

## Frequently Asked Questions (FAQs)

Orphaned Well Plugging, Remediation, and Restoration on Tribal Land

Section 40601 of the Bipartisan Infrastructure Law

Phase 2 Tribal Grants and In Lieu of Grant Assistance

U.S. Department of the Interior

April 16, 2024

1. *Question:* Why was this FAQ list developed?

*Answer:* This FAQ document was developed to accompany the current funding opportunity, or Phase 2, for the U.S. Department of the Interior (the Department)'s Tribal Orphaned Well Program (OWP) under Section 40601, *Orphaned Well Site Plugging, Remediation, and Restoration*, of Public Law 117- 58, also known as the *Bipartisan Infrastructure Law (BIL)*.

2. *Question:* What is the Phase 2 Tribal OWP opportunity?

*Answer:* "Phase 2," the second funding opportunity under the Department's Tribal OWP, makes available \$55 million in grant funding and direct assistance under President Biden's Investing in America agenda to clean up orphaned oil and gas wells across Indian Country. Section 40601 of the BIL provides a total of \$4.7 billion for orphaned-well-related activities, including \$150 million for plugging, remediating, and reclaiming orphaned wells located on Tribal lands through grants or In Lieu of Grant assistance to Indian Tribes (Tribes). The Department issued guidance concerning the first phase of funding and awarded nearly \$40 million in grants and In Lieu of Grant assistance in 2023 (Phase 1).

3. *Question:* How is the Phase 2 funding for orphaned wells going to be made available?

*Answer:* The Department published guidance for two types of assistance under the Phase 2 opportunity on March 15, 2024:

**Grants:** Tribes may apply for two types of grants, **Program Development and Implementation** grants (described below, in Question 9), to fund plugging, remediation, and reclamation activities, including identification and assessment of orphaned wells on Tribal lands and to fund capacity-building activities to develop and administer a Tribal program for such activities.

**In Lieu of Grant (ILOG) Assistance:** Tribes may request that the Secretary administer

and carry out plugging, remediation, and reclamation activities related to eligible orphaned wells on behalf of a Tribe.

4. *Question:* How was the Phase 2 Tribal OWP guidance developed?

*Answer:* The Department developed the Phase 2 guidance based on feedback and an analysis of results from the Phase 1 (2023) Tribal OWP funding opportunity. The Department hosted three listening sessions in January and February 2024 to share proposed changes to the Tribal OWP guidance and to invite feedback from Tribes on how to streamline and clarify application requirements.

5. *Question:* What are the major changes to the Tribal OWP funding opportunities that are included under the Phase 2 guidance?

*Answer:* Phase 2 OWP Tribal guidance includes a series of technical and procedural clarifications to streamline and expedite Tribal awards. To that end, Tribes are required to submit Phase 2 grant applications through [GrantSolutions](#) the Department's end-to-end grants management system. The directed announcement in GrantSolutions details application requirements and includes all required forms and optional templates as part of the application kit. (Prior to starting the registration process for GrantSolutions access, please contact the Department's Financial Assistance Officer (FAO) [via email](#). The FAO can advise on existing GrantSolutions access to prevent duplication of accounts.)

Tribes requesting direct assistance for plugging, remediation, and reclamation activities may submit their request by email according to requirements detailed in a separate Phase 2 ILOG guidance document.

Both guidance documents for Phase 2 [Tribal OWP grants](#) and [ILOG assistance](#) are available on the [Department's Orphaned Wells Program Office webpage](#).

6. *Question:* What is an orphaned well?

*Answer:* With respect to Tribal land, the term "orphaned well" means:

- 1) A well that is not used for an authorized purpose, such as production, injection, or monitoring; and
- 2) A well for which no operator can be located; or  
A well for which a locatable operator is unable to plug the well and remediate and reclaim the well site.

7. *Question:* Are only oil and gas wells eligible for funding?

*Answer:* Under the Phase 2 Tribal OWP opportunity, an orphaned well generally is or was **associated with oil and gas production**, including wells, and associated features whose design or uses were not directly related to production, such as injection, monitoring, or disposal wells.

8. *Question:* Which Indian Tribes are eligible to receive funding or direct services under the Tribal OWP?

*Answer:* Applicants are limited to Indian Tribes as defined under Section 40601(a)(3) of the BIL, which includes any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

9. *Question:* Which activities are eligible for funding under the Phase 2 Tribal OWP opportunity?

*Answer:* In general, funds must be used to plug and abandon eligible orphaned wells and to remediate and reclaim orphaned well sites on eligible Tribal land. Eligible activities under each funding type are as follows and detailed in Phase 2 Grant and ILOG guidance:

**Tribal Implementation Grants** fund plugging and abandonment, remediation, and reclamation activities, including identification and assessment of orphaned wells on Tribal lands.

**Tribal Program Development Grants** fund activities to develop and administer a Tribal program to carry out plugging and abandonment, remediation, and reclamation activities for orphaned wells on Tribal land, including identification and assessment, training, and other capacity-building activities.

**In Lieu of Grant assistance** provides direct assistance by identifying and assessing orphaned wells and carrying out plugging and abandonment, remediation, and reclamation activities for orphaned wells on Tribal land.

10. *Question:* What is the definition of “Tribal land?”

*Answer:* “Tribal land” is defined as any land or interest in land owned by a Tribe, the title to which is:

- 1) Held in trust by the United States; or
- 2) Subject to a restriction against alienation under Federal law.

This includes plugging and abandonment, remediation, and reclamation of wells drilled into minerals that are held in trust or restricted status for a Tribe, even if the surface estate is not; and remediation of surface that is held in trust or restricted status for a Tribe, even if the minerals are not.

11. *Question:* Is there a program for orphaned wells on allotted lands?

*Answer:* Lands owned by individual Indians in trust or restricted status are not eligible for funding under the Tribal OWP opportunities unless a Tribe has mineral and/or surface

rights. (*Applicants inquiring about plugging, remediating, and reclaiming orphaned wells on ineligible Indian lands are invited to contact the Department's technical specialists to identify relevant funding opportunities.*)

12. *Question:* Is conversion of orphaned oil and gas wells to water wells an eligible activity?

*Answer:* No, plugging and abandonment, remediation, and reclamation of orphaned wells and well sites **may not include** costs associated with conditioning wells as a water supply source under the Phase 2 Tribal OWP opportunity.

13. *Question:* How may a Tribe apply for Phase 2 Tribal OWP grant or ILOG assistance?

*Answer:* Tribes applying for a Phase 2 Program Development Grant and/or Implementation Grant **must** submit all required application components, as detailed in the Phase 2 grant guidance, through the Directed Announcement D-AQD-FA-24-013 in GrantSolutions. **Phase 2 OWP Tribal grant applications are due by 11:59 p.m. ET on May 14, 2024.**

Under exceptional circumstances, the Department's Financial Assistance Officer may provide prior approval for an applicant to submit all required components of a grant application outside of GrantSolutions by the published deadline.

Tribes seeking direct services under the Phase ILOG opportunity must submit a letter requesting assistance, according to the Phase 2 ILOG guidance, by email no later than September 30, 2024.

14. *Question:* Can a Tribe apply for more than one type of assistance during the Phase 2 opportunity?

*Answer:* A Tribe may submit applications for Phase 2 assistance for both Program Development and Implementation Grant activities, provided that each request documents no duplication of costs from a Phase 1 award, if applicable, and across activities proposed under each Phase 2 project type.

A Tribe that applies for a grant under this opportunity may not apply for Phase 2 In Lieu of Grant (ILOG) assistance.

15. *Question:* Can a Tribe that received a Phase 1 Program Development Grant apply for a Program Development Grant during the Phase 2 opportunity?

*Answer:* A Tribe that received a Phase 1 Program Development Grant may apply for a Phase 2 Program Development Grant, provided that the statement of work included with the Phase 2 application documents no duplication of costs from the Phase 1 award.

16. *Question:* Is there a maximum award for an Implementation Grant under the Phase 2 opportunity?

*Answer:* A Tribe may not submit a request for, nor will it receive an award for a Phase 2

Implementation Grant greater than \$15 million.

17. *Question:* Will a Tribe receive a grant upon submission of an application that requests an award within the maximum amounts under the Phase 2 Tribal OWP opportunity (e.g. \$1 million maximum for Program Development Grants and \$15 million for Implementation Grants?)

*Answer:* The Department will review grant applications submitted by the deadline to confirm applicant eligibility and to ensure applications include all required components and information. In accordance with Section 40601(d)(3) of the BIL, the Department will take into consideration the Tribe's unemployment rate and the estimated number of orphaned wells on Tribal land in determining whether to provide to a Tribe a grant under this opportunity. If total requests under the Phase 2 grant opportunity exceeds the \$50 million in available funding, the Department will distribute the funding at the discretion of the Secretary and in consideration of statutory and program factors.

18. *Question:* Is there a cap on costs associated with a Tribe's ILOG request?

*Answer:* The Department has made available \$5 million to fulfill ILOG requests under the Phase 2 opportunity. While there is no cap on a Tribe's request for direct assistance, ILOG awards will be made on a rolling basis and subject to available funding during the Phase 2 opportunity.

19. *Question:* What are pre-award costs and when is prior approval needed?

*Answer:* Pre-award costs are those incurred prior to the effective date of the federal award or subaward directly pursuant to the negotiation and in anticipation of the federal award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the federal award and only with the written approval of the federal awarding agency. If charged to the award, these costs must be charged to the initial budget period of the award and described in required reports.

All costs incurred prior to the effective date are at the recipient's risk of non-reimbursement if the Department determines that the costs are not allowable, necessary, allocable, and reasonable.

The Department waives the prior written approval requirements for pre-award project costs that were incurred within 90 calendar days before the federal award effective date. Applicants must obtain written approval from the Department's Financial Assistance Officer (FAO) prior to incurring pre-award costs that were included in the application but more than 90 calendar days before the federal award effective date. The Department encourages applicants to consult with the FAO prior to incurring any pre-award costs.

Points-of-Contact:

DOI Orphaned Wells Program Office

[DOI Orphaned Wells Tribal email](#)

202-219-3283

Indian Energy Service Center (BIA)

720-595-2000

[Indian Energy Service Center email](#)

DOI Interior Business Center-Financial Assistance Officer (FAO)

571-513-3033

[DOI Interior Business Center email](#)