



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

ORPHANED WELLS PROGRAM OFFICE

BIPARTISAN INFRASTRUCTURE LAW SECTION 40601

PHASE 2 STATE FORMULA GRANT GUIDANCE – AUGUST 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.¹ Subsection (d) creates a grant program for Tribes, and subsection (c) creates 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))

Secretary Haaland issued Secretary's Order No. 3409, establishing 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. On July 10, 2023, DOI released Phase 1 Formula Grant guidance and States had through December 31, 2023, to submit Phase 1 applications.

This document sets forth the application process for States to receive Phase 2 Formula Grants and provides requirements for carrying out activities under the State Formula Grants authorized by Sec. 40601(c)(4) of the BIL. Formula Grant funding is based on the Notice of Intent data provided by the States in December 2021 and the formula established by the Secretary.

In Phase 1, States were permitted to apply for a grant of up to \$25 million or for a grant of up to 25% of the State's total formula eligibility, whichever of the two was greater, without exceeding

¹ Section 40601 amends Section 349 of the Energy Policy Act of 2005, but for simplicity all references to the amended Section 349 will be written as components of Section 40601 of the BIL in this document.

the State's total formula eligibility. In a change from Phase 1, Phase 2 allows States to apply for a grant of up to \$35 million *or* 50% of the State's total remaining eligible formula grant amount, whichever of the two is greater. This means that States that have \$35 million or less in remaining Formula Grant funding eligibility *after* Phase 1 are permitted to apply for all their remaining funds during Phase 2. States eligible to receive more than \$35 million in total Formula Grant funds may apply for their remaining Formula Grant funds in subsequent phases (*e.g.*, Phase 3 and Phase 4). Attachment B shows how much each State is eligible to receive in total Formula Grants and in Phase 2 grants. DOI will continue to offer States maximum flexibility by providing up to six annual application windows (5 currently remain, including Phase 2). A State need not apply for a Formula Grant during each application window and States may submit additional Formula Grant applications in future phases until the State has been awarded the entire amount it is eligible to receive, subject to the expiration of available funds.

For additional information on State Formula Grants, including phasing, please see the Frequently Asked Questions and Answers documents released by the Orphaned Wells Program Office.²

This document indicates the information that is **required** to be included in an application for a Phase 2 Formula Grant and for expenditure of the grant funding. States are required to apply these practices to meet the requirements of Sec. 40601(c)(4), to promote consistent standards for well plugging and reclamation activities and facilitate the proper tracking of the program's benefits.

II. DEFINITIONS

This section contains a list of definitions relevant to Formula 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 200.³

"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 Sec. 40601(c)(2)(B)(i) and 40601(c)(4)(B)(ii)(V), limited to not more than 10 percent of the funds received, are those costs that cannot be directly attributed to activities listed under Sec. 40601(c)(2)(A), i through 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.

² See Orphaned Wells Program Office, State Formula Grants; <https://www.doi.gov/formula-grants>.

³ This guidance refers to laws and authorities that are effective October 1, 2024. Effective October 1, 2024, changes to relevant authorities, such as 2 C.F.R. part 200, go into effect. See Guidance for Federal Financial Assistance, 89 Fed. Reg. 30,046-30,208 (Apr. 22, 2024).

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 Formula 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 Formula Grant is the date of receipt of the funds.

“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 Formula Grant award, and may or may not be the same date as the award date. A Formula Grant’s effective date is determined by a financial assistance officer, in consultation with the receiving State. The effective date is the date the Formula 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 Justice Screening Tool (CEJST), that is at or above the threshold for one or more environmental, climate, or other burdens, and is at or above the threshold for an associated socioeconomic burden; or is a Federally Recognized Tribe.⁴

“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.

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

“Federal wells” – Orphaned wells and well sites on Federal land are considered “Federal wells” and are eligible for funding under the Sec. 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 Sec. 40601(b) Federal Program, regardless of surface ownership. A State may use grant funds received under Sec. 40601 to plug

⁴ The CEJST can be found here: <https://screeningtool.geoplatform.gov>. For additional information, see M-23-09, *Addendum to the Interim Implementation Guidance for the Justice40 Initiative*, M-21-28, *on using the Climate and Economic Justice Screening Tool* (Jan. 2023), https://www.whitehouse.gov/wp-content/uploads/2023/01/M-23-09_Signed_CEQ_CPO.pdf.

and remediate Federal wells located on State or private land, with Federal subsurface, 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.

“Indian Tribe” or “Tribe” mean 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.

“Justice40 Initiative” – Established by Executive Order 14008 on *Tackling the Climate Crisis at Home and Abroad*, the Justice40 Initiative sets a goal that 40% of the overall benefits of certain federal investments in climate, clean energy, remediation and reduction of legacy pollution, and other areas flow to disadvantaged communities that are overburdened by pollution and marginalized by underinvestment. This program is covered under the Justice40 Initiative.

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.

“Obligated amount” means any Formula 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 Formula Grant, an orphaned well means a well that is eligible for plugging, remediation, and reclamation by the State applying for the Formula 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 amounts” - For purposes of determining the amount of reimbursement required under Sec. 40601(c)(4)(D), “unobligated amounts” covers any funding that is not subject to a definite commitment that creates a legal liability of the State for an immediate or future payment for goods or services ordered or received, including by contract or sub-contract award.⁵

III. PERMISSIBLE USES OF AWARDED FORMULA GRANT FUNDS AND RELATED ELEMENTS

Under Section 40601(c)(2)(A), a State may use awarded Formula 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 Formula 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; 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 Formula Grant funds may be used for administrative costs.*

⁵ See Government Accountability Office definitions at: <https://www.gao.gov/assets/gao-05-734sp.pdf>.

Formula Grant funds 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,’ for purposes of compliance with this guidance. To the extent formula Grant funds are used in the split estate context, the State must coordinate with the Orphaned Wells Program Office and the appropriate Federal agency, and/or Indian Tribe, as applicable.

Section 40601(c)(4) allows States to apply for a Formula Grant up to the State’s eligible amount as determined by DOI in accordance with Section 40601(c)(4)(A) and published by DOI in Attachment B.

Section 40601(c)(4)(D) - Unobligated Funds: A State that receives funds under the Formula Grant authority shall reimburse the Secretary in an amount equal to the amount of funds that remain unobligated on the date that is **five years** after the “date of receipt of the funds”. In other words, all funds must be obligated within five years of the effective date of award, otherwise unobligated funds shall be reimbursed to the Secretary.

States may use funds from their Formula Grants to display signage at orphaned well plugging and remediation sites during any or all of a project’s activity. This should increase the transparency of projects funded in whole or in part by the BIL and to make visible to the public the effectiveness of Federal and State Government efforts to rebuild our Nation’s infrastructure, including tackling legacy pollution. Costs to procure, distribute, and install signage are considered administrative costs. If a State displays signs at orphaned well sites, they shall meet the specific design requirements of the Investing in America Signage Guidelines.⁶

In applying for Formula Grants, and obligating and spending awarded Formula 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. FORMULA GRANT APPLICATIONS

A. *Application Timing*

- i. States may apply for Phase 2 Formula Grants in any amount up to but not exceeding each State’s Phase 2 eligible amount identified in Attachment B upon release of this guidance until December 13, 2024, no later than 4:00 PM MT. States are encouraged to submit applications as expeditiously as possible.
- ii. Applications must be submitted via GrantSolutions.gov at the following link:
<https://home.grantsolutions.gov/home/>

⁶ Investing in America Signage Guidelines: <https://www.whitehouse.gov/wp-content/uploads/2023/02/Investing-in-America-Brand-Guide.pdf>.

- iii. Each submitted application will be promptly reviewed for completeness and a State will be notified of any deficiencies in their application, such as a failure to meet the requirements of the BIL, applicable Federal authorities, and this guidance. Failure to appropriately resolve such deficiencies within a reasonable timeframe may result in a determination, in the Secretary's discretion, that the application is incomplete. The Department will then cease processing the application and the State will be notified. In such a situation, the State may submit additional applications in future phases.

B. *Eligibility*

To be eligible for a Phase 2 Formula Grant, in addition to the requirements in Attachment D, a State must have submitted a Notice of Intent to Apply for Formula Grant Funding to DOI by December 31, 2021. The list of eligible States appears in Attachment B.

C. *Other Required Elements*

To be complete, the application must include sufficient details as described below to provide assurances regarding the ability of the state to properly carry out and oversee the activities to be funded. All Required Elements are Standard Forms or approved forms under OMB Control No. 1093-0012.

- i. **Federal Forms:** The following Federal forms with the latest versions are available at [GrantSolutions.gov](https://www.grantsolutions.gov) and must be submitted for a Formula Grant request for funding (the application) to be complete. Digital signatures are acceptable:
 - (a) **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.⁷
 - (b) **Budget Information (Form SF-424A)**
 - i. An SF-424A is a standard form that provides an estimate of the work's major budget categories (e.g., personnel, fringe benefits, travel, equipment, supplies, contractual, constructions, other costs, direct, and indirect charges), where the sum total of the budget justification equals the overall Formula Grant request. Within the form, establish a category for Administrative Costs and separate and track those from all other costs.

⁷ Forms must be signed by the authorized official. Instructions on how to complete SF-424 can be found at [GrantSolutions.gov](https://www.grantsolutions.gov).

- (c) **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 Formula Grant application.
 - (d) **Certification Regarding Lobbying.** *See* Appendix D, Certification Regarding Lobbying and Disclosure Requirements. A State may contact IBC if it has questions as to how to complete this form.
 - (e) **Key Contacts Form.** This includes the applying State’s point of contact (POC), for the purposes of its application. The POC is the individual DOI will contact to revolve any questions or concerns that it may have.
- ii. Detailed Budget Proposal/Justification: The budget must include a detailed narrative description of the budget categories and a clear delineation between project costs and administrative costs. This information supports and identifies the estimated costs provided in the SF-424A and includes an itemized budget breakdown with unit costs for the period of the Formula Grant funding and the costs of personnel salaries, fringe benefits, project staff travel, materials and supplies, equipment, and consultants and contracts, e.g., for well plugging, site remediation, and site reclamation. The budget must include planned obligations and estimated costs per FY. States are encouraged to use a DOI-approved template, which DOI anticipates will be provided in GrantSolutions.gov.
- iii. Federal Approved Indirect Cost Rate Agreement: A federally approved Indirect Cost Rate Agreement that requires the United States to pay an established rate to the State for indirect or incurred costs that are reasonable, allocable, and allowable.
- iv. 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.
- v. Work Plan/Proposal: A Work Plan: 1) explains the applicant State’s Formula Grant-funded activities in detail, including outcomes and data collection methods; 2) provides a basis for the State’s technical approach; and 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 Formula Grant Funds.* Similar to a Work Plan for Phase 1 State Formula Grants and State Matching Grants, a State shall submit an application that includes the following:

(a) a description of:

1. The State program for orphaned well plugging, remediation, and restoration, including legal authorities, data and 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:
 - a. The State's plugging standards, including the witnessing requirements (qualifications of witnesses, documentation).
 - b. 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).⁸
 - c. The State's authorities to enter private property, or a 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.
2. 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.⁹
3. The details of each activity to be carried out with the grant, including a preliminary work schedule covering the period of

⁸ Resulting salvage income will be additive to the grant and must be incorporated into the grant budget and approved by DOI.

⁹ The [Climate and Economic Justice Screening Tool](https://screeningtool.geoplatform.gov) should be used to identify disadvantaged communities. Available at <https://screeningtool.geoplatform.gov>.

performance of the Formula 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 project period.

4. Proposed performance goals including a schedule of milestones for completing the activities of (3) above and to achieve the objectives of the workplan.
 5. The means by which the information regarding the activities of the State under this grant will be made available on a public website.
 6. 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.
- (b) Estimates, which DOI acknowledges is a snapshot in time and subject to change as circumstances on the ground dictate, of:
1. The number of orphaned wells or sites, categorized by region, county, parish, or other applicable political subdivision in the State, that the State forecasts may be plugged, remediated, or reclaimed using Phase 2 Formula Grant funds.
 2. The projected cost, including the basis of estimates, of:
 - a. plugging, remediating, or reclaiming orphaned wells.
 - b. remediating or reclaiming adjacent land.
 - c. decommissioning or removing associated pipelines, facilities, and infrastructure.
 3. The amount of that 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.
 4. 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.
 5. To the extent possible, the miles and diameter(s) of associated pipelines and number and description of associated facilities and infrastructure assets that will be decommissioned or removed.

- (c) To the maximum extent practicable, the latitude/longitude, type of well, the well ID (API number), surface ownership, and mineral ownership for those wells that are likely to be plugged, remediated, or reclaimed with Formula Grant funds.
- (d) The definitions and processes used by the State to formally identify a well as:
 - a. An orphaned well; or
 - b. If the State uses different terminology, otherwise eligible for plugging, remediation, and reclamation by the State.
- (e) Details of how the State will identify and prioritize the highest methane emitters.
- (f) 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. 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 disadvantaged 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.^{10,11}
- (g) 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.
- (h) 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

¹⁰ The CEJST should be used to identify disadvantaged communities: <https://screeningtool.geoplatform.gov/>.

¹¹ Actions taken by states under paragraph (e), including attempting to prioritize the plugging of specific wells, may be considered program costs, and the state should work with the DOI during the application window and its period of performance to guarantee this outcome.

orphaned wells and associated infrastructure, including a description of how salvaged material and equipment will be reused, recycled, or sold for scrap (with any resulting income reported to DOI).

- (i) 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.
- (j) How the State will use funding to locate currently undocumented orphaned wells.
- (k) 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.
- (l) 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 local communities to be trained and placed in good-paying jobs directly related to the project, including through workforce development programs and incorporating workforce strategies into project development.
- (m) A description of:
 - 1. 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. A State should discuss any particular skills, abilities, fields of knowledge, or training requirements that the State believes to be in short supply in the well plugging workforce based on the State's engagement with contractors and that the State believes may hinder activities funded by its Phase 2 Formula Grant.
 - 2. 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.

3. Whether the State plans to bundle and aggregate projects into larger state-wide or regional contracts as part of their procurement processes.
 4. 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, project labor agreements, and community benefits agreements.
 5. 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.
- (n) 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.
- (o) 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 preliminary work schedule required in section IV.C.v.(a)3.
- (p) Details on the budgetary, work-plan, and work-schedule impacts of compliance with the Endangered Species Act and the National Historic Preservation Act as a part of the Formula Grant, including whether the State will bring on new subject matter experts, work with state government experts in different program areas, or establish contracts with outside vendors in order to ensure compliance with these laws.
- (q) If the State received financial assistance, under the Inflation Reduction Act of 2022 to mitigate methane emissions from marginal conventional wells, details on how the use of those funds may intersect and overlap with the State’s use of Phase 2 Formula Grant funds, including as it relates to overcoming workforce challenges.

D. Restrictions on the use of Formula Grant funds and instructions on funding

- i. Administrative costs. States may not use more than 10 percent of the funds received as authorized under Sec. 40601(c)(2)(B)(i) for administrative costs associated with activities listed in Section III. Administrative costs are defined in section II above.
- ii. Eligible Amounts. In Phase 2, States may apply for no more than the eligible amount determined by the formula as published by DOI in Attachment B.
- iii. Formula Grant funds are subject to Build America, Buy America. Under the Build America, Buy America Act, Part I—Buy America Sourcing Requirements, Section 70914 of the BIL, Formula 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.¹²
- iv. Prohibition on Generating Carbon Credits with Formula Grant Funds. States may not directly or indirectly use the reduced emissions from wells plugged with Formula Grant funds, in whole or in part, to monetize, generate, or collect carbon credits, or otherwise use the plugging of wells funded with Formula 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.
- v. Activities funded by Formula 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 Formula 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.
- vi. "Undertakings" funded by Formula 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 Formula 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.

E. Certifications

A State must submit the certification in Attachment A as part of its Formula Grant application. Digital signatures are acceptable.

V. STANDARDS FOR MEASUREMENT, PLUGGING, REMEDIATION, AND WORKFORCE

A. Pre- and Post-Plugging Measurement of Air and Water Pollution¹³

- i. 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.¹⁴
 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 contractors responsible for the plugging.

- ii. States will follow, as the minimum standard, the DOI methane emission guidelines (and subsequent revisions), including all recommendations

¹³ For information on the DOI's legal basis for requiring recipients of BIL grants to detect and, if identified, quantify the methane emissions at orphaned wells before plugging and verify the lack of gaseous emissions after plugging, see the FAQ document released by the OWPO in May 2024.

<https://www.doi.gov/sites/default/files/documents/2024-05/owpo-may-2024-formula-and-matching-grant-faqs.pdf>.

¹⁴ For additional guidance on when states are required to sample, measure, or track surface or groundwater contamination, see the FAQ document released in July 2023. <https://www.doi.gov/media/document/faqs-formula-grants-07-07-2023-pdf>.

therein.¹⁵ The technology and approaches for 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 Sec. 40601 of the BIL.

- iii. 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.

B. Well Plugging and Site Remediation Standards

- i. 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's Onshore Oil and Gas Order No. 2, for onshore wells; or, for offshore wells, 30 C.F.R. Part 250.
- ii. States will meet or exceed any well plugging witnessing and documentation requirements pursuant to State law and authorities.
- iii. 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>.
- iv. 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.

¹⁵ Assessing Methane Emissions from Orphaned Wells to Meet Reporting Requirements of the 2021 Infrastructure Investment and Jobs Act (BIL): Federal Program Guidelines. July 2023 Version. Available at: <https://doi.gov/sites/doi.gov/files/orphaned-wells-methane-measurement-guidelines-july-2023-version.pdf>.

C. Workforce Standards

- i. As a best practice and before establishing new contracts with Formula Grants, States are encouraged to reach out to and engage with organized labor representatives, vocational schools, training institutions, and workforce programs and agencies across the State to help broaden the pool of qualified and skilled workers participating in BIL-funded well plugging and site remediation projects. The goal of this engagement should be to inform workforce leaders in each State of the employment opportunities afforded by BIL orphaned well grants and hear from these organizations about ways to overcome potential challenges related to growing the well plugging and site remediation workforce.
- ii. For projects or aggregated projects in excess of \$1 million, States are encouraged to require contractors, consistent with State applicable law, to provide:
 - i. a certification that the project uses a unionized project workforce.
 - ii. a certification that the project includes a project labor agreement or a project workforce continuity plan that details all of the following:
 1. How the contractor ensured the project had ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality work throughout the life of the project, including a description of any required professional certifications and/or in-house training programs, and partnerships with unions, community colleges, or community-based groups.
 2. How the contractor minimized risks of labor disputes and disruptions that would have jeopardize the timeliness and cost-effectiveness of the project.
 3. 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).
 4. Whether workers on the project received wages and benefits that secured an appropriately skilled workforce in the context of the local or regional labor market.
 5. Whether the project had a Community Benefit Agreement, with a description of any such agreement.
 6. Whether the project prioritized local hires.

VI. REQUIREMENTS WITH RESPECT TO EQUIPMENT, INTANGIBLE PROPERTY, AND SUPPLIES

- A. Equipment. Equipment records shall be maintained accurately and shall include all of the following information:
- i. A description of the equipment;
 - ii. Manufacturer's serial number, model number, or other identification number;
 - iii. Source of the equipment including the award number;
 - iv. Whether title vests in the recipient or the federal government;
 - v. Acquisition date (or date received, if the equipment was furnished by the federal government) and cost;
 - vi. 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);
 - vii. Location and condition of the equipment and the date the information was reported;
 - viii. Unit acquisition cost; and
 - ix. Ultimate disposition data including date of disposal and sale price or, when a recipient compensates the DOI awarding agency for its share, the method used to determine current fair market value.
- B. Intangible Property. As specified in 2 C.F.R. § 200.315, "Intangible Property, title to intangible property, as defined in 2 C.F.R. § 200.1 "Intangible property", 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 the DOI awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property shall occur in accordance with agency procedure.
- C. Supplies. In accordance with 2 C.F.R. § 200.314, "Supplies", title to tangible property, as defined in 2 C.F.R. § 200.1 "Supplies", 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 the DOI awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property shall occur in accordance with agency procedure.

VII. FEDERAL AND TRIBAL COORDINATION

- A. 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 relevant offices of Tribal or Federal land management agencies using

GrantSolutions.gov. States may reach out to OWPO for a list of appropriate contacts for the relevant offices of Tribal and Federal land management agencies.

- B. When undertaking work on Federal land under a cost-sharing, Good Neighbor, or other arrangement with the Federal government, States 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 that States are collecting the proper data in a format that can most easily be transferred to the Federal government.
- C. When undertaking work on private or State land adjacent to Tribal or Federal land, States are encouraged to communicate with Federal agencies and 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.
- D. Expenses associated with State, Tribal, and Federal coordination, such as Tribal cultural monitoring, may be charged to a Formula Grant as administrative costs or, when concerning a particular project, as project direct costs.

VIII. 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 grant funds.

IX. STATE REPORTING REQUIREMENTS AND POST-AWARD OBLIGATIONS

A. *State Technical and Financial Reporting Requirements*

- i. Periodic status reporting is a condition of a Formula Grant award. **As such, periodic reporting to DOI will be required, the frequency of which will be based on DOI's determination pursuant to 2 C.F.R. § 200.206.** 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 Formula Grant funds to facilitate job creation 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.

- B. *Personal Property Report*: States are required to submit an annual Tangible Personal Property Report (using form SF-428) if grant funds are used to purchase equipment.
- C. *Significant Developments* (2 C.F.R. § 200.329): Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, the State must inform DOI as soon as the following types of conditions become known:
 - i. Problems, delays, or adverse conditions which will materially impair the 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.
 - ii. 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 anticipation.
 - iii. Consistent with 2 C.F.R. § 200.308 “Revisions of Budget and Program Plans”, changes in scope of effort, project leader, project partner must receive the prior written approval of the appropriate DOI official.
- D. *Final Financial and Performance Reports*: Consistent with 2 C.F.R. § 200.329, States must submit final financial and performance reports to the DOI within 120 days of the period of performance end date.

- i. For Final Technical Performance Reports: The narrative Final Performance Report must provide a detailed summary of all project goals and accomplishments for the entire period of performance of the grant.
- ii. Reports must be submitted by the deadline listed on the notice of award.
- iii. Requests for extensions to submit reports must be received in writing at least five business days prior to the deadline.
- iv. Must contain a comparison of actual accomplishments compared to the performance goals of the award.
- v. Must include additional relevant information regarding the project, 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.
- vi. Instructions on where to submit the Final Technical Performance Reports will be located in the Notice of Award.

E. Data Collection and Reporting

- i. In order to standardize reporting requirements and ensure that the 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.

OWPO intends to update the Data Reporting Template in the near future to facilitate simplified reporting for States that are the recipient of multiple DOI orphaned well grants. The OWPO will continue to engage with the Workgroup and, as appropriate, adjust this Template as lessons are learned.

- ii. States that apply for a Formula Grant should note that non-sensitive information regarding the activities under such grants are required to be posted on a public website under Sec. 40601(c)(4)(B)(i)(III).

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

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

- ii. 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 Formula 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).
- iii. 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 Formula Grant Certification to serve as written assurance by the State applicant.
- iv. 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

- i. 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.

X. DOI STANDARD AWARD TERMS AND CONDITIONS

- A. DOI Standard Award Terms and Conditions will be included in all Formula Grants, at the time of award. 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.
- B. Under 2 C.F.R. § 200.329, the Federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability and oversight. States shall provide Federal awarding agency access to relevant documentation in State possession and facilitate, to the extent allowable under State law, Federal awarding agency access to project sites.
- C. The DOI 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 (PII), and detailed budget, consultant, and business assets information. 2 C.F.R. § 200.338 places limitations on public access to award-related documents.
- D. Unmanned Aircraft Systems (UAS) 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.

Any grant funding for the purchase or use of Unmanned Aircraft Systems 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, that are remotely controlled and subject to Federal Aviation Administration regulations. It covers activities conducted in furtherance of the Department's mission, using Department funds, or for purposes identified in a cooperative agreement, contract, grant, or other agreement between the Department 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.

ATTACHMENT A

State Certification

Consistent with Sections 40601(c)(4)(A)(iii) and 40601(c)(4)(B)(iii) of the Infrastructure Investment and Jobs Act (also known as the Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that:

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;¹⁶ and
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. 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.

Certifying Official Name

Title

Certifying Official Signature

Date

United States’s Signature

Individual’s Name and Title

Date

¹⁶ 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 well(s) for which the financial assurance instrument was originally intended.

ATTACHMENT B**Total and Phase 2 State Formula Grant Eligibility¹⁷**

	State	Total Formula Grant Eligibility	Phase 1 Eligibility	Phase 1 Award (As of 8/14/2024)	Phase 2 Eligibility
1	Alabama	\$1,681,430	\$1,681,430	--	\$1,681,430
2	Alaska	\$28,336,497	\$25,000,000	\$25,000,000	\$3,336,497
3	Arizona	\$4,871,791	\$4,871,791	\$4,871,791	\$0
4	Arkansas	\$5,589,721	\$5,589,721	\$5,589,721	\$0
5	California	\$140,870,510	\$35,217,628	\$35,217,628	\$52,826,441
6	Colorado	\$54,064,506	\$25,000,000	\$25,000,000	\$29,064,506
7	Illinois	\$36,875,485	\$25,000,000	\$25,000,000	\$11,875,485
8	Indiana	\$14,076,668	\$14,076,668	\$14,076,668	\$0
9	Kansas	\$33,666,697	\$25,000,000	--	*\$8,666,697 or \$33,666,697
10	Kentucky	\$78,980,737	\$25,000,000	\$25,000,000	\$35,000,000
11	Louisiana	\$86,449,520	\$25,000,000	\$25,000,000	\$35,000,000
12	Michigan	\$5,873,295	\$5,873,295	\$5,873,295	\$0
13	Mississippi	\$6,830,345	\$6,830,345	\$6,830,345	\$0
14	Missouri	\$26,925,384	\$25,000,000	\$5,123,494	\$21,801,890
15	Montana	\$5,139,423	\$5,139,423	--	\$5,139,423
16	Nebraska	\$4,151,076	\$4,151,076	--	\$4,151,076
17	New Mexico	\$72,260,163	\$25,000,000	\$25,000,000	\$35,000,000
18	New York	\$44,672,162	\$25,000,000	\$25,000,000	\$19,672,162
19	North Dakota	\$55,266,234	\$25,000,000	\$25,000,000	\$30,266,234
20	Ohio	\$231,028,206	\$57,757,052	\$57,757,052	\$86,635,577
21	Oklahoma	\$205,226,972	\$51,306,743	--	*\$76,960,115 or \$102,613,486
22	Pennsylvania	\$305,625,896	\$76,406,474	--	*\$114,609,711 or \$152,812,948
23	Texas	\$318,695,029	\$79,673,757	\$79,673,757	\$119,510,636
24	Utah	\$5,229,389	\$5,229,389	--	\$5,229,389
25	West Virginia	\$116,932,226	\$29,233,057	\$29,233,057	\$43,849,585
26	Wyoming	\$40,680,639	\$25,000,000	--	\$35,000,000
	Total	\$1,930,000,000	\$658,037,849	\$444,246,808	**\$775,276,854 – \$864,133,462

-- indicates the state has not received a Phase 1 grant as of 8/14/2024.

* the amount a state receives in Phase 1 determines how much the state is eligible to apply for in Phase 2.

** the range of the total Formula grant funding available to states in Phase 2.

¹⁷ For a breakdown of state-reported projected well plugging and decommissioning costs, number of documented orphaned wells, and job losses, see Attachment B in the Phase 1 Formula Grant guidance released in July 2023. <https://www.doi.gov/media/document/state-formula-grant-guidance-07-07-2023-pdf>

ATTACHMENT C**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 from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for an infrastructure project unless:

- (1) 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;
- (2) 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 that meets or exceeds this standard has been established under applicable law or regulation for determining the minimum amount of domestic content of the manufactured product; and
- (3) All construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. The construction material standards are listed below.

Incorporation into an infrastructure project. The Buy America Preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, 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. Nor does a Buy America Preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

Categorization of articles, materials, and supplies. An article, material, or supply should only be classified into one of the following categories: (i) Iron or steel products; (ii) 15 Manufactured products; (iii) Construction materials; or (iv) Section 70917(c) materials. An article, material, or supply should not be considered to fall into multiple categories. In some cases, an article, material, or supply may not fall under any of the categories listed in this paragraph. The classification of an article, material, or supply as falling into one of the categories listed in this paragraph must be made based on its status at the time it is brought to the work site for incorporation into an infrastructure project. In general, the work site is the location of the infrastructure project at which the iron, steel, manufactured products, and construction materials will be incorporated.

Application of the Buy America Preference by category. An article, material, or supply incorporated into an infrastructure project must meet the Buy America Preference for only the single category in which it is classified.

Determining the cost of components for manufactured products. In determining whether the cost of components for manufactured products is greater than 55 percent of the total cost of all components, use the following instructions:

- (a) For components purchased by the manufacturer, the acquisition cost, including transportation costs to the place of incorporation into the manufactured product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
- (b) For components manufactured by the manufacturer, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (a), plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the manufactured product.

Construction material standards. The Buy America Preference applies to the following construction materials incorporated into infrastructure projects. Each construction material is followed by a standard for the material to be considered “produced in the United States.” Except as specifically provided, only a single standard should be applied to a single construction material.

- (1) Non-ferrous metals. All manufacturing processes, from initial smelting or melting through final shaping, coating, and assembly, occurred in the United States.
- (2) Plastic and polymer-based products. All manufacturing processes, from initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, occurred in the United States.

- (3) Glass. All manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the United States.
- (4) Fiber optic cable (including drop cable). All manufacturing processes, from the initial ribboning (if applicable), through buffering, fiber stranding and jacketing, occurred in the United States. All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others.
- (5) Optical fiber. All manufacturing processes, from the initial preform fabrication stage through the completion of the draw, occurred in the United States.
- (6) Lumber. All manufacturing processes, from initial debarking through treatment and planning, occurred in the United States.
- (7) Drywall. All manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, occurred in the United States.
- (8) Engineered wood. All manufacturing processes from the initial combination of constituent materials until the wood product is in its final form, occurred in the United States.

Waivers

When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. Information on the process for requesting a waiver from these requirements can be found at <https://www.doi.gov/grants/buyamerica>.

When DOI has determined that one of the following exceptions applies, the awarding official may waive the application of the Buy America Preference in any case in which the agency determines that:

- (1) applying the Buy America Preference would be inconsistent with the public interest;
- (2) 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; or
- (3) 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.

A request to waive the application of the Buy America Preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Office of Management and Budget (OMB) Made in America Office.

There may be instances where an award qualifies, in whole or in part, for an existing waiver described at the Approved DOI General Applicability Waivers website located at <https://www.doi.gov/grants/BuyAmerica/GeneralApplicabilityWaivers>.

Definitions

“Buy America Preference” means the “domestic content procurement preference” set forth in section 70914 of the Build America, Buy America Act, which requires the head of each Federal agency to ensure that none of the funds made available for a Federal award for an infrastructure project may be obligated unless all of the iron, steel, manufactured products, and construction materials incorporated into the project are produced in the United States.

“Construction materials” means articles, materials, or supplies that consist of only one of the items listed in paragraph (1) of this definition, except as provided in paragraph (2) of this definition. To the extent one of the items listed in paragraph (1) contains as inputs other items listed in paragraph (1), it is nonetheless a construction material.

- (1) The listed items are:
 - (i) Non-ferrous metals;
 - (ii) Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
 - (iii) Glass (including optic glass);
 - (iv) Fiber optic cable (including drop cable);
 - (v) Optical fiber;
 - (vi) Lumber;
 - (vii) Engineered wood; and
 - (viii) Drywall.
- (2) Minor additions of articles, materials, supplies, or binding agents to a construction material do not change the categorization of the construction material.

“Infrastructure” means public infrastructure projects in the United States, which includes, at a minimum, the structures, facilities, and equipment for 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; and structures, facilities, and equipment that generate, transport, and distribute energy including electric vehicle (EV) charging.

“Infrastructure project” means any activity related to the construction, alteration, maintenance, or repair of infrastructure in the United States regardless of whether infrastructure is the primary purpose of the project. *See also* paragraphs (c) and (d) of 2 C.F.R. § 184.4.

“Iron or steel products” means articles, materials, or supplies that consist wholly or predominantly of iron or steel or a combination of both.

“Manufactured products” means:

- (1) Articles, materials, or supplies that have been: (i) Processed into a specific form and shape; or (ii) Combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies.
- (2) If an item is classified as an iron or steel product, a construction material, or a Section 70917(c) material under 2 C.F.R. § 184.4(e) and the definitions set forth in 2 C.F.R. § 184.3, then it is not a manufactured product. However, an article, material, or supply classified as a manufactured product under 2 C.F.R. § 184.4(e) and paragraph (1) of this definition may include components that are construction materials, iron or steel products, or Section 70917(c) materials.

“Predominantly of iron or steel or a combination of both” means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components.

“Section 70917(c) materials” means cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives. *See* Section 70917(c) of the Build America, Buy America Act.

ATTACHMENT D

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

1. Unique Entity Identifier and System for Award Management (SAM)
2. Conflict of Interest Disclosure
3. Single Audit Reporting Statement
4. Certification Regarding Lobbying and Disclosure Requirements
5. Data Availability
6. Agency Review Process
7. Additional Reporting Requirements
 - (a) Conflict of Interest Disclosures
 - (b) Other Mandatory Disclosures
 - (c) Reporting Matters Related to Recipient Integrity and Performance

1. Unique Entity Identifier and System for Award Management (SAM)

Before submitting an application, applicants must be registered in SAM.gov and have a Unique Entity Identifier (UEI) which replaces the Data Universal Numbering System (DUNS) number from Dun & Bradstreet in April 2022. Registration is through the SAM.gov website, which has user guides and other information to assist you with registration under the “Help” tab if you are not already registered. The Grants.gov “Register with SAM” page also provides detailed instructions, and applicants can contact the supporting Federal Service Desk for help as needed. A Federal award may not be made to an applicant 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).

Applicants that are registered with SAM just need to login to get their UEI, SAM generates it automatically.

2. Conflict of Interest Disclosure

Per the Financial Assistance Interior Regulation (FAIR), 2 C.F.R. §1402.112, applicants must state in their application if any actual or potential conflict-of-interest exists at the time of submission.

(a) Applicability.

- (1) This section intends to ensure that 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.

(2) 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.

(b) Notification.

(1) Non-Federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to the DOI awarding agency or pass-through entity in accordance with 2 C.F.R. § 200.112.

(2) 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.

(c) 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 CFR part 18 and 31 U.S.C. 1352.

(d) 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.

(e) 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).

3. Single Audit Reporting Statement

All non-Federal entities expending \$750,000 USD 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. U.S. 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.

4. Certification Regarding Lobbying and Disclosure Requirements

Applicants requesting more than \$100,000 in Federal funding must certify to the statements in 43 CFR Part 18, Appendix A-Certification Regarding Lobbying. If this application requests more than \$100,000 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 CFR 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 any U.S. agency, a Member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a Member of the U.S. Congress in connection with the award. Applicants and recipients must complete and submit the SF-LLL, "Disclosure of Lobbying Activities" form if the Federal share of the proposal or award is more than \$100,000 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 form is available with this Funding Opportunity on Grants.gov. See 43 CFR, Subpart 18.100 for more information on when additional submission of this form is required.

5. Data Availability

Per the Financial Assistance Interior Regulation (FAIR): 2 C.F.R. § 1402.315

- (a) 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 the DOI, including being available in a manner that is sufficient for independent verification.
- (b) The Federal Government has the right to:
 - (1) 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
 - (2) Authorize others to receive, reproduce, publish, or otherwise use such data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, or other scientific assessments, for Federal purposes, including to allow for meaningful third-party evaluation.

6. Agency Review Process

The awarding agency conducts a review of the SAM.gov Exclusions database for all applicant entities and their key project personnel prior to award. The awarding agency cannot award funds

to entities or their key project personnel identified in the SAM.gov Exclusions database as 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. § 200.206. Prior to approving awards for Federal funding in excess of the simplified acquisition threshold (currently \$250,000), 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 of the specific award conditions in 2 C.F.R. § 200.208, which may include, but are not limited to, requiring pre-approval of reimbursement requests, periodic transaction testing, increased reporting frequency, requests for information, and other monitoring activities consistent with 2 C.F.R. §§ 200.329 and 339.

7. Additional Reporting Requirements

- (a) **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 project 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 U.S. 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 project 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.
- (b) **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 the Federal award. Non-Federal entities that receive a Federal award including the terms

and conditions outlined in 2 C.F.R. part 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 any of the remedies described in 2 C.F.R. § 200.339 Remedies for Noncompliance, including suspension or debarment.

- (c) Reporting Matters Related to Recipient Integrity and Performance. If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings in accordance with Appendix XII to 2 C.F.R. part 200.