

Theme: Importance of Baseline Funding

The importance of reliable, baseline Indian Environmental General Assistance Program (GAP) funding was the most common feedback that the American Indian Environmental Office (AIEO) received during its consultation with Tribes. Many of these comments also stated that the GAP baseline funding of \$110,000 per Tribe has not kept pace with inflation and the increased costs of overseeing an environmental program.

AIEO's priority when distributing GAP funds to EPA Regional Offices is to do so in an equitable and transparent method. In addition to this, the office wants to satisfy tribal concerns by increasing the baseline funding for Tribes that rely on GAP grants. The revised GAP allocation proposes to only allocate funds to Tribes that apply for a GAP grant. This change will allow AIEO to increase the amount of funding per Tribe to each region. The *Proposed National GAP Allocation Methodology* provides details on the revised allocation methodology and is attached to the [Notification of Consultation and Coordination on Proposed Changes to the National Allocation of GAP Funding](#).

Theme: Allocation Based on Tribes that Apply

The American Indian Environmental Organization agrees with the recommendation that GAP funds should only be allocated to Tribes that intend to apply for a GAP grant. Currently, there are 584 Tribes that are eligible to apply for GAP; however, in 2021 only 513 Tribes applied for and received funding. Moving forward, each year AIEO will confer with the EPA regional offices to determine the number of Tribes that intend to apply for a GAP grant and use that number to determine the regional allocation. By limiting the regional allocation to count only Tribes that intend to apply for a GAP grant, AIEO expects to increase the national funding amount per grant.

Theme: Regional Allocation

Though AIEO is proposing changes to how it determines the national allocation of funds to each EPA region, regions will maintain the authority to negotiate workplans and set award amounts. The revised national allocation will divide the GAP appropriation by the number of Tribes that intend to apply for a GAP grant that year. The American Indian Environmental Office will then distribute GAP funds to regions, and the regions will use their discretion to make awards to Tribes.

AIEO will not prescribe to regions how they make awards. For example, regions are not required to award GAP grant amounts exactly equal the national allocation per-Tribe amount. A region may make an award that is greater or less than the national per-Tribe allocation and/or may fund additional eligible grantees that were not included in the national allocation formula.

Theme: Sequence of Funding

Since 2010, the annual GAP appropriation from Congress has been large enough to allocate \$110,000 to each federally recognized Tribe for purposes of determining a national allocation. The revised GAP allocation methodology proposes to distribute GAP funds to the number of federally recognized Tribes with active GAP awards rather than allocate \$110,000 to every eligible Tribe regardless of whether the Tribe applies for GAP funding. These revisions enable the GAP program to increase the per-Tribe funding

amount for calculating the national allocation. If future congressional budgets are significantly reduced from the FY2021 appropriation of \$66,250,000, AIEO will first prioritize a national allocation that provides a minimum of \$110,000 per federally recognized Tribe receiving GAP funding. If congressional funding drops below what is required to maintain this minimum, AIEO will utilize the National Program Guidance, including tribal consultation, to determine funding priorities. If congressional funding is not sufficient to award each applying federally recognized Tribe at the \$75,000 statutory minimum, AIEO will consider a revision to the FY2023 national allocation process.

Themes: Do Not Consider Allocation Factors; Consider Geographic Size; Consider Environmental Need Factors

The revised national GAP allocation methodology will not consider factors such as geographic size, presence of pollution sources, or identified tribal priorities. By statute, GAP is a uniquely positioned funding source available to Tribes to develop their capacity to address diverse and complex environmental program needs in association with many EPA-administered programs with varying goals and purposes. The American Indian Environmental Office maintains that all Tribes applying for GAP grants have environmental needs; EPA is not seeking to prioritize the relevance of one factor over another within this highly diverse set of needs. The only factor that the revised allocation will consider is if the Tribe intends to apply for a GAP grant.

Theme: No Set Aside for Service Delivery; Set Aside for Service Delivery; Fund Special Projects

Under the revised GAP allocation methodology, AIEO will set aside a small sum from the GAP national appropriation to fund EPA tribal program priorities and special projects. These projects will have national or region-wide application, address a national or regional program priority, or seek to demonstrate the applicability of novel program activities to a broader set of eligible recipients. This may include, but is not limited to, service delivery projects. Starting in FY2023 and beyond, AIEO will initiate a new practice of including proposed projects for funding in OITA's draft National Program Guidance (NPG), which is issued each year in association with EPA's budget. This action will provide Tribes the opportunity to comment and participate in tribal consultation on funding priorities for a GAP set aside as part of the process to finalize priorities in the OITA National Program Guidance.

Themes: Do Not Allocate to Intertribal Consortia; Allocate to Intertribal Consortia

EPA will use the proposed national GAP allocation methodology to distribute funds to regions based on the number of Tribes that intend to apply for a GAP grant. Consortia are not counted in the national allocation methodology (i.e., the methodology does not specifically support or limit funding for intertribal consortia based on the presence of existing consortia, or the intent of new consortia, to apply for a GAP grant). The formula is designed to allocate funding so that regions can maximize funding for each tribe applying for a GAP grant. However, the revised national GAP allocation does not dictate how regional offices allocate their GAP funds to GAP grantees. A region may make an award that is greater or less than the national per Tribe allocation and/or may fund eligible grantees, such as consortia, with the allocated funds.

Theme: Consortia Membership Requirements

The *Draft 2022 GAP Guidance* has established flexibility on the eligibility criteria for consortia, including the documentation of authorization from GAP-eligible member Tribes. The Environmental Protection Agency is holding a 120-day Tribal Consultation and Coordination seeking input on the Draft 2022 GAP Guidance. Please visit our website (<https://www.epa.gov/tribal/indian-environmental-general-assistance-program-gap#consultation-gap-guidance>) to see the proposed changes to consortia membership requirement and for more information on how to participate in this consultation.

Theme: BIA Funding Model; Funding Disbursement

[Public Law 93-638](#) authority does not extend to EPA. EPA promotes tribal self-governance by encouraging and assisting tribes to assume regulatory and program management responsibilities for reservation lands in lieu of direct implementation by EPA. Under some federal statutes, EPA is authorized to treat eligible federally recognized Tribes in a similar manner as a state (TAS) for implementing and managing certain environmental programs. EPA generally refers to the delegation, authorization, or approval of a federal program to Tribes as tribal assumption of federal laws. After a Tribe is delegated, authorized, or approved to administer a federal program, the Tribe may qualify for continuing environmental program funding. Most program funds can be awarded as a stand-alone grant or in a Performance Partnership Grant (PPG). PPGs are like block grants; they provide benefits that are unique to Tribes and intertribal consortia recipients and can be used to greatly increase the flexibility and scope of funded activities, results, and outcomes.

Theme: No Change to GAP Allocation

The 2008 Office of Inspector General (OIG) Report, *Framework for Developing Tribal Capacity Needed in the Indian General Assistance Program (GAP)*, recommended that AIEO revise its distribution of GAP funds to Tribes “to place more emphasis on Tribes’ prior progress, environmental capacity needs, and long-term goals.” EPA committed to review the GAP funding methodology after implementing the framework established in the 2013 GAP Guidance. In 2021, EPA initiated a 120-day consultation and coordination with federally recognizes Tribes to receive input on how to improve the GAP allocation. The tribal recommendations received during the 2021 consultation informed AIEO’s decision to revise the national GAP allocation methodology to increase the amount of funding for Tribes that apply for a GAP grant.

Theme: Tribal Consultation Process

[EPA’s Policy on Consultation and Coordination with Indian Tribes](#) establishes EPA’s consultation process. EPA consults government-to-government with federally recognized Tribes. As part of our coordination during consultations, the Agency engages in different forms of information sharing discussions with Tribes and intertribal consortia. These discussions are designed to inform Tribes on the issues and may include conferences, Regional Tribal Operations Committee engagements, and webinars. Tribes may choose to provide their input in government-to-government discussions or in other mechanisms of communication, including letters.

Theme: EPA Should Provide Analysis on Impacts of Allocation Revisions

AIEO's priority is to provide transparency and accountability in its distribution of GAP. By funding Tribes who apply for and receive GAP funding, the overall regional allocation may decrease, but the funding per Tribes increases. This is consistent with our commitment that no Tribe's allocation decreases from the established national baseline of \$110,000 per Tribe. In the *Proposed GAP Allocation Methodology*, AIEO will use the national GAP set aside, up to 1% of the congressional appropriation, to supplement reductions to tribal grantees resulting from the proposed changes to the allocation process. AIEO will prioritize set aside funding to tribal government grantees to maintain their environmental program funding at FY2021 levels. While primarily a transitional approach to addressing current reductions in the regional allocation, use of the set aside for this purpose will continue beyond FY2023, if needed, for GAP grants to federally recognized Tribes.

Theme: Increased GAP Flexibility

The *Draft 2022 GAP Guidance* aligns with the 1984 EPA Indian Policy and recognizes tribal governments as the primary parties for making environmental policy decisions and carrying out federal program responsibilities that affect their lands, environments, and communities and promotes tribal self-governance as a National Program Priority. Additionally, the draft Guidance includes a broad range of tribal environmental program management approaches and eligible activities so that all federally recognized Tribes have an opportunity to participate in EPA programs. Where the Tribe has not been delegated, authorized, or approved by EPA to administer a program or function, GAP can generally be used to support media-specific capacity building activities. Combining GAP in a Performance Partnership Grant (PPG) provides maximum flexibility for recipients; Tribes and intertribal consortia who combine GAP funding in a PPG may, with approval in the PPG workplan, 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.

Theme: Create a Report to Congress

AIEO, as the National Program Manager for GAP, is responsible for the financial and performance reporting of GAP nationally. AIEO's reporting and evaluation responsibilities include providing timely and accurate reports to Congress, the Office of Inspector General, EPA Senior Leadership, Tribes, and others, on the overall impact of GAP, including how the funds are spent and whether GAP is making progress in meeting its statutory purpose. EPA is currently developing a performance management system using existing resources (ETEPs, work plans, and progress reports) to meet our reporting and evaluation responsibilities. Success stories will be a part of the system. We look forward to working with Tribes and intertribal consortia to learn more about how to use success stories in the reporting and evaluation process.