

UNITED STATES DEPARTMENT OF THE INTERIOR

BIPARTISAN INFRASTRUCTURE LAW SEC. 40601 ORPHANED WELL PROGRAM

FY 2022 STATE INITIAL GRANT GUIDANCE

I. INTRODUCTION

President Biden signed 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 union jobs. 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.

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))

This document:

1. Sets forth the application process for states and provides requirements for carrying out activities under the Initial grants authorized by Sec. 40601(c)(3) of the BIL; and
2. Describes what the Department of the Interior considers to be the best practices for establishing, conducting, and reporting on the activities of a program to plug, remediate, and reclaim orphaned wells on State and private lands.

The document indicates what information is **required** in applications for an Initial grant and for expenditure of the grant funding. It also includes a number **strongly recommended** best practices that can help maximize the benefits and transparency of activities carried out with Initial grant funding. Many of these best practices will be further refined with input from the States and Tribes and may form the basis for future

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.

requirements in the subsequent orphaned well grants, so States expecting to apply for subsequent rounds of grants are encouraged to ensure their programs apply these best practices as early as possible in order to promote consistent standards for well plugging and reclamation activities, and that benefits from the program can be properly tracked.

II. DEFINITIONS

“Administrative costs” identified in Sec. 40601(c)(2)(B)(i), limited to not more than 10 percent of the funds received,² 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 individual projects.

“Communities of color” are those communities with a higher than national average percent of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial. A block group is an area defined by the Census Bureau that usually has in the range of 600-3,000 people living in it.³

“Community” – either a group of individuals living in geographic proximity to one another, or a geographically dispersed set of individuals (such as migrant workers or Native Americans), where either type of group experiences common conditions.⁴

“Date of receipt of funds,” as identified in Sec. 40601(c)(3)(A)(i)(II)(cc), is the effective date of the grant and the start of its period of performance, as determined by the DOI Agreements Officer and the receiving State. For the large-scale Initial grant, the effective date begins the 90-day period within which the State must “use” no less than 90% of funds as certified in the grant application. To “use ... funding” under this section is to obligate funding by definitely committing it to a new or existing contract or issuing a new grant.

² Except as provided by Section 40601(c)(2)(B)(ii), which allows larger amounts to be used for administrative costs under the small-scale Initial grants described further in Section IV of this document.

³ This definition is adopted from USEPA’s EJSCREEN definitions at: <https://www.epa.gov/ejscreen/overview-demographic-indicators-ejscreen#demoindex>

⁴ Definition from OMB and CEQ Interim Implementation Guidance for the Justice40 Initiative (M-21-28) dated July 20, 2021

“Disadvantaged Community” – a community may be considered disadvantaged based on a combination of the variables below or based on its inclusion in the Climate and Economic Justice Screening Tool.⁵

- Low income, high and/or persistent poverty
- High unemployment and underemployment
- Racial and ethnic residential segregation, particularly where the segregation stems from discrimination by government entities
- Linguistic isolation
- High housing cost burden and substandard housing
- Distressed neighborhoods
- High transportation cost burden and/or low transportation access
- Disproportionate environmental stressor burden and high cumulative impacts
- Limited water and sanitation access and affordability
- Disproportionate impacts from climate change
- High energy cost burden and low energy access
- Jobs lost through the energy transition
- Access to healthcare
- Geographic areas within Tribal jurisdictions

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

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

⁵Definition from OMB and CEQ Interim Implementation Guidance for the Justice40 Initiative (M-21-28) dated July 20, 2021. See Climate and Economic Justice Screening Tool at: [Explore the tool - Climate & Economic Justice Screening Tool \(geoplatform.gov\)](https://www.eplanning.gov/explore/cejst)

“Low-income communities” are those communities that in the last 12 months had a median household income less than twice the poverty level.⁶

“Orphaned Well” – The term “orphaned well” with respect to Federal or Tribal land, means a well that is not used for an authorized purpose, such as production, injection, or monitoring, and for which no operator can be located, the operator of which is unable to plug the well and to remediate and reclaim the well site, or that is in the National Petroleum Reserve - Alaska. With respect to State or private land, the term:

- (1) has the meaning given the term by the applicable State; or
- (2) if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

“Pre-Award Costs” – Per 2 CFR 200.458, Pre-Award Costs are those incurred after the award date and before the effective date of the Federal award and only with the written approval of the Federal awarding agency (DOI). DOI will evaluate pre-award costs on a case-by-case basis.

“Tribal and Indigenous communities” are communities whose members make up a Federally recognized Indian Tribe, a State-recognized Indian Tribe, an Alaska Native community or organization, a Native Hawaiian organization, or any other community of indigenous people located in a State, including indigenous persons residing in urban communities.

“Unobligated amounts” – For purposes of determining the deadline for expenditure under Sec. 40601(c)(3)(C), “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.⁷

III. PERMISSIBLE USES OF INITIAL GRANT FUNDS

- A. As provided under Section 40601(c)(2), a State may use funding from Initial grants to:
- i. plug, remediate, and reclaim orphaned wells located on State-owned or privately-owned land;
 - ii. identify and characterize undocumented orphaned wells on State and private land;
 - iii. rank orphaned wells based on factors including public health and safety, potential environmental harm, and other land use priorities;

⁶ This definition is similar to USEPA’s EJSCREEN definition at <https://www.epa.gov/ejscreen/ejscreen-map-descriptions#category-demographics>

⁷ See Government Accountability Office definitions at: <https://www.gao.gov/assets/gao-05-734sp.pdf>

- iv. make information regarding the use of funds received available on a public website;
 - v. measure and track -
 - I. emissions of methane and other gases associated with orphaned wells; and
 - II. contamination of groundwater or surface water associated with orphaned wells;
 - vi. remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure;
 - vii. remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;
 - viii. identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on communities of color, low-income communities, and Tribal and Indigenous communities; and
 - ix. administer the program of work identified in its grant agreement.
- B. Initial grants are available for such activities where the surface 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 section only. Funds may not be used for activities where the surface is owned by the United States or by an Indian Tribe, but may be used for Federal wells where the surface is owned by the State or by a private party and appropriate agreements are in place with the Federal mineral manager, which has determined the well to be orphaned.
- C. Section 40601(c)(3)(A) allows States to request an Initial grant of up to \$25 million under clause (i)—referred to as large-scale Initial grants—or up to \$5 million under clause (ii)—referred to as small-scale Initial grants. States may receive one Initial grant under 40601(c)(3): either a small-scale grant or a large-scale project grant, but not both.
- D. Section 40601(c)(A)(i)(II)(cc) provides that a State that applies for a large-scale Initial grant must include a certification that the State will use not less than 90% of its requested funding to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work by not later than 90 days after the date of the receipt of the funds.
- E. Section 40601(c)(3)(C) - Expenditure and Reimbursement: A State that receives funds under the Initial grant authority shall reimburse the Secretary in an amount equal to the amount of funds that remain unobligated on the date that is one year after the date of receipt of the funds. In other words, all funds must be obligated within a

year of date of receiving the funds otherwise unobligated funds shall be reimbursed to the Secretary.

IV. INSTRUCTIONS FOR INITIAL GRANT APPLICATIONS

A. *Deadline*

- i. Small-Scale Grants (up to \$5 million): States may apply for an Initial grant of up to \$5 million within a time frame sufficient to ensure that periods of performance and final obligations are complete prior to September 30, 2030.
- ii. Large-Scale Grants (up to \$25 million): The deadline for submitting applications for Initial grants of up to \$25.0 million is **May 13, 2022**, 11:59 pm EDT.

Applications must be emailed to orphanedwells@ios.doi.gov. An email acknowledging receipt will be provided by DOI to the sending State within one business day of receipt.

B. *Required Elements*

To be complete, the application should 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, all available at [Grants.gov](https://www.grants.gov), must be submitted for an Initial grant request for funding (the application) to be complete. Digital signatures are acceptable:
 - (a) SF-424v4 Application for Federal Assistance
 - (b) SF-424A Budget Information for Non-Construction Programs
An SF-424A is a standard form that provides an estimate of the work's major cost centers (e.g., State employee labor, training, equipment, contracting and other operational costs), where the sum total of the budget justification equals the overall Initial grant request.
 - (c) SF-LLL Disclosure of Lobbying Activities
If the grant applicant does not engage in lobbying activities, it is sufficient to mark the SF-LLL form "N/A" for Not Applicable.
 - (d) OMB Form 4040-0010 Key Contacts Form

- ii. Detailed Budget Proposal/Justification: This detailed information supports and identifies the estimated costs provided in the SF-424A and should include an itemized budget breakdown with unit costs for the period of the Initial grant funding and the basis for estimating the costs of personnel salaries, fringe benefits, project staff travel, materials and supplies, equipment, and consultants and contracts. This document should also include narrative descriptions of the items included in the project budget.
- iii. Project Abstract Summary (OMB Form Number 4040-0019): A project abstract of not more than one page will include the project purpose, activities to be performed, expected deliverables or outcomes, intended beneficiaries, and subrecipient activities (if known).

C. Recommended Elements

The following list includes the features the Department of the Interior has determined are important components of a successful orphaned well program. Although not required in relation to Initial grant funding, many will be further refined in coordination with the States and may be required for subsequent grants. States are encouraged to incorporate these features into projects funded with Initial grants.

For those parts that are applicable, the State should include the following information as a narrative attachment to the required elements listed above:

- (a) The State's process for determining that a well has been orphaned, including what efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under State law;
- (b) A description of the State's plugging standards, including the witnessing requirements (qualifications of witness, documentation);
- (c) Details of the State's prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities;
- (d) If no prioritization process currently exists, the State should describe its plans to develop and implement a prioritization process;
- (e) Details of how the State will identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on communities of color, low-income communities, and Tribal and Indigenous communities;

- (f) The methodology to be used by the State to measure and track methane and other gases associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such emissions;
- (g) The methodology 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 confirm the effectiveness of plugging activities in reducing or eliminating such contamination;
- (h) The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure;
- (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 officials and the public;
- (j) Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance;
- (k) How the State will use funding to locate currently undocumented orphaned wells;
- (l) 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;
- (m) Training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation;
- (n) Plans the State has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project;
- (o) Plans the State has to incorporate equity for underserved communities into their planning, including supporting the expansion of high-quality, good paying jobs through workforce development programs and incorporating workforce strategy into project development;
- (p) 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;
- (q) The State's authorities to enter private property, or a State's procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface;
- (r) A work schedule covering the period of performance of the Initial grant;
and

- (s) If applicable, a federally approved Indirect Cost Rate Agreement or statement regarding State's intention to negotiate or utilize the de minimis rate.

D. *Restrictions on funding use (90% must be for contracts & grants)*

States may not use more than 10 percent of the funds received as authorized under Sec. 40601(c)(3)(A)(i) for administrative costs associated with activities listed in Section III. This limitation does not apply to an Initial grant of up to \$5.0 million received as authorized under Sec. 40601(3)(c)(3)(A)(ii). However, States receiving the smaller Initial grants must nonetheless comply with 2 CFR § 200.414, which requires States to adhere to federally-approved indirect cost rate agreements.

E. *Certifications (digital signatures are acceptable)*

- i. Small-Scale Grants: For small-scale grant applications up to \$5 million, a certification (see Attachment A) must be submitted to the Department that:
 - (a) The State has a plugging, remediation, and reclamation program in effect for orphaned wells; or
 - (b) The State has the capacity to initiate such a program; or
 - (c) The funds provided under this paragraph will be used to carry out any administrative action necessary to develop an application for a formula grant or performance grant.

- ii. Large-Scale Grants: For large-scale grant applications up to \$25 million, a certification (see Attachment B) must be submitted to the Department that:
 - (a) The State is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission;
 - (b) There are 1 or more documented orphaned wells located in the State; and
 - (c) The State will use not less than 90 percent of the funding requested to issue new contracts, amend existing contracts, or issue grants for plugging of orphan wells, and reclamation of associated surface conditions by not later than 90 days after the date of receipt of the funds.

V. RECOMMENDED STANDARDS FOR MEASUREMENT, PLUGGING, AND REMEDIATION

A. Pre and Post-Plugging Measurement or Estimation of Air and Water Pollution

- i. As a best practice, States are encouraged to conduct an inspection of each orphaned well site being considered under this grant to measure or estimate current contamination of surface water and groundwater and to measure or

estimate current emissions of methane, hydrogen sulfide, and other gas emissions. States are also encouraged to conduct post-plugging inspections and measurements to verify the lack of gaseous emissions or water contamination from plugged wells and the achievement of vegetation performance standards appropriate to the site's future land uses. Such post-plugging inspection and measurement will be documented to create a verifiable record of activities performed under the grant.

- ii. States are encouraged to use the protocol in *Assessing Methane Emissions from Orphaned Wells to meet Reporting Requirements of the 2021 Infrastructure Investment and Jobs Act (BIL): Federal Program Guidelines*, available at the [OEPC Legacy Pollution Program website](#),⁸ to measure and report methane emissions from orphaned wells. States may also use a third-party methodology, such as the American Carbon Registry's draft methodology.⁹ States should report in their Project Narrative the methodology or methodologies they will use or require their contractors to use.
- iii. Pre- and post-plugging measurements or estimates, by well, of water contamination, gaseous emissions (particularly methane), and acres restored should be included in the Final Performance Report described in Section VII.C. below.

B. Well Plugging and Site Remediation Standards

- i. States 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, it is strongly recommended that the work reflect, at a minimum: the plugging standards in the Bureau of Land Management's Onshore Oil and Gas Order No. 2 Section III.G for plugging wells (https://www.blm.gov/sites/blm.gov/files/energy_onshoreorder2.pdf); or, for offshore wells, the provisions of 30 CFR Part 250.
- ii. States will adhere to any well plug witnessing and documentation requirements pursuant to State law.
- 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, then for a well site to be considered plugged and fully abandoned, such that it can be reported as a completed unit, the work must reflect, at a minimum,

⁸ <https://www.doi.gov/priorities/investing-americas-infrastructure/legacy-pollution>

⁹ <https://americancarbonregistry.org/carbon-accounting/standards-methodologies/plugging-abandoned-orphaned-oil-and-gas-wells>

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>

VI. FEDERAL AND TRIBAL COORDINATION

Efficiency and cost-effectiveness in well plugging and site remediation will be maximized by ensuring proper coordination in these activities between 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 between Tribal and Federal land management agencies to orphanedwells@ios.doi.gov. DOI will provide a map of Federal wells approved for plugging to the State contacts and IOGCC. This map, and subsequent updates, will be posted publicly as soon as reasonably possible. All questions regarding coordination with Federal or Tribal agencies should also be sent to orphanedwells@ios.doi.gov.

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.

States are also encouraged to consult 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 operations and land management activities, such as planning field activities to avoid special events that might be impacted by the work.

VII. REPORTING REQUIREMENTS

- A. *Quarterly Reports*: Consistent with 2 C.F.R. § 200.328, States must submit quarterly financial and performance reports to the DOI within 30 days of the close of each Federal fiscal quarter. Financial reporting will use [SF-425](#) or other forms if specified by the Office of Management and Budget.
- B. *Personal Property report*: States will be required to submit an annual Tangible Personal Property Report (SF-428) if grant funds are used to purchase equipment.
- C. *Final Financial and Performance Reports*: Consistent with 2 C.F.R. § 200.329, States must submit a final financial and performance reports to the DOI within 120 days of

period of performance end date. Financial reporting will use [SF-425](#) or other forms if specified by the Office of Management and Budget.

- D. 15-month report: States receiving either type of Initial grant must submit a report, no later than 15 months after the date on which the State receives the funds, describing the means by which the State used the funds in accordance with its certification. If the 15-month report includes all of the detail that would have been provided in the corresponding quarterly Financial and Performance Report described in VII.C, a separate quarterly Financial and Performance Report need not be submitted for that period.

E. Data Collection and Reporting

1. In order to simplify and standardize reporting and tracking requirements and ensure that the Federal resources utilized are well-spent and achieving the statutory objectives, States are encouraged to track the following data for all actions taken using orphaned well grant funding. Such data elements will help inform, and be incorporated into, the processes being developed for the forthcoming Formula grants and Performance grants listed in Section I above. As appropriate, data tracking may be accomplished through existing systems such as the Groundwater Protection Council's Risk-Based Data Management Solutions (RBDMS):
 - (a) Well location information (e.g., latitude/longitude);
 - (b) Well type (e.g. orphaned production or disposal well);
 - (c) Bureau of Labor Statistics NAICS codes for each of the employees working on each well site, along with the hours each employee spent on each site;
 - (d) The population living within a half mile radius of each well being plugged;
 - (e) Pre-plugging methane emissions (if available);
 - (f) Post-plugging methane emissions;
 - (g) Surface water contamination identified;
 - (h) Surface water contamination remediated;
 - (i) Groundwater contamination identified;
 - (j) Groundwater contamination remediated;
 - (k) Acreage impacted by well and infrastructure (site footprint);
 - (l) Revegetation performance standard monitoring start date;
 - (m) Revegetation performance standard attainment date (project complete);
 - (n) Actual total cost per well of plugging and surface reclamation; and
 - (o) If the project is located in a community of color, low-income community, or Tribal or Indigenous community.
2. This list highlights important parameters that DOI will report to Congress annually and is a subset of the larger data set to be reported by the States as part

of the quarterly performance reports (VII.A.) and 15-month report (V.A.iii.) and detailed in the Orphaned Well Data Reporting Template available at the [OEPC Legacy Pollution Program website](#). States that intend to apply for a Formula grant (as per forthcoming Formula grant guidance) should note that information regarding the activities under such grants are required to be posted on a public website, and States are strongly encouraged to develop such a website to provide information to the public about the activities undertaken using Initial grant funding as well. Developing a website is an allowable use of Initial grant funds and ensuring that Initial grant activities are tracked in the same manner as Formula grant activities will allow for a better determination of the successes of the funding, help meet goals of transparency and accountability, and make it easier for the State to meet future reporting requirements.

- F. After providing the grantee an opportunity to redact personally identifiable or proprietary information, the Department of the Interior may post successful grant applications on a publicly available web site.
- G. The Department of the Interior will publish a summary of performance accomplishments on a publicly available web site, following submission by the States of the report required in Section VII.C of this guidance.
- H. Additional clarification on reporting requirements and grant terminology is provided in Attachment C.

VIII. DAVIS-BACON ACT REQUIREMENTS

All laborers and mechanics employed by the applicant, subrecipients, contractors or subcontractors in the performance of construction, alteration, or repair work on an award or project in excess of \$2,000 funded directly by or assisted in whole or in part by funds made available under Initial grants shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code commonly referred to as the “Davis-Bacon Act” (DBA).

Applicants shall provide written assurance acknowledging the DBA requirements for the award or project and confirming that all laborers and mechanics performing construction, alteration, or repair work on projects in excess of \$2,000 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 projects of a character similar in the locality as determined by the Secretary of Labor in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act).

Recipients of funding will also be required to undergo DBA compliance training and to maintain competency in DBA compliance. The U.S. Department of Labor offers free Prevailing Wage Seminars several times a year that meet this requirement, at <https://www.dol.gov/agencies/whd/government-contracts/construction/seminars/events>.

For additional guidance on how to comply with DBA provisions and clauses, see <https://www.dol.gov/agencies/whd/government-contracts/construction> and <https://www.dol.gov/agencies/whd/government-contracts/protections-for-workers-in-construction>.

IX. ADDITIONAL TERMS AND CONDITIONS

- A. DOI Standard Award Terms and Conditions will be included in all Initial grants, at the time of award. These standard terms and conditions can be found at: [Standard Award Terms and Conditions](#).
- B. Award recipients will be expected to comply with Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America's Workers*, which requires awardees and sub-awardees of Federal financial assistance awards to maximize the use of goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive. Waivers may be requested through the DOI Office of Grants Management.
- C. 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.
- D. 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 CFR § 200.338 places limitations on public access to award-related documents.
- E. As required by Section 70914 of the Bipartisan Infrastructure Law on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance 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.

State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Small-Scale Initial Capacity Grant

Consistent with Section 40601(c)(3)(A)(ii)(III) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it:

- has in effect a plugging, remediation, and reclamation program for orphaned wells;

OR

- has the capacity to initiate such a program;

OR

- that the funds will be used to carry out any administrative actions necessary to develop an application for a formula grant or a performance grant under Section 40601(c)(4) or Section 40601(c)(5), respectively.

Certifying Official Name Title

Certifying Official Signature Date

State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Large-Scale Initial Project Grant

Consistent with Section 40601(c)(3)(A)(i)(II)(aa) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission.

The State or Commonwealth also certifies that it has one (1) or more documented orphaned wells located within our State or Commonwealth.

And the State or Commonwealth certifies that it will use no less than 90 percent of the funds requested under this grant to issue new contracts, amend existing contracts, or issue grants for plugging, remediation and reclamation work on orphaned wells within our State or Commonwealth by not later than 90 days after the date of receipt of the funds.

Certifying Official Name

Title

Certifying Official Signature

Date

Attachment C

Annex to the Initial State Grants Guidance

Overview: The \$4.3B orphan well State grant program is historic, new, and critical to clean up legacy pollution. These sections provide instructions and awareness to States on standard grants management requirements that are 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. Intergovernmental Review**
- 6. Data Availability**
- 7. Agency Review Process**
- 8. Additional Reporting Requirements**
 - a. Significant Development Reports**
 - b. Conflict of Interest Disclosures**
 - c. Other Mandatory Disclosures**
 - d. Reporting Matters Related to Recipient Integrity and Performance**
- 9. Payments**

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 CFR §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 CFR 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 CFR 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 Grants 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 Grants 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 CFR 200.339, Remedies for Noncompliance, including suspension or debarment (see also 2 CFR part 180).

3. Single Audit Reporting Statement

All U.S. States 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. Intergovernmental Review

An intergovernmental review may be required for submissions from a U.S. State. Prior to application submission, U.S. State applicants should visit the OMB Office of Federal Financial Management website and view the “State Point of Contact (SPOC) List” to determine whether their application is subject to the State intergovernmental review process under Executive Order (E.O.) 12372 [“Intergovernmental Review of Federal Programs.”](https://www.whitehouse.gov/omb/office-federal-financial-management/) <https://www.whitehouse.gov/omb/office-federal-financial-management/>

6. Data Availability

Per the Financial Assistance Interior Regulation (FAIR), [2 CFR §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 Department of the Interior, 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.

7. 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 CFR 200.205. The awarding agency documents applicant risk evaluations using DOI’s “Financial Assistance Recipient Risk Assessment” form. Prior to approving awards for Federal funding in excess of the simplified acquisition threshold (currently \$250,000), 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 CFR 200.207 should be applied to the award.

8. Additional Reporting Requirements

Significant Development Reports Events may occur between the scheduled performance reporting dates which have significant impact upon the supported activity. In such cases, recipients are required to notify

the awarding agency in writing as soon as the recipient becomes aware of any problems, delays, or adverse conditions that will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of any corrective action(s) taken or contemplated, and any assistance needed to resolve the situation. The recipient should also notify the awarding agency in writing of any favorable developments that enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

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 CFR 200.339 Remedies for Noncompliance, including termination of the award.

Other Mandatory Disclosures Applicants must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that receive a Federal award including the terms and conditions outlined in 2 CFR 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 CFR 200.339 Remedies for Noncompliance, including suspension or debarment.

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 CFR 200.

9. Payments

Domestic recipients are required to register in and receive payment through the U.S. Treasury's Automated Standard Application for Payments (ASAP), unless approved for a waiver by the awarding agency program. The recipient will be notified of the ASAP enrollment process, or if already enrolled, the process to link their ASAP account to the Agency.

Attachment D

Paperwork Reduction Act Statement

In accordance with the Paperwork Reduction Act (44 U.S.C. 3501, et seq.), the U.S. Department of the Interior collects information necessary for implementing a grant program for applicable government entities to plug, remediate, and reclaim orphaned wells on lands covered by the legislation. The associated investments, as part of the new grant programs, will rebuild America's critical infrastructure, tackle the climate crisis, advance environmental justice, and drive the creation of good-paying union jobs., and to respond to requests made under the Freedom of Information Act and the Privacy Act of 1974. Information requested in this form is required to obtain or retain a benefit. According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB has approved this collection of information and assigned Control No. 1093-0012.

Estimated Burden Statement

We estimate public reporting for this collection of information to average 44 hours, including time for reviewing instructions, gathering and maintaining data and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of the form to the Department Information Clearance Officer, U.S. Department of the Interior, 1849 C Street, Washington, DC 20240, or via email at DOI-PRA@doi.gov. Please do not send your completed grant package to this address.