



Tribal Grants under Section 106 of the Clean Water Act

Section 106 of the Clean Water Act (CWA) authorizes EPA to provide financial assistance to states and eligible interstate agencies to establish and administer programs for the prevention, reduction, and elimination of water pollution. In 1987, Congress amended section 518(e) of the CWA to include provisions that allow EPA to treat an Indian tribe in a manner similar to a state (i.e., treatment in a manner similar to a state, or TAS) for the purpose of providing Section 106 funding.

What is EPA's tribal Section 106 program?

Federally recognized tribal lands cover over 110,000 square miles of the United States. Unlike a single state these lands are held by more than 566 distinct Indian tribes, each with a unique set of water resources used for recreation, transportation, fishing, aquaculture, drinking water, ceremonial purposes, and more. Each tribe faces a unique set of challenges in protecting these resources. Together, Indian tribes are responsible for protecting and restoring tens of thousands of square miles of rivers, streams, and lakes, as well as ground water. Tribes across the country are using Section 106 grants to identify and proactively address water quality priorities and concerns.

Since 1987, EPA has provided technical assistance and funding under the Section 106 program to assist tribes and intertribal consortia to understand, assess, and preserve water resources on their lands. For tribes, Section 106 grants are a crucial, dedicated source of funds for developing, maintaining, and expanding water quality programs. These programs are designed to control, prevent, and eliminate water pollution as well as to educate tribal members and the general public.

For additional information on EPA's tribal Section 106 Program, including highlights of tribal program activities, see:

- [Tribal Water Quality Programs: Using Clean Water Act Section 106 Funding to Protect Water Resources, 2009 Status Report](#)
- [Tribal Program Basics \(Recorded Webcasts\)](#)

Which tribes are eligible to receive section 106 grants?

Federally recognized tribes are eligible for Section 106 funding if they (or each member of their intertribal consortium) meet the requirements for TAS under the CWA.

To be eligible, a tribe must meet the following requirements:

- Be federally recognized by the Secretary of the Interior.
- Have a governing body carrying out substantial governmental duties and powers.
- Have legal authority and jurisdiction over tribal lands.
- Have the capability to carry out functions to be exercised in a manner consistent with the terms and purposes of the CWA and all applicable regulations.
- Submit an application to EPA and obtain TAS approval for the Section 106 grant program.

Of the 566 federally recognized tribes, approximately 330 meet the five requirements (outlined above) for TAS. Tribes interested in developing pollution prevention programs using Section 106 funds should [contact their EPA regional office for information on how to apply for TAS](#). Since 1987, the annual Section 106 tribal set-aside has grown from less than \$1 million to more than \$25 million. About 75 percent of these tribes have applied for and received TAS to receive Section 106 grants.

What is an intertribal consortium?

An intertribal consortium is a partnership between two or more tribes authorized by the governing bodies of those tribes to apply for and receive assistance for CWA programs. All members of the consortium must have received TAS for the consortia to be eligible to receive Section 106 funding.

How can tribes use their Section 106 funds?

In general, each tribe identifies the activities and actions necessary to create and sustain a program that best meets their water quality needs. Over the years, tribes have used Section 106 funds for activities such as:

- Developing and implementing comprehensive water quality monitoring programs.
- Hiring program staff and purchasing equipment and supplies.
- Conducting and reporting on water quality assessments.
- Developing and implementing water quality ordinances and tribal and EPA-approved water quality standards and gaining TAS under CWA section 303(c) and section 401.
- Developing water quality and geographic information system databases to track changes in water quality and ensure consistency in data management.
- Attending trainings, workshops, and other events to build and share technical knowledge.
- Conducting training and educational outreach to tribal members.
- Identifying nonpoint sources of pollution.
- Developing nonpoint source assessment reports and management plans.
- Gaining TAS for CWA section 319 (nonpoint source) funding.

- Determining the effectiveness of nonpoint source projects or best management practices.
- Implementing wetlands protection programs.
- Coordinating water quality protection activities with state and federal agencies and community organizations.
- Developing Wetland Program Plans.

Section 106 funds cannot be used for construction, operation, or maintenance of waste treatment plants, or for costs financed by other federal grants.

Is there guidance for the tribal Section 106 program?

EPA has developed specific guidance (for fiscal years 2007 and beyond) for tribal Section 106 grant programs to assist water quality program managers, staff, and other tribal environmental decision makers in designing and implementing effective, successful water quality programs. EPA also establishes procedures and guidelines for EPA regional offices to award and administer Section 106 grants to federally recognized tribes under section 106 of the CWA.

- [Final Guidance on Awards of Grants to Indian Tribes under Section 106 of the Clean Water Act](#)

This guidance also establishes reporting requirements and data expectations for tribes receiving Section 106 funds, which helps tribes collect critical, uniform data needed for effective program management and helps EPA understand the environmental results of the tribal Section 106 program. To clarify the reporting requirements in the guidance and help tribes in completing required reports, EPA developed three supplemental documents:

- Developing a Tribal Monitoring Strategy - Supplement to Section 106 tribal guidance. This document is currently under review.
- Data Assessment and Reporting - Supplement to Section 106 tribal guidance. This document is currently under review.
- Data Management - Supplement to Section 106 tribal guidance. This document is currently under review.

EPA is in the process of updating the Final Guidance on Awards of Grants to Indian Tribes under Section 106 of the Clean Water Act.

- [Learn more about the revision process.](#)

How are tribal Section 106 funds allocated?

The available funds are allocated, by formula, among the nine EPA Regions that have federally recognized tribes. (Region 3, which covers mid-Atlantic states, does not have any federally

recognized tribes with TAS for Section 106.) For each Region, the formula calculates both a base allotment and a variable allotment:

- Base Allotment – Provides the Region with \$65,167 per TAS-eligible tribe in the Region.
- Variable Allotment – Provides the Region with a portion of the allotment based on three characteristics of federally recognized tribes in the Region:
 - Land area,
 - Population, and
 - Surface water area.

EPA's regional offices are responsible for managing the funds. Eligible tribes, or intertribal consortia, apply to the regional office for grants and submit the necessary application materials. Application materials include a detailed work plan and budget outlining activities the tribe will undertake to manage their water resources. The regional offices rely on these work plans when determining funding amounts for each tribe.

Are tribes required to provide matching funds?

On April 5, 2022, the Section 106 Program received a Class Exception that waives the tribal program match requirement for new grants and supplemental awards made after April 5, 2022. Therefore, tribes are no longer required to provide the 5% match specified at 40 CFR 35.585. Tribal Programs may wish to provide a voluntary match.

- [Class Exception from 40 CFR 35.585 \(Tribal Match\) \(pdf\)](#) (233.12 KB)