UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

Office of
International and
Tribal Affairs

April 4, 2022

Re: Notification of Consultation and Coordination on Proposed Changes to the National Allocation of Indian Environmental General Assistance Program Funding

Dear Honorable Leader:

The U.S. Environmental Protection Agency (EPA) is initiating consultation and coordination with federally recognized Tribes to receive input on proposed changes to the national allocation of Indian Environmental General Assistance Program (GAP) funds to tribal and intertribal consortia recipients. The proposed changes to the funding allocation formula, if adopted, will take effect for all GAP awards made with FY 2023 funds.

In November 2021, EPA concluded a consultation and coordination with Tribes seeking recommendations on how EPA could improve the national allocation of GAP. The Notice of Consultation to this consultation and related documents, including a summary of tribal comments, can be found at https://www.epa.gov/tribal/indian-environmental-general-assistance-program-gap#gge-phase-II. The comments received highlighted the importance of GAP funding to tribal environmental programs across the nation, as well as the concern by many Tribes that GAP award amounts have not increased at the same rate as the costs of maintaining their environmental programs.

The American Indian Environmental Office (AIEO) is proposing changes to the national allocation of GAP which increases the annual per Tribe national allocation while improving the transparency and accountability of the allocation process. The attached *Proposed Changes to the National GAP Allocation Methodology* further details the proposed changes to the allocation.

This consultation and coordination process will be conducted in accordance with the *EPA Policy on Consultation and Coordination with Indian Tribes* (https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes). EPA invites you and your designated consultation representative(s) to participate in this process. EPA's anticipated timeline for the consultation and coordination period is expected to extend from **Monday, April 4 – Tuesday, August 2, 2022**.

Enclosed are the proposed changes to the GAP allocation formula and a consultation and coordination plan. The consultation and coordination plan includes a timeline for the consultation and coordination period and information on how you can provide input on this action. This information is also available on EPA's Tribal Consultation Opportunities Tracking System (TCOTS) at https://tcots.epa.gov.

The official EPA contact person for this consultation and coordination process is Lisa Berrios, Senior Advisor in the American Indian Environmental Office. Please do not hesitate to contact Ms. Berrios at berrios.lisa@epa.gov or at (202) 564-1739 should you have any questions.

I look forward to hearing from you on this important matter.

Sincerely,

JoAnn K Chase

JoAnn Chase
Director, American Indian Environmental Office;
Office of International and Tribal Affairs

Attachments

cc:
Jane Nishida, Assistant Administrator, Office of International and Tribal Affairs
Office of Regional Administrator Deputy Directors
Regional Indian Program Coordinators
Lisa Berrios, Senior Advisor, American Indian Environmental Office

<u>Attachment 1:</u> Proposed Changes to the National GAP Allocation Formula

INTRODUCTION:
EPA proposes a three-step process for nationally allocating congressionally appropriated GAP dollars to regional offices effective for FY2023 GAP funds. The proposed changes reflect tribal input received during the 2021 tribal consultation on the national GAP allocation process, namely:

- to increase GAP funding available to Tribes and maintain year-to-year stability; and
- to establish greater transparency, equity, and accountability in EPA's management of federal grant dollars.

The methodology described below does not prescribe how regional offices award funds to GAP grantees (e.g., a region may make an award that is greater or less than the national per Tribe allocation and/or may fund grantees not included in the national regional allocation formula).

ALLOCATION METHODOLOGY:
<u>Step 1: National GAP Set-Aside</u>
Prior to determining regional allocations, headquarters/AIEO reserves a lump sum from the congressionally appropriated funds as a "set-aside" for special projects of national significance. Proposed projects for the National GAP Set-Aside for FY2023 and beyond will be included in OITA's National Program Guidance (NPG), which provides opportunity to address funding priorities within EPA and in consultation with Tribes as part of the NPG process.
These funds are distributed to regions, as appropriate, in Step 3 (described below).

In FY2023, AIEO will use the national GAP set aside, up to 1% of the congressional appropriation, to supplement reductions to tribal grantees resulting from 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 transitionary 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. This set aside is not intended to address fluctuations in congressional appropriations and/or in the number of tribal grantees receiving GAP, and does not include funding of regional priorities, such as meetings and special projects.

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

<u>Step 2: Determining the Regional Allocation</u>
From the remaining funds after the national GAP set aside, regional allocations are determined by dividing the remaining congressionally appropriated funds by the number of federally recognized Tribes with active GAP awards in each region, including GAP funds combined in a Performance Partnership Grant. AIEO will confer with each region annually to finalize the number of tribal grant recipients for determining the regional allocation. The national per Tribe allocation to the region is not intended as a base for each tribal recipient. Each region should consider the application review criteria in the 2022 GAP Guidance and OITA's NPG priorities when negotiating work plans and determining recipient award amounts.

AIEO will determine the number of federally recognized Tribes eligible to receive GAP funds using the most recent Federal Register publication of the Indian Entities Recognized by and Eligible to Receive

Services from the United States Bureau of Indian Affairs (BIA) listing (updated annually). As a secondary resource, AIEO will refer to the most recent BIA Tribal Priority Allocation recipient list when there a potential distinction between bands operating as stand-alone governments and those that are sub-entities of a larger governing body. AIEO's determination of number of eligible Tribes for national allocation purposes does not preclude regional determinations to fund sub-entities of a federally recognized Tribe listed in the Federal Register.

Step 3: Distribution of Regional Allocation
Once EPA has received the congressional appropriation and its operational plan has been approved, AIEO will provide the regional allocation amount in an annual funding memorandum. The regional allocation will include the determination derived in Step 2 of this process and any additional funds received from the national GAP set-aside in Step 1.

Attachment 2: Consultation Timeline and Outreach Activities:

Tribal governments may submit written comments on the Allocation through August 2, 2022. AIEO requests that tribes limit comments to questions or concerns related to the proposed changes to the national allocation of GAP awards.

Tribal governments may request one-on-one consultation meetings with EPA. EPA will work to accommodate these requests to the greatest extent possible. If you are interested in requesting consultation with the Agency, please contact Lisa Berrios (contact information above) to make arrangements prior to the close of consultation.

OITA has also scheduled several opportunities for tribes to provide verbal comments during this consultation and coordination process. The table below outlines opportunities for tribes to receive information, ask questions and provide comments on this action. All consultation and coordination information is also available on EPA's tribal portal website: https://tcots.epa.gov. Regions and Tribes may also consider inviting OITA to participate in meetings between April and August to provide additional engagement opportunities for discussing the draft Guidance.

Consultation & Coordination Activity: Proposed GAP Allocation Revisions	**Date**
CONSULTATION & COORDINATION PROCESS BEGINS - Consultation notification letter mailed & email announcements sent	Monday, April 4, 2022
National Notification Call to National Tribal Caucus - Provides NTC with an overview of the consultation scope, process, and timeline - Provide NTC with an overview of proposed GAP allocation revisions	Monday, April 4, 2022 Time: 2:00-4:00 EDT
National Notification Call to Tribal Leaders - Provide Tribal Leaders with an overview of the consultation scope, process, and timeline - Provides Tribes with an overview of proposed GAP allocation revisions	Monday, April 11, 2022 Time: 1:30-3:00 EDT

Conference call line: (202) 991-0477 Conference call code: 284 180 451# Webinar access via computer on mobile app: Click here to join the meeting	
Facilitated Discussion with Tribes - Provide Tribes an opportunity to ask questions and comments on proposed revisions to the GAP allocation Conference call line: (202) 991-0477 Conference call code: 773 205 399# Webinar access via computer on mobile app: Click here to join the meeting	Monday, May 23, 2022 Time: 3:00-4:30 EDT
Informational Webinar for Intertribal Consortia - Provide Intertribal Consortia with an opportunity to ask questions and provide comments Conference call line: (202) 991-0477 Conference call code: 916 834 372# Webinar access via computer on mobile app: Click here to join the meeting	Thursday, June 16, 2022 Time: 2:00-3:30 EDT
Facilitated Discussion with Tribes - Provide Tribes an opportunity to ask questions and comments on proposed revisions to the GAP allocation Conference call line: (202) 991-0477 Conference call code: 106 019 660# Webinar access via computer on mobile app: Click here to join the meeting	Wednesday, July 13, 2022 Time: 3:00-4:30 EDT
CONSULTATION PROCESS ENDS AND TRIBAL COMMENTS DUE	Tuesday, August 2, 2022
Official Agency Point-of-Contact: **Lisa Berrios, Senior Advisor** Phone: 202-564-1739 Email: berrios.lisa@epa.gov	