

## Executive Summary of Changes in the DRAFT 2022 GAP Guidance

This executive summary highlights significant changes to the award and administration of GAP reflected in the DRAFT 2022 GAP Guidance (DRAFT Guidance). The DRAFT Guidance supports the general framework established in the 2013 GAP Guidance with clarification and expanded flexibility. The DRAFT Guidance was developed in collaboration with Tribes, including government-to-government consultation in accordance with EPA's Tribal Consultation Policy, tribal engagements, and tribal participation in EPA/Tribal GAP revision workgroups. Input received in the current consultation and coordination process will be considered in the development of final guidance later this year.

### Highlights

#### Overall

- There is a new look and focus on plain language, including graphics, tables, and fewer footnotes and appendices.
- There is a clear national framework that describes how the primary components of administering GAP – national priorities, EPA Tribal Environmental Plans (ETEPs) (and indicators), performance management, technical assistance, and allocation – work together.
- The GAP Guiding Principles are incorporated as national program priorities.

#### The scope of GAP activities and funding

- The scope of GAP is clearly defined. In addition to building capacity to implement EPA programs, recipients can also use GAP to build capacity to implement environmental programs under tribal laws and regulations, meaningfully participate in EPA programs, and establish and maintain an environmental presence. The 2018 Congressional provision to provide collection, backhaul, transportation and disposal services is also incorporated.
- GAP funds cannot be used for implementation. Implementation is defined in the DRAFT Guidance as having received delegation, authorization, or approval to administer an EPA program or function and/or administering environmental programs under tribal laws and regulations. There are specific exclusions outlined in the DRAFT Guidance:
  - Exception 1: This does not apply to approval of TAS for grant programs
  - Exception 2: GAP funding may be used if the Tribe has demonstrated there is a continuing capacity building need. This exception is limited to 4 years and AIEO concurrence is required.
  - Exception 3: GAP funding may be used when the Tribe is seeking to build capacity in another area (for example, new land parcel, new contaminants, etc)
  - Exception 4: Applying PPG flexibilities. Tribes and intertribal consortia who combine GAP funding in a PPG may, with approval, use GAP funds to conduct any environmental activity eligible under programs approved for combining in a PPG. This includes activities that extend beyond generally eligible activities in a stand-alone GAP award, including implementation.

#### Solid and Hazardous Waste

Solid and hazardous waste activities are included in the scope of GAP activities and funding but are broken out separately in this document to specifically highlight the changes in the DRAFT Guidance.

- Allowable activities include collection, backhaul, transportation, and disposal of solid waste and/or recovered resources (service delivery activities). There are criteria outlined in the DRAFT Guidance on the use of GAP funds for these activities, including either an Integrated Waste Management Plan or an ETEP with the needed information.
- Service delivery may be provided to for-profit businesses and populations outside of Indian country with justification and appropriate T&C's
- The DRAFT Guidance removes the requirement for a Tribe to complete solid and hazardous activities in a specific order, but strongly encourages Tribes to have an established solid waste program in place or under development before funding cleanup activities to prevent new, or recurring, unauthorized dumping on tribal lands.
- Clean-up and closure requests are approved at the regional level unless the Tribe does not have a solid waste program in place or under development.

### **Performance Management, ETEPs, and Capacity Indicators**

- The DRAFT Guidance establishes that EPA will use existing resources, including GAP work plans, progress reports, capacity indicators and ETEPs, in the national GAP performance management and evaluation process.
- ETEPs and associated indicators are the foundation for EPA's national GAP performance management and evaluation process.
  - Capacity indicators will be included in ETEPs, not GAP work plans.
  - Capacity indicators are defined as units of measure that identify significant milestones.
  - Capacity indicators do not represent all GAP eligible activities.
- The capacity indicators have been revised and the number of indicators reduced.
- The use of new capacity indicators, including adding indicators to ETEPs, will be phased in over 5 years.
- AIEO will develop a nationally consistent process for submitting tribally developed capacity indicators for approval. Approved indicators will be added to the list of available capacity indicators.
- Capacity indicators are removed from the DRAFT Guidance and will be placed on EPA's GAP website, which will enable greater flexibility when changes are necessary.
- The 2013 GAP Guidance Appendix 1 Indicators have been repackaged as a technical assistance resource. A sample of that resource has been provided in the consultation and coordination materials.

### **Intertribal Consortia**

- The DRAFT GAP Guidance establishes expectations for intertribal consortia recipients to document how their work plan supports GAP-eligible member Tribes' capacity building efforts, including what capacity indicators they are helping Tribes to develop.
- An intertribal consortium receiving GAP funds in lieu of a Tribe(s) is expected to develop an ETEP that is representative of all GAP-eligible member Tribes included in the consortium's work plan.
- Documentation of GAP-eligible member Tribes' authorization is required with each new application, vs each funding action (minimally every 4 years).
- The DRAFT GAP Guidance provides additional and more flexible input on the sources of documentation.