and are generally unallowable under the GAP, except for source separation facilities and equipment as discussed in Appendix I Section E. Regional offices are to evaluate requests for GAP funds to repair, upgrade, or replace facilities and equipment on a case-by-case basis to determine whether they are restricted costs (implementation) or are allowable because they are necessary to plan, develop, or establish a tribal environmental protection program. These requests must meet the requirements of 2 C.F.R. §225, Appendix B (15).
- Corrective actions – or other actions responding to an enforcement order – at regulated entities are implementation and are therefore unallowable under the GAP.
- Activities that are the inherent responsibility of a state or local government, or that primarily benefit

coordinating with EPA or other federal agencies on the implementation of federal environmental protection programs; and entering into joint environmental protection programs with neighboring tribal, state, or local environmental agencies.

- Activities related to establishing environmental protection programs not administered by EPA, but that are consistent with those provisions of law for which Congress has given EPA authority.
- Activities related to establishing education, outreach, public participation, compliance assistance, and coordination programs for tribal environmental staff to work effectively with regulated entities.
- Initial purchases of equipment (purchases equal to or greater than \$5,000) necessary to administer tribal environmental protection programs.
- On a case-by-case basis, construction of transfer stations, recycling centers, compost facilities, used oil collection stations, and other similar facilities as discussed in Appendix I, Section E, may be allowable.
- Activities related to establishing the capacity indicators contained in Appendix I.
- Activities to implement solid and hazardous waste programs consistent with Appendix I, Section E.
- Equipment used for source separation, waste minimization and waste management in a tribal solid waste management program.
- Appendix I indicators can be used as tools to help tribes plan for program capacity development under the GAP, and help identify and measure the status of tribal environmental program capacity. Other indicators of capacity may be identified in GAP assistance agreement work plans and in long-term planning agreements on a tribe-by-tribe basis, reflecting the unique priorities and program development plans of a particular recipient.

state or local governments or any other entity ineligible to receive GAP resources.

- Implementation of programs that have previously been developed (cannot be repetitive).
- Salaries and expenses of a tribe's chief executive, tribal council, or of the judiciary branch of a tribal government are unallowable. However, the portion of salaries and expenses directly attributable to managing and operating federal environmental protection programs by a tribe's chief executive and his staff are allowable.
- General costs of government services normally provided to the general public, such as fire and police, are unallowable. Under GAP, this restriction includes trash collection, transportation, backhaul, and disposal services which are generally outside the scope of programs administered by the EPA. *Section E of Appendix I, describes a number of solid and hazardous waste program implementation activities that are allowable under the GAP.
- Goods or services for personal use are unallowable, regardless of whether the cost is reported as taxable income to the employee.
- Planning, designing, constructing, and operating a specific facility is an implementation activity; therefore, such costs are not eligible for funding under GAP. Examples of construction activities not allowed include, but are not limited to: landfill construction; wastewater treatment facility construction; drinking water system construction; and construction related to implementation of best management practices for nonpoint source pollution control. The feasibility studies and NEPA reviews associated with such facility construction, including environmental impact studies and assessments, are part of the planning phase of facility construction; therefore, they are implementation activities not eligible for funding under GAP.
- Purchase of construction equipment (such as trucks or graders) will be ineligible beginning in FY18 when the 2013 Guidance restrictions relating to *General Costs of Government Services* take effect.

GAP ELIGIBLE ACTIVITY:

*E.3.8 Tribe has established a program to provide waste minimization, recycling, household hazardous waste collection, used oil collection, junk vehicle removal, bulk waste/appliance/electronic waste collection, and/or composting.

Link to more information on eligible and ineligible activities in the 2013 Guidance under section 1.4, Allowable Activities and Restrictions under GAP (pages 3-7): [GAP Guidance Document](#)