



United States Department of the Interior  
OFFICE OF THE SECRETARY  
Washington, DC 20240

## Orphaned Wells Program Office State Matching Grants Guidance

May 2024

### I. INTRODUCTION

President Biden signed the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law (BIL; Public Law 117-58), on November 15, 2021, making a once-in-a-generation investment in the Nation's infrastructure and economic competitiveness. This landmark investment will rebuild America's critical infrastructure, tackle the climate crisis, address legacy polluted sites, advance environmental justice, and drive the creation of good-paying jobs that provide a free and fair chance to join a union. By addressing long overdue infrastructure and environmental improvements and strengthening our resilience to the changing climate, this investment in our communities across the country will grow the economy sustainably and equitably for decades to come.

Subsection (b) of Section 40601 of the BIL creates an orphaned well site plugging, remediation, and reclamation program within the Department of the Interior (DOI) to address orphaned wells and well sites on federal lands. Subsection (d) authorizes a grant program for Tribes, and subsection (c) authorizes three types of grants for States:

1. Initial grants (Section 40601(c)(3))
2. Formula grants (Section 40601(c)(4))
3. Performance grants (Section 40601(c)(5))

On January 10, 2023, Secretary Haaland issued Secretary's Order No. 3409 to establish the Orphaned Wells Program Office (OWPO) to ensure effective, accountable, and efficient implementation of the BIL's historic investment in orphaned well clean-up. The OWPO, in the Office of Policy, Management and Budget, carries out the Secretary's responsibilities under Section 40601 of the BIL, including issuing, administering, and overseeing State grants.

This document sets forth the application process for States to receive Matching Grants. It also contains requirements for carrying out activities under the Matching Grants authorized by Section 40601(c)(5)(F) of the BIL.<sup>1</sup>

### II. DEFINITIONS RELEVANT TO MATCHING GRANTS

This section contains a list of definitions relevant to Matching Grants. The definitions supplement the BIL and other federal law and authorities, *e.g.*, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. part 200.

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<sup>1</sup> OWPO anticipates it will issue separate guidance concerning another type of State Performance Grant, which the BIL refers to as Regulatory Improvement Grants, *see* Section 40601(c)(5)(E).

“Adjacent land” means land that adjoins or is in close proximity to a documented orphaned well and for which reclamation or remediation is necessary to address the negative health, safety, habitat, and environmental impacts of the orphaned well.

“Administrative costs” identified in Section 40601(c)(2)(B)(i), limited to not more than 10 percent of the funds received, are those costs that cannot be directly attributed to activities listed under Section 40601(c)(2)(A)(i)-(viii), but instead to general grants management or program administration. Administrative costs can be expended for personnel or non-personnel costs, and can be direct or indirect, but should represent the costs to the State for managing the overall grant-funded work rather than preparation for and execution of the plugging of an individual well or set of wells, or the associated remediation, reclamation, decommissioning, and removal activities.

The terms “associated pipelines,” “facilities,” and “infrastructure” collectively include structures, appurtenances, and improvements located on land associated with exploring, producing, transporting, or processing from an orphaned well.

“Award Date” means the date a financial assistance officer issues a Matching Grant award. A grant’s award date may or may not be the same date as the grant’s effective date. The effective date of a Matching Grant is the date of receipt of the funds.

“Certified Amount” is the total amount of the State’s non-federally originated money that the State certifies it will expend in a particular State fiscal year to: 1) plug, remediate, and reclaim orphaned wells; 2) remediate or reclaim land adjacent to an orphaned well; and 3) decommission or remove pipelines, facilities, and infrastructure associated with an orphaned well.

“Community” means either a group of individuals living in geographic proximity to one another, or a geographically dispersed set of individuals (such as migrant workers), where either type of group experiences common conditions.

“Date of receipt of the funds” means the effective date of a Matching Grant award, and may or may not be the same date as the award date. A Matching Grant’s effective date is determined by a financial assistance officer, in consultation with the receiving State. The effective date is the date the Matching Grant’s period of performance begins.

The terms “decommission” and “remove” collectively include activities undertaken to permanently plug pipelines associated with a documented orphaned well, and other activities that remove pipelines, facilities, and infrastructure associated with a documented orphaned well, such that the same is permanently relocated or dismantled and the surrounding area returned to its natural condition, or a condition appropriate for its intended future land use.

“Disadvantaged communities” means the census tracts identified as disadvantaged by the Climate and Economic Screening Tool (CEJST), issued by the White House Council on Environmental Quality, along with all Federally Recognized Tribal entities.<sup>2</sup>

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<sup>2</sup> <https://screeningtool.geoplatform.gov>. For additional information, see M-23-09, *Addendum to the Interim*

“Documented well” means a well for which a State, including its agencies, or a non-State agency, has a drilling, completion, or inspection report, or any other record establishing the existence of the well, including its precise latitude and longitude in decimal degrees.

“Economic conditions” includes a state of macroeconomic variables and trends, in an area, at a point in time, such as per capita income and unemployment rate.

Consistent with 2 C.F.R. § 200.1, “equipment” means tangible personal property, including information technology systems, that has a useful life of more than one year and a per unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-federal entity for financial statement purposes, or \$5,000. *See* 2 C.F.R. § 200.313 for the title, use, management, and disposition of equipment purchased with Matching Grant funds.<sup>3</sup>

“Federal land” is defined in Section 40601(a)(1) as land administered by a land management agency within the Department of Agriculture or the Department of the Interior.

“Federal wells” – Orphaned wells and well sites on Federal land are considered “Federal wells” and are eligible for funding under the Section 40601(b) Federal Program. Orphaned wells—and well sites associated with such wells—that were drilled subject to a federal permit to drill may be considered Federal wells eligible for funding under the Section 40601(b) Federal Program, regardless of surface ownership. As the funding under the Federal Program is not expected to be sufficient to remediate all eligible Federal wells, a State may use grant funds received under Section 40601 to plug and remediate Federal wells located on State or private land and may include those wells in its inventory of documented orphaned wells on State or private land. Any plugging and reclamation activities on such split-estate orphaned wells would be subject to the Federal government’s onshore plugging and reclamation standards and DOI approval prior to the start of operations.

“Fiscal year” means the State fiscal year of the State applying for the Matching Grant, unless otherwise specified (*e.g.*, from July 1 of a calendar year to June 30 of the following year).

“Indian tribe” means 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.

Both “low-income communities” and “economically distressed areas” are either: 1) Those communities that in the last 12 months had a median household income less than twice the poverty level; or 2) Communities identified as disadvantaged pursuant to the CEJST.

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*Implementation Guidance for the Justice40 Initiative, M-21-28, on using the Climate and Economic Justice Screening Tool (CEJST)* at [https://www.whitehouse.gov/wp-content/uploads/2023/01/M-23-09\\_Signed\\_CEQ\\_CPO.pdf](https://www.whitehouse.gov/wp-content/uploads/2023/01/M-23-09_Signed_CEQ_CPO.pdf) and CEQ Instructions to Federal Agencies on Using the Climate and Economic Justice Screening Tool (Jan. 2023), <https://static-data-screeningtool.geoplatform.gov/data-versions/1.0/data/score/downloadable/CEQ-CEJST-Instructions.pdf>.

<sup>3</sup> This guidance refers to the statutes and other authorities in effect when it was issued.

“Obligated amount” means any Matching Grant funds that are subject to a definite commitment that creates a legal liability for the State for an immediate or future payment for goods or services ordered or received, including by contract or subcontract award.

“Orphaned well” has the meaning given to the term by the applicable State. If a State uses different terminology, however, for the purposes of a Matching Grant, an orphaned well means a well that is eligible for plugging, remediation, and reclamation by the State applying for the Matching Grant.

“Pre-Award Costs” - DOI waives the prior written approval requirements for pre-award project costs that were incurred within 90 calendar days before the federal award effective date. All costs incurred prior to the effective date are at the recipient's risk of non-reimbursement if the costs are not determined to be allowable, allocable, and reasonable (2 C.F.R. §§ 200.308, 407).

The terms “remediate” and “reclaim” collectively may include eliminating, limiting, correcting, counteracting, mitigating or removing any contaminant or the adverse effects on the environment or human health of any contaminant, including but not limited to: preliminary site investigations; detailed site investigations; analysis and interpretation, including tests, sampling, surveys, data evaluation, risk assessment and environmental impact assessment; evaluation of alternative methods of remediation; preparation of a remediation plan, including a plan for any consequential or associated removal of soil or soil relocation from the site; implementation of a remediation plan; monitoring, verification and confirmation of whether the remediation complies with the remediation plan, applicable standards and requirements imposed by a director; and other activities prescribed by applicable State or federal law and authorities. Each term may also have the respective meaning given to it under the applicable State’s law and authorities.

“Tribal land” means land or interest in land owned by an Indian Tribe, the title to which is held in trust by the United States or subject to a restriction against alienation under federal law.

“Undocumented well” means either: 1) A well that is entirely unknown to a State or other non-State regulatory agency; or 2) A well for which a State or non-State regulatory agency has some evidence, but the State or non-State regulatory agency requires verification, including the well’s precise latitude and longitude in decimal degrees.

“Unobligated amount” means the amount of awarded Matching Grant funds the State has not obligated. The amount is computed by subtracting the cumulative amount of the State’s unliquidated financial obligations and expenditures of funds under the Matching Grant award from the cumulative amount of the funds that the federal awarding agency or pass-through entity authorized the State to obligate.

### **III. PERMISSIBLE USES OF AWARDED MATCHING GRANT FUNDS**

Under Section 40601(c)(5)(F)(i), a State may apply for and receive a Matching Grant equal to “the amount that the State certifies to the Secretary the State will expend, during the fiscal year in which the State will receive the grant” (Certified Amount) *less* “the average annual amount expended by the State during the period of fiscal years 2010 through 2019” (Average 2010-2019 Amount). Under Section 40601(c)(2)(A), a State may use awarded Matching Grant funds for any of the following purposes:

1. To plug, remediate, and reclaim orphaned wells located on State-owned or private land;
2. To identify and characterize undocumented orphaned wells on State and private land;
3. To rank orphaned wells based on factors including: public health and safety; potential environmental harm; and other land use priorities;
4. To make information regarding the use of Matching Grant funds received available on a public website;
5. To measure and track: emissions of methane and other gases associated with orphaned wells; and contamination of groundwater or surface water associated with orphaned wells;
6. To remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure;
7. To remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;
8. To identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including but not limited to low-income communities, and Tribal or similar communities; and
9. To administer a program to carry out any activities that fall under Numbers 1-8. These costs are referred to as administrative costs. *No more than 10 percent of a particular Matching Grant's funds may be used for administrative costs.*

Matching Grants are available for such activities where the surface or subsurface estate is owned by the State or by a private party, including, potentially, individually owned Indian properties that are held in trust by the Secretary of the Interior, but deemed by the State to be “orphaned wells” on “private land.” To the extent Matching Grant funds are used in the split estate context, the State must coordinate in advance with the Orphaned Wells Program Office and the appropriate Federal agency, and/or Indian Tribe, as applicable.

Only States that receive initial grants, under Section 40601(c)(3), are eligible to receive Matching Grants. Each eligible State may be awarded multiple Matching Grants—one grant per State fiscal year. While there is no maximum amount for a particular fiscal year’s Matching Grant, a State may not be awarded, obligate, and spend more than a total of \$30 million in Matching Grant funds. Matching Grants may not be awarded after September 30, 2030.

Matching Grant funds may be spent on, and grant-receiving States are encouraged to, display signage at orphaned well and well site plugging, remediation, and restoration sites to increase the transparency of activities funded in whole or in part by the BIL. Costs to procure, distribute, and

install signage are considered administrative costs. Such signage must comply with the Investing in America Signage Guidelines.<sup>4</sup>

A State has no more than 5 years from the effective date of a Matching Grant to obligate the awarded federal funds. Matching Grant funds that are not timely obligated must be returned to DOI. Unobligated and unspent funds returned to DOI do not count against the State's \$30 million Matching Grant limit stated in Section 40601(c)(5)(F)(ii)(II).

In applying for Matching Grants, and obligating and spending awarded Matching Grant funds, States must comply with all applicable federal grant award statutes, regulations, and other requirements, including but not limited to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. part 200. A State that accepts an award is also subject to and must comply with the terms and conditions of the grant it is awarded, and the certifications that the State submits as part of its grant application.

#### **IV. INSTRUCTIONS FOR MATCHING GRANT APPLICATIONS**

A State's Matching Grant application must be timely submitted and contain sufficient information for DOI to determine whether: 1) the proposed grant amount is consistent with the BIL; and 2) the State's proposed activities can realistically be achieved and are consistent with the BIL, other federal law and authorities, and the grant's anticipated terms and conditions.

##### **A. Timely submitting a Matching Grant application**

For a State fiscal year in which a State applies for a Matching Grant, the State must submit its application, in GrantSolutions.gov, by the last day of the first quarter of that State's fiscal year.

For example, if a State fiscal year begins on July 1, 2025, that State may apply for a Matching Grant for that State fiscal year up to and including September 30, 2025, based on the amount of non-federally originated funds that the State has spent or will spend on its orphaned well program or on orphaned well activities (*i.e.*, Certified Amount) from July 1, 2025, through June 30, 2026. In this example, some of the State's Certified Amount may be the actual amount the State spent on its orphaned well program or on orphaned well activities in the relevant State fiscal year (*i.e.*, from July 1, 2025 through September 30, 2025). And, the rest of the Certified Amount would be the estimated expenses for the remaining portion of the State's fiscal year (*i.e.*, October 1, 2025, through June 30, 2026).

Only for the State fiscal year that the Matching Grant application window first opens, a State may apply for a grant for that State fiscal year after the last day of the first quarter of that State fiscal year. Under Section 40601(c)(5)(F)(i), however, a Matching Grant may not be awarded for a State fiscal year (*i.e.*, the State fiscal year that is the subject of the Certified Amount) after that State fiscal year has ended. So, if a State's application is not submitted early enough to afford DOI sufficient time to review the State's application and determine whether it is complete, and a grant is not awarded before the end of that

<sup>4</sup> <https://www.whitehouse.gov/wp-content/uploads/2023/02/Investing-in-America-Brand-Guide.pdf>.

State fiscal year, then DOI cannot award a Matching Grant pursuant to that State's application (*e.g.*, if a State fiscal year began on October 1, 2023, that State may apply for a Matching Grant for that State fiscal year *after* December 31, 2023. However, DOI may not award a grant for that State fiscal year after September 30, 2024).

A State may apply for a Matching Grant for a particular State fiscal year before that fiscal year begins. A State, however, may only be awarded the Matching Grant it applies for during the State fiscal that is the subject of the Certified Amount (*e.g.*, for the State in the above example, the State may submit a Matching Grant application for State fiscal year 2025 *before* October 1, 2024. However, a Matching Grant may not be awarded to that State for State fiscal year 2025 until October 1, 2024).

## **B. Calculating the Average 2010-2019 and Certified Amounts**

### *1. A State's Average 2010-2019 Amount*

The Average 2010-2019 Amount is calculated by dividing by 10 the total amount spent by the State during State fiscal years 2010 through 2019 to: 1) plug, remediate, and reclaim orphaned wells; and 2) decommission or remove pipelines, facilities, and infrastructure associated with an orphaned well.

In its Average 2010-2019 Amount, a State must include all applicable direct orphaned well-related expenditures that the State spent. This includes money spent on plugging, reclamation, and restoration, from the first day of State fiscal year 2010 up to and through the last day of State fiscal year 2019. A State may also include its indirect expenditures if it chooses to do so. A State must explain its accounting basis. *See, e.g.*, State Technical and Financial Reporting Requirements Section below.

A State must maintain all records to support the Average 2010-2019 Amount stated in the State's grant application. The Average 2010-2019 Amount in a State's application is subject to DOI review, verification, and/or audit, and a State may be required to submit all records to support its Average 2010-2019 Amount.

### *2. A Matching Grant Application's Certified Amount*

The Certified Amount is the total amount of the State's non-federally originated money that the State certifies it *will expend* in a particular State fiscal year to: 1) plug, remediate, and reclaim orphaned wells; 2) remediate or reclaim land adjacent to an orphaned well; and 3) decommission or remove pipelines, facilities, and infrastructure associated with an orphaned well.

A State's Certified Amount in its Matching Grant application must be calculated using the same accounting basis that the State used to calculate its Average 2010-2019 Amount. A State may only include indirect costs in its Certified Amount if it included the costs in its Average 2010-2019 Amount.

A State must maintain all records to support the Certified Amount stated in its grant application. The Certified Amount in a State's application is subject to DOI review, verification, and/or audit, and a State may be required to submit all records to support its Certified Amount.

If the total actual State expenditures in the State fiscal year that is the subject of a Certified Amount (CA Year) is less than the Certified Amount in a State's Matching Grant application, the State is required to inform DOI and pay back the associated funds within 90 days of end of the CA Year. However, for grants less than \$1,000,000, a State is not required to pay back the funds if the difference is less than \$100,000. And, for grants greater than or equal to \$1,000,000, a State is not required to pay back the funds if the difference is less than 10 percent of the Certified Amount. Funds returned to DOI do not count against the State's \$30 million Matching Grant limit.

3. *Costs that may be included in its two amounts.*

As stated above, a State must utilize the same basis (cash or accrual) to calculate both its Average 2010-2019 Amount and its Certified Amount. A State will provide its accounting basis to DOI in the SF-425s that it submits in its reporting.

Consistent with 2 C.F.R. § 200.1, a State that utilizes a cash basis may include in its Average 2010-2019 Amount and Certified Amount:

- Cash disbursements for direct charges for property and services;
- The amount of indirect expense charged;
- The value of third-party in-kind contributions applied; and
- The amount of cash advance payments and payments made to subrecipients.

A State that utilizes an accrual basis may include the following:

- Cash disbursements for direct charges for property and services;
- The amount of indirect expense incurred;
- The value of third-party in-kind contributions applied; and
- The net increase or decrease in the amounts owed by the non-federal entity for: Goods and other property received; services performed by employees, contractors, subrecipients, and other payees; and programs for which no current services or performance are required such as annuities, insurance claims, or other benefit payments.



**C. A Matching Grant application must show and support a State’s Average 2010-2019 and Certified Amounts and contain the amount and proposed use for the federal Matching Grant funds that the State is applying for.**

A Matching Grant application must include all of the items described below.<sup>5</sup>

1. **Application for Federal Assistance (Form SF-424).** A State should contact DOI’s Interior Business Center (IBC) if it has any questions as to how to complete this form.
2. **Project Abstract Summary.** This includes: a high-level summary of the grant’s purpose for the general public; activities to be performed under the grant; expected deliverables or outcomes; intended beneficiaries; and any known subrecipient activities.
3. **Key Contacts Form.** This includes the applying States’s point of contact (POC), for the purposes of its application. The POC is the individual DOI will contact to resolve any questions or concerns that it may have.
4. **The Matching Grant Amount (Form SF-424A).** This contains the total amount of federal Matching Grant funds the State is applying for. This amount will be supported by the documents listed in No. 5, immediately below, and is subject to DOI review, verification, and/or audit. DOI anticipates a SF-424A form will be provided in GrantSolutions.gov.
5. **Documents that support a State’s SF-424A.**
  - a. **Budget Detail for State’s Average 2010-2019 Amount.** This template contains all of the costs the applicant State includes in its Average 2010-2019 Amount. This amount is subject to DOI review, verification, and/or audit. States are encouraged to use a DOI-approved template, which DOI anticipates will be provided in GrantSolutions.gov.
  - b. **Budget Detail for State’s Certified Amount.** This template contains all of the costs the applicant State includes in its Certified Amount. This amount is subject to DOI review, verification, and/or audit. States are encouraged to use a DOI-approved template, which DOI anticipates will be provided in GrantSolutions.gov.
  - c. **Budget Detail for federal Matching Grant Funds.** This template itemizes and describes how the State proposes to use the Matching Grant funds it applies for. The costs in this budget detail must be consistent with the amount listed in the State’s SF-424A. A State must use the same basis in this budget detail as it uses for its

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<sup>5</sup> OWPO and IBC may require additional items.

Average 2010-2019 and Certified Amounts. States are encouraged to use a DOI-approved template, which DOI anticipates will be provided in GrantSolutions.gov.

- d. **Work Plan/Proposal for federal Matching Grant Funds (Work Plan).** A Work Plan: 1) explains the applicant State’s Matching Grant-funded activities in detail, including outcomes and data collection methods; 2) provides a basis for the State’s technical approach; 3) details the State’s goals and objectives; 4) describes the public benefit and statement of need; 5) describes how success will be measured or evaluated by the State; 6) may include maps of affected areas and a list of wells; 7) includes the timeline for completion and milestones; and 8) contains the State’s monitoring plan for subrecipients or contractors. States are encouraged to use a DOI-approved template. *A State may request a grant amount less than it is entitled to. If a State elects to do so, a State must indicate as such in its Work Plan/Proposal for Matching Grant Funds.*

The costs contained in the activities included in a State’s Work Plan, as well as any other uses of awarded federal BIL funds, are subject to DOI review, verification, and/or audit, and the State must maintain all records to support the amounts stated in its application, including those generated by contractors.

Similar to a Work Plan for Phase 1 State Formula Grants (<https://www.doi.gov/sites/doi.gov/files/state-formula-grant-guidance-07.07.2023.pdf>), a Matching Grants Work Plan includes:

- i. A description of:
- aa. The State’s program for orphaned well plugging, remediation, and restoration, including legal authorities, processes the State currently uses to identify and prioritize orphaned wells, procurement mechanisms, and other program elements demonstrating the readiness of the State to carry out proposed activities using the grant, including summary descriptions of:
    - I. The State’s plugging standards, including the witnessing requirements (*e.g.*, qualifications of witnesses, documentation).
    - II. How salvaged material and equipment will be reused, recycled, or sold for scrap, with any resulting income reported to DOI and

incorporated into the grant budget for eligible activities upon approval by DOI.

- III. The State's authorities to enter private property, or the State's procedures to obtain landowner consent to enter such property, and in the event that any wells to be plugged will be accessed from federal or Tribal land, how the State will gain access.
- bb. How the State will prioritize (*i.e.*, rank for remediation activity) orphaned wells based on: addressing environmental injustices, threats to public health and safety, environmental harm - particularly harms due to methane emissions, and other land use priorities, including the remediation of hazardous sites in disadvantaged communities.
- cc. How the State will place a higher priority on the use of the federal funds to lower unemployment in the State, including workforce development activities related to orphaned well plugging, remediation, and reclamation.
- dd. How the State will place a higher priority on the use of the federal funds to improve economic conditions in economically distressed areas of the State, provided the use of the funds is related to orphaned well plugging, remediation, and reclamation.
- ee. The details of each activity to be carried out with the grant, including a preliminary work schedule covering the period of performance of the Matching Grant and an identification of the estimated health, safety, habitat, and environmental benefits of plugging, remediating, or reclaiming orphaned wells. Each activity must include a schedule and resources needed for getting the work completed, which must cover the entire relevant period.
- ff. Proposed performance goals including a schedule of milestones for completing the activities of (ee), above, and to achieve the objectives of the workplan.

- gg. The means by which the information regarding the activities of the State under this grant will be made available on a public website.
  - hh. The process the State follows to identify and pursue all potentially responsible parties that may be legally liable for plugging, remediating, or restoring orphaned wells in the State.
- ii. An estimate, which DOI acknowledges is a snapshot in time and subject to change as circumstances on the ground dictate, of:
- aa. The number of orphaned wells or sites, categorized by the region in the State that the State forecasts may be plugged, remediated, or reclaimed using Matching Grant funds.
  - bb. The projected cost, including the basis of estimates, of:
    - I. Plugging, remediating, or reclaiming orphaned wells.
    - II. Remediating or reclaiming adjacent land.
    - III. Decommissioning or removing associated pipelines, facilities, and infrastructure.
  - cc. The amount of projected cost that will be offset by the forfeiture of financial assurance instruments, the estimated salvage of well site equipment, or other proceeds from the orphaned wells and adjacent land.
  - dd. The number of jobs that will be created or saved through the activities to be funded under this grant and the assumptions and methodology to develop the estimate.
  - ee. To the extent possible, the miles and diameters of associated pipelines and number and description of associated facilities and infrastructure assets that will be decommissioned or removed.
- iii. If practical, the latitude/longitude, type of well, the well ID (API or US well number), surface ownership, and mineral

ownership for those wells that are likely to be plugged, remediated, or reclaimed.

- iv. The definitions and processes used by the State to formally identify a well as:
  - aa. An orphaned well; or
  - bb. If the State uses different terminology, otherwise eligible for plugging, remediation, and reclamation by the State.
- v. Details of how the State will identify and prioritize the highest methane emitters.
- vi. Details of how the State will identify and prioritize well plugging and site reclamation that are intended to reduce health or environmental burdens for disadvantaged communities (including Federally Recognized Tribes and communities identified as disadvantaged using the CEJST), such as through plugging wells and remediating sites that are within 0.5 miles of a disadvantaged community.<sup>6</sup> The State may also identify and address how it will address any disproportionate burden of adverse human health or environmental impacts of orphaned wells on local communities with environmental justice concerns and other disadvantaged communities, including but not limited to low-income communities, and Tribal or other similar communities, consistent with all applicable legal requirements. Decision points and underlying assumptions, such as the number and type of environmental indicators, must be described in the application.
- vii. The methodology, including field indicators, sampling, and modeling approaches, to be used by the State to measure and track contamination of groundwater and surface water associated with orphaned wells, including how the State will assess the effectiveness of plugging activities in reducing or eliminating such contamination.
- viii. Methods to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure, including a description of how salvaged material and

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<sup>6</sup> <https://screeningtool.geoplatform.gov/>.

equipment will be reused, recycled, or sold for scrap (with any resulting income reported to DOI).

- ix. Methods the State will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local governments and the public.
- x. How the State will use funding to locate currently undocumented orphaned wells.
- xi. Plans the State has to engage third parties in partnerships around well plugging and site remediation, or any existing similar partnerships the State currently belongs to.
- xii. Plans the State has to support opportunities for all workers and vendors, including workers underrepresented in well plugging or site remediation, workers in traditional energy communities impacted by changing markets and technology, and workers from disadvantaged and underserved communities, to be trained and placed in good-paying jobs directly related to activities funded by the grant, including through workforce development programs.
- xiii. A description of:
  - aa. Training programs, including pre-apprenticeships, registered apprenticeships, local and economic hire agreements for workers, and engagement with relevant labor unions with which the State intends to conduct outreach, partner, or fund in well plugging or site remediation.
  - bb. Plans the State may or may not have to use procurement processes that incentivize contractors to hire current or former employees of the oil and gas industry.
  - cc. Whether the State plans to bundle and aggregate activities into larger State-wide or regional contracts as part of their procurement processes.
  - dd. Whether the State plans to support safe, equitable, and fair labor practices by adopting, requiring, or encouraging contractors to adopt collective bargaining agreements, local hiring provisions,

labor agreements, and community benefits agreements.

- ee. Whether, and if so, how, the State plans to use a program to help determine if a contractor is “responsible,” such as a responsible contractor ordinance, pre-qualification requirements or similar programs.
  - xiv. Procedures the State will use to coordinate with federal or Tribal agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, federal, and Tribal land.
  - xv. A plan to monitor the reclaimed locations to ensure remediation and reclamation success. Such plan should include methodology and chronology of monitoring, data collection, and a plan for additional reclamation should the initial attempt be unsuccessful, and the activities outlined in the plan should be incorporated into the work schedule.
6. **Federal Approved Indirect Cost Rate Agreement.** A federally approved Indirect Cost Rate Agreement or similar statement that requires the United States to pay a de minimis rate to the State for indirect or incurred costs that are reasonable, allocable, and allowable.
  7. **Certifications.** A State must submit the certification in Appendix A as part of its Matching Grant application.
  8. **Disclosure of Lobbying Activities (Form SF-LLL).** A State uses this form to disclose when: it uses non-federal funds to lobby in connection with the grant application; and the federal share of the grant exceeds \$100 thousand. If the two criteria are not met by the applicant State, it should mark “N/A” in the SF-LLL it submits as part of its Matching Grant application.
  9. **Certification Regarding Lobbying.** *See* Appendix C, Certification Regarding Lobbying and Disclosure Requirements. A State may contact IBC if it has any questions as to how to complete this form.

## V. DISTRIBUTION OF GRANT FUNDS FOR APPROVED APPLICATIONS

States are required to register in and receive payment through the Department of the Treasury’s Automated Standard Application for Payments (ASAP), unless approved for a waiver. A State will be notified of the ASAP enrollment process, or if already enrolled, the process to link its ASAP account to receive the funds.

## VI. STATE REPORTING REQUIREMENTS AND POST-AWARD OBLIGATIONS

### A. State Technical and Financial Reporting Requirements

1. Periodic status reporting is a condition of a Matching Grant award. **As such, periodic reporting to DOI will be required, the frequency of which will be based on DOI's determination.** Financial Reporting requires the use of an Office of Management and Budget (OMB) approved SF-425. A State must also submit a Technical Performance Report within the same timeframe as its SF-425 that:
  - a. Contains the grant number, in accordance with 2 C.F.R. § 200.329, Monitoring and reporting program performance.
  - b. Covers the period of performance and the period the report covers.
  - c. Lists and describes progress towards achieving all performance goals and milestones included in the approved workplan, and in the notice of award.
  - d. Contains a comparison of actual accomplishments compared to the performance goals and milestones of the grant work plan, which includes the use of the federal Matching Grant funds to lower unemployment and improve economic conditions in economically distressed areas in the State, including those areas with environmental justice concerns.
  - e. States reasons performance goals and milestones were not achieved.
  - f. Includes additional relevant information regarding the work, as appropriate.

Instructions on where and how to submit Technical Performance Reports will be included in the notice of award. The data described in Data Collection and Reporting must be submitted with these reports.

2. A State is required to annually submit a Tangible Personal Property Report, Form SF-428, if grant funds are used to purchase equipment.
3. Significant Developments, under 2 C.F.R. § 200.329(e): Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, a State must inform DOI as soon as the following become known:
  - a. Problems, delays, or adverse conditions that will materially impair the State's ability to meet the objective of the federal award. This



- disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
- b. Favorable developments that either: 1) Enable quicker achievement of milestones or objectives; or at less cost than anticipated; or 2) Producing more or different beneficial results than originally anticipated.
  - c. Under 2 C.F.R. § 200.308, any revisions of budget and program plans, changes in scope of effort, or work leaders or partners must receive the prior written approval of the appropriate DOI official.
4. Under 2 C.F.R. § 200.329(c)(1), a State must submit its final financial and performance reports within 120 calendar days of the period of performance or the deadline listed on the notice of award.
- a. The narrative for final technical performance reports must provide a detailed summary of all goals and accomplishments for the grant's period of performance.
  - b. Requests for extensions to submit reports must be received in writing at least five business days prior to the deadline.
  - c. Must contain a comparison of actual accomplishments compared to the performance goals of the award.
  - d. Must include additional relevant information regarding the activities funded by the grant, as appropriate. States are encouraged to include relevant best practices and lessons learned over the course of the period of performance of the grant in each report.
  - e. Instructions on submitting the final technical performance reports will be included in the notice of award.
5. Data Collection and Reporting - To standardize reporting requirements and ensure federal resources are used consistent with federal law and authorities, and the terms and conditions of the grant, each State must track and submit the applicable and required information to OWPO using the Data Reporting Template.

States must submit to DOI a Data Reporting Template, with their respective updated information, quarterly. States are required to use the approved Data Reporting Template, consistent with OMB Control No: 1093-0012.

OWPO updated the Data Reporting Template in October 2023, following engagement between DOI and the Interstate Oil and Gas Compact

Commission/Groundwater Protection Council Orphan Well Data Management Workgroup (Workgroup). OWPO incorporated the feedback and recommendations of the Workgroup. The OWPO will continue to engage with the Workgroup and, as appropriate, adjust this Template.

States applying for a Matching Grant should note that non-sensitive information regarding the activities performed under such a grant are required to be posted on a public website.

6. After providing the grantee an opportunity to redact personally identifiable or proprietary information, DOI may post awarded-grant applications on a publicly available website.
7. DOI may publish a summary of performance accomplishments on a publicly available web site.

**B. Standards for measurement, plugging, remediation, and workforce**

1. Pre- and Post-Plugging Measurement of Air and Water Pollution

- a. A State must inspect each orphaned well site being considered under a grant: 1) To screen for leaks of methane and other gases, and if identified, to measure the rate of such leaks; and 2) To identify potential surface water or groundwater contamination. Inspections may be performed immediately prior to commencement of plugging and abandonment, provided the requisite pre-plugging information is documented.

A State will conduct or supervise post-plugging inspections within 12 months of the plugging activity to verify: 1) The lack of gaseous emissions and water contamination from plugged wells; and 2) The achievement of vegetation performance standards that are appropriate to the site's future land uses, if applicable.

A State-approved qualified arms-length entity may also conduct post-plugging inspections. Post-plugging inspections must be documented to create a verifiable record. To the extent practical, each well should be physically or electronically tagged after it is plugged, with tags indicating the date the well was plugged and the State entity or contractors responsible for the plugging.

- b. States will follow, as the minimum standard, the DOI methane emission guidelines (and subsequent revisions), including all recommendations therein.<sup>7</sup> The technology and approaches for

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<sup>7</sup> Assessing Methane Emissions from Orphaned Wells to Meet Reporting Requirements of the 2021 Infrastructure Investment and Jobs Act: Methane Measurement Guidelines, July 2023 Version. <https://doi.gov/sites/doi.gov/files/orphaned-wells-methane-measurement-guidelines-july-2023-version.pdf>.

methane detection, quantification, and monitoring are rapidly improving and evolving. As such, the DOI methane emission guidelines and requirements will also evolve over time in a manner intended to reduce the costs and burdens on states of detecting and quantifying methane emissions from orphaned wells, including the use of models and estimation tools while achieving the goals of Section 40601.

- c. Pre- and post-plugging values of gaseous emissions (particularly methane), water contamination, and acres restored must be included, per well, in the State's quarterly Data Reporting Template and in its periodic performance reports.

## 2. Well Plugging and Site Remediation Standards

- a. A State with established and documented well plugging standards and regulations will require their contractors to meet those requirements. For a State that does not have established well plugging standards, the work must meet or exceed the plugging standards in either 43 C.F.R. § 3172.12, formerly a portion of Bureau of Land Management Onshore Oil and Gas Order No. 2, for onshore wells, or, 30 C.F.R. part 250, for offshore wells.
- b. States will meet or exceed any well plug witnessing and documentation requirements pursuant to State law and authorities.
- c. For States with established well abandonment standards (inclusive of those actions necessary to complete surface reclamation and revegetation), all well closures shall meet those requirements. If a State does not have well abandonment standards, a well site must reflect, at minimum, the Bureau of Land Management's Reclamation and Abandonment Standards. For additional details, see: <https://www.blm.gov/sites/blm.gov/files/Chapter%206%20-%20Reclamation%20and%20Abandonment.pdf>.
- d. Remediation and reclamation of contaminants in soil, water, or other medium resulting from orphaned wells shall be conducted in accordance with applicable State or federal law and authorities.

## 3. Workforce Standards

- a. For activities or aggregated activities in excess of \$1 million, a State is encouraged to require contractors, consistent with State applicable law, to:
  - i. Certify a unionized workforce was used.

- ii. Certify a labor agreement or workforce continuity plan was used that details all of the following:
  - aa. How the contractor ensured it had ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality work throughout the life of the contractor's work, including a description of any required professional certifications and/or in-house training programs, and partnerships with unions, community colleges, or community-based groups.
  - bb. How the contractor minimized risks of labor disputes and disruptions that would have jeopardize the timeliness and cost-effectiveness of the work.
  - cc. How the contractor provided a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities, including descriptions of safety training, certification, and/or licensure requirements for all relevant workers (*e.g.*, OSHA 10, OSHA 30).
  - dd. Whether workers received wages and benefits that secured an appropriately skilled workforce in the context of the local or regional labor market.
  - ee. Whether the work had a community benefit agreement, with a description of any agreement.
  - ff. Whether local hires were prioritized.

**C. Restrictions on the use of federal Matching Grant funds**

- 1. Matching Grant funds are subject to the Build America, Buy America Act. Under the Build America, Buy America Act, Part I—Buy America Sourcing Requirements, Section 70914 of the BIL, Matching Grant funds may not be obligated or spent by a State, or its subrecipients or contractors, unless all iron, steel, manufactured products, and construction materials used by the State, or its subrecipients or contractors, are produced in the United States, unless a State obtains a waiver from DOI. Questions regarding the Build America, Buy America Act, should be

addressed to the financial assistance officer that is assigned to the relevant State, or his or her representative.<sup>8</sup>

2. Prohibition on Generating Carbon Credits with Matching Grant funds. States may not directly or indirectly use the reduced emissions from wells plugged with Matching Grant funds, in whole or in part, to monetize, generate, or collect carbon credits, or otherwise use the plugging of wells funded with Matching Grants to generate income of any type by offsetting another party’s greenhouse gas emissions. The required methane screening and quantification efforts that must take place before and after well plugging are necessary for measuring the impact on methane emissions, not for carbon credit generation.
3. Activities funded by Matching Grants are subject to the Endangered Species Act (ESA). Under Section 7(a)(2) of the ESA, DOI is required to ensure that activities funded by Matching Grants, in whole or in part, are not likely to: jeopardize species listed on the Federal List of Endangered and Threatened Wildlife and Plants, or result in the destruction or adverse modification of critical habitat designated for Federal Endangered and Threatened Wildlife and Plants. Under an ESA Section 7 implementing regulation, 50 C.F.R. § 402.08, federal agencies may designate non-federal representatives (NFR) for ESA Section 7 compliance purposes. As a condition of an award, a recipient (and, if any, the recipient’s designee(s) assisting with environmental compliance with respect to the award) agrees to serve as an NFR.
4. “Undertakings” funded by Matching Grants are subject to Section 106 of the National Historic Preservation Act, 54 U.S.C. § 306108 (NHPA). With limited exceptions, activities funded by a Matching Grant, in whole or in part, are “undertakings” that are subject to review under the NHPA, and its implementing regulations, 36 C.F.R. part 800. This is because the activities have the potential to affect historic properties. As a condition for receipt of a grant, the recipient must conduct the initial steps of the Section 106 process, which includes identifying and evaluating historic properties within the area of potential effects associated with specific projects and assessing effects, 36 C.F.R. §§ 800.4-.5.

**D. Requirements with respect to equipment, intangible property, and supplies**

1. Equipment. Equipment records shall be maintained accurately and shall include all of the following information:
  - a. A description of the equipment.

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<sup>8</sup> <https://www.whitehouse.gov/wp-content/uploads/2023/10/M-24-02-Buy-America-Implementation-Guidance-Update.pdf>.

- b. Manufacturer's serial number, model number, or other identification number.
  - c. Source of the equipment including the award number.
  - d. Whether title vests in the recipient or the federal government.
  - e. Acquisition date (or date received, if the equipment was furnished by the federal government) and cost.
  - f. Information from which one can calculate the percentage of DOI's share in the cost of the equipment (not applicable to equipment furnished by the federal government).
  - g. Location and condition of the equipment and the date the information was reported.
  - h. Unit acquisition cost.
  - i. Ultimate disposition data including date of disposal and sale price or, when a recipient compensates DOI awarding agency for its share, the method used to determine current fair market value.
2. Intangible Property. Title to intangible property, as defined in 2 C.F.R. § 200.1, purchased or otherwise acquired under an award or sub-award vests upon acquisition in the recipient. The recipient shall use that property for the originally authorized purpose, and the recipient shall not encumber the property without approval of DOI awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property shall occur in accordance with agency procedure.
  3. Supplies. Under 2 C.F.R. § 200.314, title to tangible property, as defined in 2 C.F.R. § 200.1, purchased, or otherwise acquired under an award or sub-award vests upon acquisition in the recipient. The recipient shall use that property for the originally authorized purpose, and the recipient shall not encumber the property without approval of DOI awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property shall occur in accordance with agency procedure.

**E. State coordination with federal agencies and Indian tribes, when necessary**

1. Efficiency and cost-effectiveness in well plugging and site remediation will be maximized by ensuring proper coordination in these activities among States, tribes, and the federal government. As early as practical—preferably before State grant applications are submitted—States should provide a primary contact for coordination with the Indian tribal or federal land management agencies using GrantSolutions.gov. A State may reach

out to OWPO for a list of appropriate contacts for the relevant offices of Indian tribal and federal land management agencies.

2. When undertaking work on federal land under a cost sharing, good neighbor, or other arrangement with the federal government, a State must collect the data required to be reported, under the BIL, for wells plugged and sites remediated on federal land, unless all such data collection is otherwise captured in the terms of a lawful agreement between the State and the federal land manager (*e.g.*, cooperative agreement). Early coordination with federal agencies is encouraged to ensure each State collects the proper data in a format most easily transferred to the federal government.
3. When undertaking work on private or State land adjoining Indian tribal or federal land, a State is encouraged to communicate with federal agencies and Indian tribal representatives to ensure appropriate and efficient collaboration on compliance issues (*e.g.*, cultural resources, endangered species, sacred sites) and to minimize disruption of planned events, operations, or land management activities.
4. Expenses associated with State, Indian tribal, and federal coordination, such as Indian tribal cultural monitoring, may be charged to administrative costs, or, when concerning particular activities, directly to those activities.

**F. Work funded by Matching Grants may be subject to the Davis-Bacon Act**

1. Laborers and mechanics employed by the applicant State, subrecipients, contractors or subcontractors in the performance of construction, alteration, or repair work in excess of \$2 thousand funded directly by or assisted in whole or in part by funds made available under Matching Grants shall be paid wages at rates not less than those prevailing on similar activities in the locality, as determined by the Secretary of Labor in accordance with 40 U.S.C. § 3141 *et seq.*, which is commonly referred to as the Davis-Bacon Act (DBA).
2. Each State shall provide written assurance acknowledging the DBA requirements and confirming that all laborers and mechanics performing construction, alteration, or repair work in excess of \$2 thousand funded directly by or assisted in whole or in part by and through funding under the award are paid or will be paid wages at rates not less than those prevailing on activities of a character similar in the locality as determined by the Secretary of Labor in accordance with the DBA. Such acknowledgment is included in the accompanying Matching Grant Certification to serve as written assurance by the State applicant.
3. Recipients of grant funding are required to undergo DBA compliance training, and to maintain competency in DBA compliance. The

Department of Labor offers free Prevailing Wage Seminars several times a year that meet this requirement.

**G. State responsibilities regarding subrecipients and contractors**

State grant recipients passing federal funds through to subrecipients and contractors are responsible for ensuring their subrecipients and contractors are aware of and comply with applicable award statutes, regulations, and agency requirements. Recipients must review their official award document for additional administrative and programmatic requirements. Recipient and subrecipient failure to comply with the general terms and conditions outlined below and those directly reflected on the official financial assistance award document can result in the DOI taking one or more of “Remedies for Noncompliance,” described in 2 C.F.R. §§ 200.339-343.

**H. Terms and conditions of Matching Grants**

1. DOI Standard Award Terms and Conditions will be included in all awarded Matching Grants. These standard terms and conditions can be found at: Standard Award Terms and Conditions. Each State’s grant, and the activities performed thereunder, are subject to DOI Standard Award Terms and Conditions.
2. Under 2 C.F.R. § 200.329(f), the federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability, surveillance, and monitoring. A State shall provide the federal awarding agency access to relevant documentation, facilities, and work sites in, to the extent allowable under State law and authorities.
3. DOI’s Freedom of Information Act Office provides guidelines to requestors of grant applications around what information may be redacted from applications. This information includes patent rights, confidential financial information, personally identifiable information, and detailed budget, consultant, and business assets information. 2 C.F.R. § 200.338 places limitations on public access to award-related documents.
4. Unmanned Aircraft Systems Drones: Pursuant to the Secretary of the Interior Order No. 3379, only specific models of unmanned aircraft that have capabilities that are considered trusted and secure by the Department of Defense are authorized for use of federal funds under this award. A list of approved unmanned aircraft and technology packages may be found at <https://www.diu.mil/blue-uas>. Any equipment purchases related to unmanned aircraft or technology-related items to support the use of unmanned aircraft, such as software, must be approved in advance and comport with Order No. 3379. Further, employee or contractor time to fly unmanned aircraft that does not meet this requirement is not an allowable expense under this award.



5. Any grant funding for the purchase or use of UAS for operations must have in place policies and procedures to safeguard individuals' privacy, civil rights, and civil liberties prior to expending such funds. The term "unmanned aircraft systems" encompasses unmanned aerial systems, drones, and similar technology, including component parts, remotely controlled and subject to Federal Aviation Administration regulations. It covers activities conducted in furtherance of DOI's mission, using DOI funds, or for purposes identified in a cooperative agreement, contract, grant, or other agreement between the Department of Defense and another party. Designated components of UAS include and are not limited to hardware and software components necessary for collecting, storing, and transmitting data or similar information.

**Appendix A**

The following certifications must be included, verbatim, in a State's Matching Grant application.

As part of this Matching Grant application, the State or Commonwealth of \_\_\_\_\_ (State) certifies:

1. Any financial assurance or surety instruments available to the State to cover plugging, remediation, or reclamation costs will be used by the State for plugging, remediation, or reclamation.<sup>9</sup>
2. The grant funds the State applies for are subject to the Davis-Bacon Act, 40 U.S.C. § 3141 *et seq.* The State confirms all laborers and mechanics performing construction, alteration, or repair work in excess of \$2 thousand, funded directly by or assisted in whole or in part, by funding under the award, are paid or will be paid wages at rates not less than those prevailing on activities of a character similar in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.
3. On its own accord and without a request from the United States, the State shall pay back to the United States a positive dollar amount equal to the difference between: 1) The Matching Grant amount the State was awarded, pursuant to this grant application, adjusted for true up; and 2) The amount the State did not timely obligate.

Generally, if the total actual State expenditures in the State fiscal year that is the subject of the Certified Amount (CA Year) is less than the Certified Amount in a State's Matching Grant application, the State will inform DOI and pay back the associated Matching Grant funds within 90 days of end of the CA Year. However, the State is not required to pay back funds if the difference is the less than the greater of either: 1) \$100,000; or 2) 10 percent of the application's Certified Amount.

If the United States determines a State obligated and spent awarded Matching Grant funds in violation of the Infrastructure Investment and Jobs Act, other federal law and authorities, or the grant's terms and conditions, the State must pay back to the United States the corresponding amount.

The State acknowledges DOI, at its sole discretion, may use a federal or non-federal third party to audit, review, or investigate records associated with any Matching Grant that the State is awarded.

4. It is the State's duty, not that of the United States, to substantiate all representations the State made in this grant application. This includes all expenditures included in the Work Plan/Proposal for Matching Grant Funds, Average 2010-2019 Amount, and Certified Amount.

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<sup>9</sup> Available financial assurance instruments are not required to be forfeit before the State performs the work, and financial assurance instruments collected by the State may be used to plug, remediate, or reclaim orphaned wells other than the wells for which the financial assurance instrument was originally intended.

The State shall establish and maintain records as may be required to demonstrate compliance with Section 40601, other federal law and authorities, and the terms and conditions of the grant. This includes but is not limited to obtaining and maintaining records originated by the State's subcontractors or grant award subrecipients.

Records related to or associated with the Matching Grant a State applies for here shall be maintained in a manner consistent with federal authorities, such as 2 C.F.R. §§ 200.334-338.

At the request of any federal officer or employee, the State shall make available to DOI, or its agents, for inspection and duplication, all records associated with the Matching Grant.

5. Nothing in this certification shall be construed to reduce a State's responsibilities, under the 2 C.F.R. part 200, as amended, other federal law and authorities and policies, and the terms and conditions of the grant.

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Grant Applicant's Signature	Individual's Name and Title	Date
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United States's Signature	Individual's Name and Title	Date
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## Appendix B

### **Buy America Preference for Department of the Interior Grants**

#### **I. Buy America Domestic Procurement Preference**

Under Section 70914 of the BIL, none of the funds under a federal award that are part of federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products under this program.

Recipients of an award of federal financial assistance are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

- All iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- All manufactured products used in the project are produced in the United States. This means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
- All construction materials are manufactured in the United States. This means all manufacturing processes for construction material occurred in the United States.

The Buy America Preference applies to articles, materials, and supplies consumed in, incorporated into, or affixed to an infrastructure project. It does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. It also does not apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

See <https://www.doi.gov/grants/BuyAmerica> for further information. Additional information can also be found at <https://www.whitehouse.gov/omb/management/made-in-america/>.

#### **II. Waivers**

A State may apply for a waiver from the Buy America Preference requirements. DOI may waive the requirements in the following circumstances:

- Non-availability Waiver: The types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality;
- Unreasonable Cost Waiver: The inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent; or
- Public Interest Waiver: Applying the domestic content procurement preference would be inconsistent with the public interest.

There may be instances where a State qualifies, in whole or in part, for an existing DOI general applicability waiver (<https://www.doi.gov/grants/BuyAmerica/GeneralApplicabilityWaivers>).

If the specific financial assistance agreement, infrastructure project, or non-domestic materials meets the criteria of an existing general applicability waiver within the limitations defined within the waiver, the recipient is not required to request a separate waiver for non-domestic materials.

If a general applicability waiver does not already apply, and a recipient believes one of the above circumstances applies, a request to waive the application of the domestic content procurement preference may be submitted to the financial assistance officer in writing. Waiver requests shall include the below information. The waiver shall not include any Privacy Act information, sensitive data, or proprietary information within their waiver request. Waiver requests will be posted to <https://www.doi.gov/grants/buyamerica> and are subject to public comment periods of no less than fifteen (15) days. Waiver requests will also be reviewed by the OMB Made in America Office.

- Type of waiver requested (non-availability, unreasonable cost, or public interest).
- Requesting entity and Unique Entity Identifier (UEI) submitting the request.
- Department of Interior Bureau or Office who issued the award.
- Federal financial assistance listing name and no. (reference block 2 on DOI Notice of Award)
- Financial assistance title of project (reference block 8 on DOI Notice of Award).
- Federal Award Identification No. (FAIN).
- Federal funding amount (reference block 11.m on DOI Notice of Award).
- Total cost of Infrastructure expenditures (includes federal and non-federal funds to the extent known).
- Infrastructure project description(s) and location(s) (to the extent known).

- List of iron or steel item(s), manufactured goods, and construction material(s) the recipient seeks to waive from Buy America requirements. Include the name, cost, countries of origin (if known), and relevant PSC or NAICS code for each.
- A certification the recipient made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with the prime contractor.
- A statement of waiver justification, including a description of efforts made (*e.g.*, market research, industry outreach) by the recipient, in an attempt to avoid the need for a waiver. Such a justification may cite, if applicable, the absence of any Buy America-compliant bids received in response to a solicitation.
- Anticipated impact if no waiver is issued.

Approved waivers will be posted at <https://www.doi.gov/grants/BuyAmerica/ApprovedWaivers>. Recipients requesting a waiver will be notified of their waiver request determination by a financial assistance officer. Questions pertaining to waivers should be directed to the financial assistance officer.

### **III. Definitions**

“Construction materials” includes an article, material, or supply that is or consists primarily of: non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber; or drywall.

“Construction Materials” does not include cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

“Domestic content procurement preference” means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

“Infrastructure” includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

“Project” means the construction, alteration, maintenance, or repair of infrastructure in the United States, for the purposes of this Exhibit.

## Appendix C

This Appendix is intended to provide awareness of standard grants management requirements that are generally part of applying for a federal award.

- **Unique Entity Identifier and System for Award Management (SAM)**

Before submitting an application, a State must be registered in SAM.gov and have a Unique Entity Identifier (UEI), which replaced the Data Universal Numbering System No. (DUNS) from Dun & Bradstreet. Registration is through the SAM.gov website, which has user guides and other information to assist each State with registration under the “Help” tab if it is not already registered. The Grants.gov “Register with SAM” page also provides detailed instructions, and a State may contact the supporting Federal Service Desk for help as needed. A federal award may not be made to a State that has not completed the SAM.gov registration. Federal award recipients must renew and validate their SAM registration at least once every 12 months to maintain an active SAM.gov registration with current information through the life of their federal award(s).

A State registered with SAM needs to login to get their UEI. SAM generates it automatically.

- **Conflict of Interest Disclosure**

Under Financial Assistance Interior Regulation (FAIR), 2 C.F.R. § 1402.112, a State in its application must state any actual or potential conflict-of-interests existing at the time of submission.

- Applicability

- This section intends to ensure non-federal entities and their employees take appropriate steps to avoid conflicts of interest in their responsibilities under or with respect to federal financial assistance agreements.
- In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict-of-interest provisions in 2 C.F.R. § 200.318 apply.

- Notification

- Non-federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to DOI awarding agency or pass-through entity in accordance with 2 C.F.R. § 200.112.
- Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or

eliminate identified conflicts of interest. The recipient is responsible for notifying the financial assistance officer in writing of any conflicts of interest that may arise during the life of the award, including those that have been reported by subrecipients.

- Restrictions on lobbying. Non-federal entities are strictly prohibited from using funds under a grant or cooperative agreement for lobbying activities and must provide the required certifications and disclosures pursuant to 43 C.F.R. part 18 and 31 U.S.C. § 1352.
- Review procedures. The financial assistance officer will examine each conflict-of-interest disclosure on the basis of its particular facts and the nature of the proposed grant or cooperative agreement and will determine whether a significant potential conflict exists and, if it does, develop an appropriate means for resolving it.
- Enforcement. Failure to resolve conflicts of interest in a manner that satisfies the government may be cause for termination of the award. Failure to make required disclosures may result in any of the remedies described in 2 C.F.R. § 200.339, Remedies for Noncompliance, including suspension or debarment (*see also* 2 C.F.R. part 180).

- **Single Audit Reporting Statement**

All non-federal entities expending \$750 thousand or more in federal award funds in the applicant's fiscal year must submit a Single Audit report for that year through the Federal Audit Clearinghouse's Internet Data Entry System. States must state if your organization was or was not required to submit a Single Audit report for the most recently closed fiscal year in your application. If your organization was required to submit a Single Audit report for the most recently closed fiscal year, provide the EIN (Tax ID) associated with that report and state if it is available through the Federal Audit Clearinghouse website.

- **Certification Regarding Lobbying and Disclosure Requirements**

Applicants requesting more than \$100 thousand in federal funding must certify to the statements in 43 C.F.R. part 18, Appendix A-Certification Regarding Lobbying. If this application requests more than \$100 thousand in federal funds, the Authorized Official's signature on the appropriate SF-424, Application for Federal Assistance Form also represents the entity's certification of the statements in 43 C.F.R. part 18, Appendix A.

Applicants and recipients must not use any federally appropriated funds (annually appropriated or continuing appropriations) or matching funds under a federal award to pay any person for lobbying in connection with the award. Lobbying is influencing or attempting to influence an officer or employee of a federal agency, a Member of Congress, an officer or employee of the Congress, or an employee of



a Member of the Congress in connection with the award. Applicants and recipients must complete and submit the SF-LLL, “Disclosure of Lobbying Activities” form, and the accompanying “Certification Regarding Lobbying” form, if the federal share of the proposal or award is more than \$100 thousand and the applicant or recipient has made or has agreed to make any payment using non-appropriated funds for lobbying in connection with the application or award. The SF-LLL is available with this Funding Opportunity on Grants.gov. See 43 C.F.R. subpart 18.100 for more information on when additional submission of this form is required.

- **Data Availability**

Per FAIR: 2 C.F.R. § 1402.315

- All data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, valuation products or other scientific assessments in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual, resulting from a financial assistance agreement is available for use by DOI, including being available in a manner that is sufficient for independent verification.
- The federal Government has the right to:
  - Obtain, reproduce, publish, or otherwise use the data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, or other scientific assessments, produced under a federal award; and
  - Authorize others to receive, reproduce, publish, or otherwise use data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, or other assessments, for federal purposes, including to allow for meaningful third-party evaluation.

- **Agency Review Process**

The awarding agency conducts a review of the SAM.gov Exclusions Database for all applicant entities and their key personnel prior to award. The awarding agency cannot award funds to entities, or their key personnel identified in the SAM.gov, Exclusions Database that are ineligible, prohibited/restricted, or otherwise excluded from receiving federal contracts, certain subcontracts, and certain federal assistance and benefits, as their ineligibility condition applies to this federal program.

Prior to award, the awarding agency will evaluate the risk posed by applicants as required in 2 C.F.R. § 200.205. The awarding agency documents applicant risk evaluations using DOI’s “Financial Assistance Recipient Risk Assessment” form. Prior to approving awards for federal funding in excess of the simplified acquisition threshold (currently \$250 thousand), the awarding agency is required

to review and consider any information about or from the applicant found in the federal Awardee Performance and Integrity Information System. The awarding agency will consider this information when completing the risk review. The awarding agency uses the results of the risk evaluation to establish monitoring plans, recipient reporting frequency requirements, and to determine if one or more specific award conditions in 2 C.F.R. § 200.207 should be applied to the award.

- **Additional Reporting Requirements**

- **Conflict-of-Interest Disclosures.** Recipients must notify the program immediately in writing of any conflict of interest that arises during the life of their federal award, including those reported to them by any subrecipient under the award. Recipients must notify the program in writing if any employees, including subrecipient and contractor personnel, are related to, married to, or have a close personal relationship with any federal employee in the federal funding program or who otherwise may have been involved in the review and selection of the award. The term employee means any individual engaged in the performance of work pursuant to the federal award. Recipients may not have a former federal employee as a key official, or in any other substantial role related to their award, whose participation put them out of compliance with the legal authorities addressing post-Government employment restrictions. *See* the Office of Government Ethics website for more information on these restrictions. The awarding agency will examine each conflict-of-interest disclosure based on its particular facts and the nature of the activities and will determine if a significant potential conflict exists. If it does, the awarding agency will work with the recipient to determine an appropriate resolution. Failure to disclose and resolve conflicts of interest in a manner that satisfies the awarding agency may result in any of the remedies described in 2 C.F.R. § 200.339 Remedies for Noncompliance, including termination of the award.
- **Other Mandatory Disclosures.** Applicants must disclose, in a timely manner, in writing, to the federal awarding agency or pass-through entity, all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting a federal award. Non-federal entities that receive a federal award including the terms and conditions outlined in 2 C.F.R. § 200, Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters are required to report certain civil, criminal, or administrative proceedings to SAM. Failure to make required disclosures can result in remedies described in 2 C.F.R. § 200.339 Remedies for Noncompliance, including suspension or debarment.
- **Reporting Matters Related to Recipient Integrity and Performance.** If the total value of a State’s currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10 million for any period of time during the period of performance of this

federal award, then it, as the recipient during that period of time, must maintain the currency of information reported to the SAM that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information FAPIIS System ()) about civil, criminal, or administrative proceedings in accordance with Appendix XII to 2 C.F.R. part 200.