

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

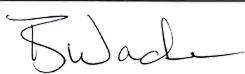
PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee- 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.
19. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL 	TITLE Deputy Executive Director
APPLICANT ORGANIZATION Texas Commission on Environmental Quality	DATE SUBMITTED 4/13/2023



United States
ENVIRONMENTAL PROTECTION AGENCY
Washington, DC 20460

OMB Control No. 2010-0001
Approval expires 06/30/2024

This collection of information is approved by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. (OMB Control No. 2030-0020). Responses to this collection of information are required to obtain an assistance agreement (40 CFR Part 30, 40 CFR Part 31, and 40 CFR Part 33 for awards made prior to December 26, 2014, and 2 CFR 200, 2 CFR 1500, and 40 CFR Part 33 for awards made after December 26, 2014). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The public reporting and recordkeeping burden for this collection of information is estimated to be 0.25 hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the Regulatory Support Division Director, U.S. Environmental Protection Agency (2821T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

EPA Project Control Number

CERTIFICATION REGARDING LOBBYING

CERTIFICATION FOR CONTRACTS, GRANTS, LOANS AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31 U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Typed Name & Title of Authorized Representative

4/13/2023

Signature and Date of Authorized Representative

**Preaward Compliance Review Report for
All Applicants and Recipients Requesting EPA Financial Assistance**

Note: Read Instructions before completing form.

I. A. Applicant/Recipient (Name, Address, City, State, Zip Code)

Name:

Address:

City:

State: Zip Code:

B. Unique Entity Identifier (UEI):**C. Applicant/Recipient Point of Contact**

Name:

Phone:

Email:

Title:

II. Is the applicant currently receiving EPA Assistance? ☒ Yes ☐ No**III. List all pending civil rights lawsuits and administrative complaints filed under federal law against the applicant/recipient that allege discrimination based on race, color, national origin, sex, age, or disability. (Do not include employment complaints not covered by 40 C.F.R. Parts 5 and 7.)****IV. List all civil rights lawsuits and administrative complaints decided against the applicant/recipient within the last year that alleged discrimination based on race, color, national origin, sex, age, or disability and enclose a copy of all decisions. Please describe all corrective actions taken. (Do not include employment complaints not covered by 40 C.F.R. Parts 5 and 7.)****V. List all civil rights compliance reviews of the applicant/recipient conducted under federal nondiscrimination laws by any federal agency within the last two years and enclose a copy of the review and any decisions, orders, or agreements based on the review. Please describe any corrective action taken. (40 C.F.R. § 7.80(c)(3))****VI. Is the applicant requesting EPA assistance for new construction? If no, proceed to VII; if yes, answer (a) and/or (b) below.**☐ Yes ☒ No**a. If the grant is for new construction, will all new facilities or alterations to existing facilities be designed and constructed to be readily accessible to and usable by persons with disabilities? If yes, proceed to VII; if no, proceed to VI(b).**☐ Yes ☐ No**b. If the grant is for new construction and the new facilities or alterations to existing facilities will not be readily accessible to and usable by persons with disabilities, explain how a regulatory exception (40 C.F.R. 7.70) applies.**

- VII. Does the applicant/recipient provide initial and continuing notice that it does not discriminate on the basis of race, color, national origin, sex, age, or disability in its program or activities? (40 C.F.R. 5.140 and 7.95)
- ☒ Yes ☐ No
- a. Do the methods of notice accommodate those with impaired vision or hearing? ☒ Yes ☐ No
- b. Is the notice posted in a prominent place in the applicant's/recipient's website, in the offices or facilities or, for education programs and activities, in appropriate periodicals and other written communications? ☒ Yes ☐ No
- c. Does the notice identify a designated civil rights coordinator? ☒ Yes ☐ No
- VIII. Does the applicant/recipient maintain demographic data on the race, color, national origin, sex, age, or disability status of the population it serves? (40 C.F.R. 7.85(a)) ☒ Yes ☐ No
- IX. Does the applicant/recipient have a policy/procedure for providing meaningful access to services for persons with limited English proficiency? (Title VI, 40 C.F.R. Part 7, *Lau v Nichols* 414 U.S. (1974)) ☒ Yes ☐ No
- X. If the applicant is an education program or activity, or has 15 or more employees, has it designated an employee to coordinate its compliance with 40 C.F.R. Parts 5 and 7? Provide the name, title, position, mailing address, e-mail address, fax number, and telephone number of the designated coordinator.

N/A


- XI. If the applicant is an education program or activity, or has 15 or more employees, has it adopted grievance procedures that assure the prompt and fair resolution of complaints that allege a violation of 40 C.F.R. Parts 5 and 7? Provide a legal citation or applicant's/recipient's website address for, or a copy of, the procedures.

N/A

For the Applicant/Recipient

I certify that the statements I have made on this form and all attachments thereto are true, accurate and complete. I acknowledge that any knowingly false or misleading statement may be punishable by fine or imprisonment or both under applicable law. I assure that I will fully comply with all applicable civil rights statutes and EPA regulations.

A. Signature of Authorized Official



B. Title of Authorized Official

Deputy Executive Director

C. Date

4/13/2023

For the U.S. Environmental Protection Agency

I have reviewed the information provided by the applicant/recipient and hereby certify that the applicant/recipient has submitted all preaward compliance information required by 40 C.F.R. Parts 5 and 7; that based on the information submitted, this application satisfies the preaward provisions of 40 C.F.R. Parts 5 and 7; and that the applicant has given assurance that it will fully comply with all applicable civil rights statutes and EPA regulations.

A. Signature of Authorized EPA Official

B. Title of Authorized Official

C. Date

Attachment A.

III. List all pending civil rights lawsuits and administrative complaints filed under federal law against the applicant/recipient that allege discrimination based on race, color, national origin, sex, age, or disability. (Do not include employment complaints, unless covered by 40 C.F.R. Parts 5 and 7.)

EPA Complaint No. 05NO-23-R6

On January 24, 2023, EPA notified Texas Commission on Environmental Quality (TCEQ) that it received a complaint on November 23, 2022, alleging discrimination based on national origin in violation of Title VI. EPA's Office of External Civil Rights Compliance (OECRC) is reviewing the complaint to determine whether it falls under OECRC's jurisdiction.

- **Number Not Assigned**

On June 28, 2022, Petitioners sought EPA's intervention to remedy alleged systemic and long-standing failures by TCEQ to comply with public participation and environmental justice obligations under the Clean Air Act and Title VI of the Civil Right Act. Complainants requested a compliance review, adoption of regulations, and a state implementation plan (SIP) call.

Petitioners include: Port Arthur Community Action Network; San Antonio Bay Estuarine Waterkeeper; Diane Wilson; Familias Unidas del Chamizal; Shrimpers and Fishermen of the RGV; Citizens Alliance for Fairness and Progress; West Dallas 1; Texas Environmental Justice Advocacy Services (t.e.j.a.s.); Air Alliance Houston; Texas Campaign for the Environment; Environmental Integrity Project; Sierra Club Lone Star Chapter; and Sierra Club.

- **EPA Complaint No. 06RNO-22-R6**

On May 17, 2022, EPA's External Civil Rights Compliance Office (ECRCO), received correspondence alleging that TCEQ discriminated on the basis of race and national origin in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000(d) et seq., and EPA's nondiscrimination regulation, 40 C.F.R. Part 7. Specifically, the complaints alleged that, through its concrete batch permit process, affirmed most recently by the adoption of an amendment to the 2012 Concrete Batch Plants Standard Permit (CBPs), TCEQ subjects Black and Hispanic/Latinx residents of Harris County, Texas, including those with limited English proficiency (LEP), to discrimination on the basis of race and national origin, including with respect to its public participation process. As of November 29, 2022, TCEQ and EPA are engaged in Informal Resolution discussions on this complaint.

- **EPA Complaint No. 05RNO-22-R6**

On April 5, 2022, TCEQ received acknowledgement of an administrative complaint from EPA, involving the TCEQ and alleging discrimination based on race and national origin in violation of Title VI. Specifically, the complaints allege that, through its concrete batch permit process, affirmed most recently by the adoption of an amendment to the 2012 Concrete Batch Plants Standard Permit (CBPs), TCEQ subjects Black and Hispanic/Latinx residents of Harris County, Texas, including those with limited English proficiency (LEP), to discrimination on the basis of race and national origin, including with respect to its public participation process. EPA accepted complaint on August 3, 2022, and will investigate with 06RNO-22-R6 (see above). As of November 29, 2022, TCEQ and EPA are engaged in Informal Resolution discussions on this complaint.

- **EPA Complaint No. 02R-21-R6**

A complaint was filed August 18, 2021, involving the Texas Commission on Environmental Quality (TCEQ) alleging discrimination based on race in violation of Title VI of the Civil Rights Act of 1964. The complaint was filed by Port Arthur Community Action Network (PA-CAN), regarding the TCEQ issuance of Federal Operating Permit No. O1493 to Oxbow Calcining, LLC. The U.S. Environmental Protection Agency (EPA) External Civil Rights Compliance Office (ECRCO) accepted the complaint for investigation on October 15, 2021. Specifically, ECRCO will investigate the following issues: "Whether TCEQ discriminated in violation of Title VI and EPA's regulation at 40 C.F.R. Part 7 by using methods of administering a program, with respect to its oversight of Oxbow Calcining, LLC, with the effect of subjecting individuals to discrimination or defeating or substantially impairing the objectives of the program or activity on the basis of race." As of February 4, 2022, ECRCO and TCEQ have commenced informal resolution agreement discussions.

Attachment B.

V. List all civil rights compliance reviews of the applicant/recipient conducted under federal nondiscrimination laws by any federal agency within the last two years and enclose a copy of the review and any decisions, orders, or agreements based on the review. Please describe any corrective action taken. (40 C.F.R. § 7.80(c)(3))

- **Number Not Assigned**

On May 13, 2021, TCEQ received a grievance complaint against the North Central Texas Municipal Water Authority (NCTMWA), under TCEQ's grievance procedures for filing such a complaint. The complaint alleged that NCTMWA has racially discriminated against local black residents by denying access to the Millers Creek Reservoir recreational lake during the annual Juneteenth Texas holiday. After analyzing the complaint and the issues raised therein, TCEQ determined that TCEQ lacks jurisdiction related to the substantive matters of the complaint and, accordingly, the Executive Director was unable to accept the complaint for investigation. TCEQ has notified the complainant. Additionally, on May 26, 2021, a TCEQ representative contacted NCTMWA and let them know about the complaint (without disclosing the complainant). NCTMWA indicated they are aware, and a similar complaint may have been sent to another state agency.

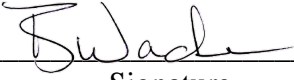
CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

The grantee certifies that it will provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing a drug-free awareness program to inform employees about—
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation and employee assistance programs, and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after each conviction;
- (e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;
- (f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—
 - (1) Taking appropriate personnel action against such an employee, up to and including termination; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

Brent Wade, Deputy Executive Director

Typed Name and Title of Certification Official



Signature

4/13/2023

Date

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Erin E. Chancellor, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 13, 2023

James McDonald
Director, Mission Support Division
US Environmental Protection Agency (EPA)
1201 Elm Street; Ste. 500
Mail Code MSD
Dallas, TX 75270-210

Dear Mr. McDonald,

The systems and procedures used by TCEQ for travel and personnel meet all requirements set forth by the State of Texas and provide necessary and appropriate internal controls in accordance with EPA guidance. Further, Texas State systems and procedures provide an accurate assessment and record of our personnel and travel costs and expenditures.

Please contact Jené Bearse, Director of Budget and Planning, at 512-239-0299 if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "B Wade".

Brent Wade
Deputy Executive Director

cc: Donna Miller, Grants Management Officer, EPA