

requirements and obligations related to application procedures, allowable uses of funds, and reporting program activities and outcomes.

II. ELIGIBLE STATES AND TRIBES

Pursuant to section 40701(b)(2) of the BIL, eligible grant recipients include both certified and uncertified States and Tribes carrying out approved AML Programs. A certified State or Tribe is a State or Tribe that has certified that all coal reclamation projects that are considered a priority under section 403(a) of SMCRA have been completed. An uncertified State or Tribe is a State or Tribe that has not yet made the certification that reclamation of all priority coal reclamation projects in the State or on applicable Indian lands have been completed.

III. ELIGIBLE PROJECTS & PRIORITIZATION

BIL AML funding may only be spent on coal reclamation projects. According to section 40701(c) of the BIL, BIL AML grants may only be used on one or more of the following:

- Priority 1 Projects – These projects protect public health and safety from extreme effects of coal mining practices, including the restoration of adjacent land and water resources and the environment (Section 403(a)(1) of SMCRA).
- Priority 2 Projects – These projects protect public health and safety from adverse effects of coal mining practices, including the restoration of adjacent land and water resources and the environment (Section 403(a)(2) of SMCRA).
- Priority 3 Projects – These projects restore land and water resources and the environment previously degraded by adverse effects of coal mining practices (Section 403(a)(3) of SMCRA). These projects may include the design, construction, operation, maintenance, and rehabilitation of acid mine drainage (AMD) treatment facilities regardless of whether they are part of a qualified hydrologic unit.
- Water Supply Restoration Projects - protection, repair, replacement, construction, or enhancement of facilities relating to water supply, including water distribution facilities and treatment plants, to replace water supplies adversely affected by coal mining practices (Section 403(b) of SMCRA).
- AML Emergency Projects - Emergency projects that restore, reclaim, abate, control, or prevent adverse effects of coal mining practices, on eligible lands when an emergency exists constituting a danger to the public health, safety, or general welfare and no other person or agency will act expeditiously to restore, reclaim, abate, control, or prevent adverse effects of coal mining practices (Section 410 of SMCRA).

Use of BIL funding differs from the traditional fee-based AML funding in a few important ways:

- Stand-alone projects classified as Priority 3 under SMCRA Title IV are eligible for BIL funding, whether or not the project is in conjunction with other projects classified as Priority 1 and Priority 2 projects under SMCRA Title IV;
- AMD treatment projects that are not part of a qualified hydrologic unit are eligible for BIL funding;
- Eligible states and tribes are not authorized under the BIL to place BIL AML grant funds into AMD set-aside accounts.⁴

Under Section 405(e) of SMCRA, State and Tribal AML Reclamation Plans must identify the specific criteria for ranking and identifying projects to be funded. The *overall* State or Tribal AML Program must reflect the priorities listed in section 403(a), and, accordingly, the BIL does not require strict adherence to those priorities when grantees and OSMRE work to evaluate, apply for, and approve particular projects.

OSMRE will consult with each State and Tribe receiving funds under the BIL to identify which updates to the grantee's Reclamation Plan, if any, are necessary to ensure to Plan's compliance with the BIL.

Under Section 40701(f) of the BIL, States and Tribes should prioritize projects that provide employment opportunities to current and former employees of the coal industry, and OSMRE will work with States and Tribes to incorporate such prioritization into their reclamation plans. Measures to implement these priorities include: (1) requiring contractors to affirm they will give preference to miners in any hiring for BIL-funded AML projects; (2) requiring contractors to report on the extent to which miners have been employed in any AML work the contractors perform; (3) requiring contractors to retain data that can substantiate the reported information; and (4) providing to OSMRE the information reported by the contractors as part of the State or Tribe's regular AML reporting processes. To further implement the Section 40701(f) priority, States and Tribes should engage with labor or worker organizations that represent coal industry workers to identify current or former employees of the coal industry who are candidates to be employed by AML reclamation contractors and provide OSMRE with certifications of this engagement.

The Department will commence notice and comment rulemaking, as necessary, to further implement Section 40701(f) and to provide additional guidance as to its scope. Such a proposed rule would, based on Section 40701(f), require that States and Tribes provide employment opportunities to current and former employees of the coal industry, prioritize projects that provide such employment opportunities, and utilize AML funding to promote the revitalization of coal communities.

States and Tribes should prioritize projects that are beneficial to disadvantaged communities and support the revitalization of such communities to meet the overall objectives of Justice40 Initiative.

⁴ Section 402(g)(6) of SMCRA authorized the creation and use of AMD set aside accounts, which allow uncertified States to apply for up to 30% of certain fee-based funds received as part of their traditional annual AML grant to be transferred to an interest-bearing account established by the State/Tribe to be used for the abatement of the causes and the treatment of the effects of AMD in a comprehensive manner within qualified hydrologic units affected by coal mining practices.

In carrying out their programs with BIL AML funding, OSMRE encourages States and Tribes to:

- Utilize procurement processes that incentivize AML contractors to hire miners when bidding on BIL-funded AML projects and require the collection of information from AML contractors on the number of former and current miners they employ;
- Aggregate projects into larger statewide or regional contracts as part of their procurement processes, in order to improve efficiencies in their BIL AML grant funding;⁵
- Prioritize aggregated or larger projects in selecting projects to be funded;
- Support pre-apprenticeship, registered apprenticeship, and youth training programs that open pathways to employment; and
- Require contractors to support safe, equitable, and fair labor practices by adopting collective bargaining agreements, local hiring provisions (as applicable), project labor agreements, and community benefits agreements.
- Consider project designs that reduce methane emissions from abandoned coal mine sites.
- Incorporate input from disadvantaged communities of color, low-income communities, and Tribal and Indigenous communities into the selection of projects to be funded.

OSMRE and the Department of the Interior (DOI) will engage with the Department of Labor (DOL) to determine what information and tools DOL can provide to States and Tribes to support the above efforts.

BIL AML funds may not be used, directly or indirectly, to support or oppose union organizing.

IV. BIL AML GRANTS

The first BIL AML grant distribution will occur by the end of the 3rd Quarter of FY 2022. Annual BIL AML grant amounts are calculated using a congressionally mandated formula based on the number of tons of coal historically produced in the States or from applicable Indian lands before August 3, 1977. Adjustments will be made to ensure the total amount of the distributions to any individual State or Tribe is not less than \$20 million over the life of the program to the extent that amount is needed for eligible projects described above and to reconcile the amount of the BIL AML funding with the total unfunded cost of coal problems at the end of the preceding fiscal year, as reflected in the enhanced Abandoned Mine Land Inventory System (e-AMLIS).

BIL AML grants will be awarded to eligible State and Tribal AML Programs on an annual basis and adjustments will be made to these distributions as required and needed to achieve the objectives of the

⁵ Section 40701(b)(3) allows states to aggregate bids in this manner.

program. For example, adjustments will be made as changes to the number of eligible States and Tribes increase or decrease. The period of performance for BIL grants will be 5-years, with an option for a one-time no-cost extension of up to one year, subject to OSMRE's review and approval. BIL AML grants will be disbursed and tracked under the Catalog of Federal Domestic Assistance (CFDA) No. 15.252. In order to receive BIL AML funding, each eligible State and Tribe will need to submit a grant application through [GrantSolutions](#).⁶

BIL AML grant recipients will be required to comply with all applicable Federal grant award requirements, including but not limited to, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ([2 C.F.R. part 200](#)). OSMRE anticipates that State and Tribal AML Programs will incur higher staffing and operational costs as they stand up programs to effectively implement their BIL AML programs. In addition, the administrative costs for annual BIL AML grant awards will be available for the entire grant performance period (i.e., 5 years, with the possibility of a one-year extension).

Appendix I, which is entitled, "Subaccounts for BIL AML Financial Assistance," provides guidance on the available subaccount categories that State/Tribal AML Programs can use in the development of their BIL AML grant application. Outlined below are the main subaccounts:

- BIL – Non-Emergency Administrative Costs
- BIL – Non-Water Supply (Coal Project) Costs
- BIL – Water Supply Project Costs
- BIL – Coal Projects Engineering & Design Costs
- BIL – AMD Operational and Maintenance Costs
- BIL – Emergency Project Costs

A sample template for States and Tribes to use when submitting an application for BIL AML grant funding has been attached (see *Appendix II: Table for BIL AML Eligible Projects*). When applying for BIL AML grants, State and Tribal AML Programs should include:

- A description of each proposed project to be funded during the grant period of performance;
- A description of the state and Tribe's prioritization process or ranking system for the selection of each proposed project;
- A statement of the estimated benefits that will result from each project;
- A statement of how the State or Tribe will prioritize projects employing current or former employees of the coal industry;
- Plans for promoting workforce training and development, including how activities encouraged under Section III will be implemented, if applicable, along with the names of potential partners to support recruiting and training efforts, including community colleges, workforce partners, community-based groups, and unions;
- Any linkages to economic redevelopment opportunities created by carrying out the proposed projects;

⁶ The CFDA number is a five-digit number assigned in an awarding document for any financial assistance (e.g., grants) funded by the Federal government. Although both the BIL AML Funds and the traditional AML fee-based grants will be disbursed under the same CFDA No. 15.252, separate grant applications via grants.gov will be necessary.

- A description of how local communities provided input into the selection of projects to be funded;
- A description of how the grantee will address environmental justice issues within coalfield communities;
- Details of how the grantee will identify and address any disproportionate burden of adverse human health or environmental effects of coal AML problems on disadvantaged communities, communities of color, low-income communities, and Tribal and Indigenous communities;⁷
- A description of whether and to what extent the proposed projects will reduce greenhouse gas emissions, particularly methane emissions;
- Estimated costs for each project to be completed using the BIL AML grant funding. If BIL AML funds will be leveraged with other funding sources, such as AML-fee based grants, include this information; and,
- Proposed performance measurement (see section X).

When possible, a project’s scope or outcome may be expanded or enhanced. States and Tribes are encouraged to identify and leverage additional funding sources (e.g., Clean Energy Demonstration Program under Title III, Section 40341 of the BIL; DOI’s Ecosystem Restoration Program under Title VIII, Section 40804 of the BIL; and EPA Brownfield Job Training Grants) and in-kind contributions to be used in conjunction with BIL AML monies.

V. DAVIS-BACON ACT

The BIL requires that all laborers and mechanics employed by contractors or subcontractors in the performance of construction, alteration, or repair work on a project assisted in whole or in part by funding made available under the BIL must 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 the Davis-Bacon Act (40 U.S.C. §§ 3141-3148). The Davis-Bacon labor standards are applicable to the reclamation projects completed using BIL AML funding and Davis-Bacon clauses must be included in BIL AML work contracts. The Department of Labor [Fact Sheet #66A: Bipartisan Infrastructure Law](#) provides additional information on the responsibilities of BIL funding recipients.

VI. PUBLIC ENGAGEMENT

⁷ “Low-income communities” are those communities that in the last 12 months had a median household income less than twice the poverty level. This definition is similar to USEPA’s EJSCREEN definition at <https://www.epa.gov/ejscreen/ejscreen-map-descriptions#category-demographics>

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

“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.

When developing eligible projects for the BIL AML Program, State and Tribal AML Programs should ensure public engagement at the local level through engagement with the community. The term, "public" includes all stakeholders (e.g., citizens at large, industry, other Federal, State, Tribal, or local agencies, Tribal Nations, unions and worker organizations, non-governmental organizations, community colleges, workforce boards, community-based groups, and environmental groups). Engaging with the public to identify potential projects will ensure that projects completed through this program best address the needs of the relevant communities.

States and Tribes are encouraged to use existing best practices for public engagement or develop a process for public outreach and communication with local citizens, agencies, and organizations that best fits their unique circumstances. For example, States and Tribes could notify local citizens of the intent/purpose of a project via meetings, print media, websites, and social media and/or partner with organizations that facilitate public outreach and communication.

VII. ENHANCED ABANDONED MINE LAND INVENTORY SYSTEM (e-AMLIS)

Pursuant to section 403(c) of SMCRA, OSMRE maintains e-AMLIS, the central electronic database for housing the national inventory of unreclaimed AML problems affecting public health, safety, and the environment and reclaimed sites, along with their associated reclamation costs. Data maintained in e-AMLIS is provided by States and Tribes using standardized procedures approved by OSMRE.

States and Tribes are required to enter all coal AML projects into e-AMLIS and identify them as BIL AML projects when funds are expended. To ensure that States and Tribes are able to update their respective AML inventories in e-AMLIS, the BIL makes \$25 million available to the Secretary of the Interior to provide financial and technical assistance to States and Tribes to amend e-AMLIS. If needed, OSMRE will provide further guidance on its implementation of this specific requirement of the BIL at a later date.

VIII. COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

OSMRE has determined that all BIL-funded reclamation projects are major Federal actions⁸ subject to review under the NEPA because, in accordance with NEPA regulations,⁹ BIL AML projects are federally assisted activities performed using Federal funds.

OSMRE REG-1, Handbook on Procedures for Implementing the National Environmental Policy Act ([NEPA Handbook](#)) (Revised 2019), provides additional information on NEPA compliance.

Depending on the significance of the actual and potential impacts of the proposed action, there are three potential analytical approaches under NEPA, which include:

⁸ According to 40 C.F.R. § 1508.1, major Federal actions may include, among other things, new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by Federal agencies.

⁹ NEPA regulations issued by the White House Council on Environmental Quality (CEQ) are found at Title 40, Parts 1500-1508 of the Code of Federal Regulations (40 C.F.R. § 1500-1508, 42 U.S.C. §§ 4371 *et seq.*).

- 1) Categorical Exclusion (CE);
- 2) Environmental Assessment (EA), which may result in a Finding of No Significant Impact (FONSI) or a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS);
- 3) Environmental Impact Statement (EIS) and Record of Decision (ROD).

The Department's NEPA regulations make clear that in the absence of an applicable CE, an EA, and, in some cases, an EIS, must be prepared for the proposed Federal action. Section 46.205(a) of Title 43 of the Code of Federal Regulations (CFR) states:

If a proposed action does not meet the criteria for any of the listed Departmental categorical exclusions or any of the individual bureau categorical exclusions, then the proposed action must be analyzed in an environmental assessment or environmental impact statement.

The three potential analytical approaches under NEPA are defined below.

Categorical Exclusion

A CE is a class of actions that a Federal agency has determined, after review by CEQ, does not individually or cumulatively have a significant effect on the human environment; therefore, neither an EA nor an EIS is normally required unless an extraordinary circumstance is identified.¹⁰ A CE is the threshold NEPA analysis for a proposed Federal action. OSMRE has created and received approval from CEQ for a CE, This CE is contained in the DOI Departmental Manual (DM), Chapter 13 [516 DM 13.5 (33)].

Environmental Assessment

If a determination is made that the proposed Federal action cannot be categorically excluded from further NEPA analysis, then an EA is prepared. The EA determines whether a Federal action has the potential to cause significant environmental effects. If no significant environmental effects are found, the decision document will result in a FONSI, and the project may continue without further NEPA analysis. However, if it is determined that an action will have significant effects, then the project must go through the EIS process.

Environmental Impact Statement

For actions with significant impacts, NEPA requires federal agencies to prepare an EIS that must assess, among other things, the potential environmental impacts of the proposal and alternatives to the proposed action. *See* 42 U.S.C. § 4332; 40 C.F.R. part 1502. Once an agency reaches a final decision on the action it wishes to take (i.e., the proposed action or an alternative), it creates a ROD, which is the conclusion of the EIS process. 40 C.F.R. § 1505.2.

In accordance with section 8.5.2.1 of OSMRE's NEPA Handbook, State and Tribal AML Programs must ensure that all connected actions, regardless of the funding source or who proposes them, are analyzed in a single NEPA document. Additionally, a project that includes multiple phases must be reviewed in a single NEPA document. State and Tribal AML Programs are strongly encouraged to look closely at the NEPA analyses outlined above and refer to OSMRE's [NEPA Handbook](#) to better understand the NEPA process early and align their proposed projects accordingly.

¹⁰ Extraordinary circumstances are described in the Departmental NEPA regulations at 43 C.F.R. § 46.215.

IX. PROJECT AUTHORIZATION

The Federal regulations require that, before the start of construction on any non-emergency reclamation project, States and Tribes submit a request for an Authorization to Proceed (ATP) once the NEPA analysis has been completed. 30 C.F.R. §§ 885.15, 886.16. An ATP request for a reclamation project should include: confirmation that the problem area to be reclaimed has been entered into e-AMLIS; all completed environmental documents, including NEPA documents and other documents demonstrating compliance with relevant environmental laws, such as the Endangered Species Act; an AML eligibility statement; and any additional documentation requested by OSMRE for that particular project.

As discussed above, States and Tribes should engage with labor and worker organizations that represent coal industry workers to identify current or former employees of the coal industry who are candidates to be employed by AML reclamation contractors consistent with the Section 40701(f) priority and provide OSMRE with certifications of this engagement.

For projects or aggregated projects in excess of \$1 million, States or Tribes may provide a certification that a Project either uses a unionized project workforce or includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). In lieu of such certification, the Recipient may develop a project workforce continuity plan, detailing:

- How the State or Tribe will ensure the Project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the Project, including a description of any required professional certifications and/or in-house training, registered apprenticeships or labor-management partnership training programs, and partnerships like unions, community colleges, or community-based groups;
- How the State or Tribe will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the Project;
- How the State or Tribe will provide 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);
- Whether workers on the Project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market;
- Whether the Project has a Community Benefit Agreement, with a description of any such agreement; and
- Whether the Project prioritizes local hires.

These plans should maintain sufficient records to substantiate this information upon request.

OSMRE will provide an ATP letter once the agency has determined that the request satisfies the guidelines for ATP issuance. The ATP letter from OSMRE provides the required approval to use BIL

AML grant funding to reclaim the specific project being addressed and allows project construction to begin. Although NEPA documentation is part of the criteria required for an ATP request, the NEPA process and ATP process are two separate processes. An ATP request cannot be completed until OSMRE has completed the NEPA review process and issued a ROD, FONSI, or CE in compliance with the NEPA requirements.

According to chapter 4-120 of the Federal Assistance Manual (FAM), States and Tribes are required to submit a request for emergency declaration to OSMRE for emergency reclamation projects. The FAM requirements track the “emergency” definition at 30 C.F.R. § 700.5, identifying the proper amount of emergency reclamation as the amount necessary to stabilize the emergency aspects of the problem—eliminating the immediate danger to public health, safety, and general welfare. Any remaining reclamation should then be accomplished as part of a regular, non-emergency AML project, as necessary.

Upon receipt of a request for emergency declaration, OSMRE will review the information and ensure that the project meets all requirements of the AML emergency program. If all information contained within the request for emergency declaration is complete, OSMRE will declare an emergency by signing a Finding of Fact/ATP. The Finding of Fact certifies that the problem meets the emergency criteria and serves as the point of Federal action, authorizing the State/Tribe to proceed with reclamation work on the site. After the emergency is abated, the States and Tribes are required to comply with all applicable Federal laws and regulations, including NEPA.

X. BIL AML PERFORMANCE MEASURES & REPORTING

OSMRE is required to submit a report to Congress within six years of the first BIL AML grant allocation to State and Tribal AML Programs. This report will detail the progress made under the BIL AML provisions in addressing outstanding reclamation needs under subsections (a) and (b) of section 403 and section 410 of SMCRA. In preparing this report, OSMRE will solicit input from State and Tribal AML Programs on the progress made in addressing outstanding coal AML problems and use the information provided in the annual evaluation reports each State and Tribe submits pursuant to section 405(j) of SMCRA.¹¹ OSMRE intends to provide future guidance on how to prepare the information required in the report to Congress.

OSMRE is evaluating and developing the performance measures and reporting elements to be tracked to ensure accomplishments made by State and Tribal AML Programs under the BIL are captured in these annual reports. Given that AML projects are located in coalfield communities that may also be defined as disadvantaged communities, communities of color, low-income communities, or Tribal or Indigenous communities, State and Tribal AML Programs are encouraged to track and report on the types of benefits and the percentage of benefits that accrue to these communities. State and Tribal AML Programs are also encouraged to engage with stakeholders to help identify metrics that accurately reflect the benefits of BIL AML projects in their reclamation programs. In order to enable robust reporting, States and Tribes are expected to track the following types of benefits that can be measured and reported:

¹¹ Pursuant to section 405(j) of SMCRA, State and Tribal AML programs will be required to submit annual reports to track their progress and accomplishments in addressing outstanding reclamation needs using BIL AML grant funds.

AML Reclamation Environmental Benefits

- Number of acres reforested
- Number of trees planted on AML sites
- Number of bat gates installed
- Number of acres of endangered species habitat re-established
- Number of tons of rare earth elements, metals, or sediment recovered for reuse
- Amount of methane emissions reduced

AMD Remediation Project Benefits

- Quantity of iron, aluminum, manganese, sulfate, etc. removed and/or recovered on annual basis by AMD water reclamation projects
- Quantity of Rare Earth Elements (REE) recovered by AMD water reclamation projects
- Number of AMD passive treatment systems built
- Number of AMD passive treatment systems operated and maintained
- Number of AMD active treatment systems built
- Number of AMD discharges abated
- Number of polluted water supplies addressed
- Miles of waterways improved
- Volume of water treated
- Number of outflows remediated

Socio-economic Benefits of BIL AML Projects

- Percent of overall benefits and types of benefits that accrue to disadvantaged community, community of color, low-income community, or Tribal or Indigenous community;
- Number of former/current employees of the coal industry employed in AML reclamation;
- Demographics/number of workers from under-represented groups;
- Percent of workers from the local community;
- If there is a community benefit agreement as part of the project;
- Number of project partners involved in AML reclamation projects;
- Electric generating capacity of renewable energy facilities installed on reclaimed AML sites;
- Number of businesses constructed on reclaimed AML sites, and number of people employed at those sites;
- Acres of new recreational facilities constructed;
- Number of job hours involved in BIL AML remediation;
- Number of people receiving potable water after completion of water supply restoration projects;
- Number of residents positively impacted by the restoration of previously polluted waterways; and,
- Number of residents within [X] miles of BIL-funded projects.

* * *

If you have any questions or need additional assistance, please contact your servicing OSMRE Field or Regional Office.

****Appendices**

Appendix I: Subaccounts for BIL AML Financial Assistance

Appendix II: Table for BIL AML Eligible Projects

Appendix III: BIL AML Project Flowchart

** - Appendices to be developed as needed.

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Appendix I: Subaccounts for BIL AML Financial Assistance

I. Authorities

- The Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. No. 95-87, as amended
- Infrastructure Investment and Jobs Act (IIJA), Pub. L. No. 117-58, also known as the Bipartisan Infrastructure Law (BIL)
- Office of Surface Mining Reclamation and Enforcement (OSMRE) Directive GMT-10, The Federal Assistance Manual (FAM)
- The Federal Grant and Cooperative Agreement Act of 1977, Pub. L. No. 95-224
- Title 2 C.F.R. Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards

II. Purpose

The purpose of this document is to provide guidance and to clarify the available subaccounts (i.e. cost categories) for allocating monies when submitting a BIL AML grant applications and expending monies when invoices are submitted for processing through the Department of the Interior's/OSMRE's financial system. This guidance document outlines the available subaccounts for BIL funds that were created in 2022. The Federal Assistance Manual (FAM) will be updated to reflect these changes.

III. How to Use this Document

This document contains the following information:

- BIL Subaccounts Table. (Table 1) This table provides a listing of all available subaccounts under the BIL AML Program, which is funded by moneys sourced from the U.S. Treasury.
- Fund Type Descriptions. This section describes the different types of funds listed in Table 1, which are used in the BIL AML Program.

BIL AML Grant Subaccount Table

The table below contains a listing of standard subaccounts currently available for BIL AML Grants:

Table 1: BIL Fund Subaccounts

Subaccount	Bipartisan Infrastructure Law
01	IL
03	IL
04	IL
19	IL
21	IL
23	IL

Listed below is the fund type description.

IL Funds authorized by section 40701 of the BIL that are available to eligible States and Tribes.

Source: U.S. Treasury Funds

Listed below are the subaccount number definitions:

01. Non-Emergency Administrative

These are costs that cannot be tracked to individual reclamation projects and include items such as travel, rental of vehicles, and any other administrative expenses. Project Design and Engineering costs should not be incorporated into subaccount 01.

03. Coal Project Costs (Non-Water Supply)

Used for actual construction, realty work, construction contracting, construction inspection, and other items allocable to a specific project in accordance with the BIL. Please note that project design and engineering coal-related costs and operation and maintenance costs related to AMD projects should not be included under subaccount 03. An engineering and design subaccount 19, as described below, have been created to track these coal-related costs. An operational and maintenance subaccount 21, as described below, has been created to track these AMD related costs.

04. Water Supply Project Costs

Authorized by the Bipartisan Infrastructure Law, eligible States and Tribes may expend funds to protect, repair, replace, construct, or enhance facilities related to water supplies adversely affected by coal mining practices. Please note that project design and engineering coal-related costs should no longer be included under subaccount 04. A new engineering and design subaccount 19, as described below, has been created to track these coal-related costs

19. Coal Projects Engineering & Design Costs

Coal-related engineering and design costs associated with site investigation, including identification and mapping of hazards; environmental sample collection and data validation; costs associated with surveying design and engineering of reclamation activities, including development of construction bid packages; costs associated with owner operator searches, eligibility determination, historic and archeological surveys, threatened and endangered species reports and consultation, document preparation related to NEPA, public meetings, and landowner agreements; and any other costs associated with project preparation before the award or initiation of a construction project.

Pursuant to section 403(c) of SMCRA, OSMRE maintains e-AMLIS, the central electronic database for housing the national inventory of unreclaimed AML problems affecting public health, safety, and the environment and reclaimed sites, along with their associated reclamation costs. BIL funding may be used by State or Tribal AML Programs to amend their inventory of coal problems. Costs associated with the activities necessary to update a State or Tribe's inventory in e-AMLIS should be included under this subaccount.

Please note that this definition does not include construction oversight or long-term monitoring or maintenance. Any cost related to construction oversight or long-term monitoring or maintenance should be included under direct project subaccounts such as 03 and 04. Any BIL costs related to long term acid mine drainage (AMD) operational and maintenance costs should be included under subaccount 21.

21. Acid Mine Drainage (AMD) Operational and Maintenance Costs

These are costs associated with the long-term operation and maintenance of AMD treatment facilities. This category was created as a result of the determination that States and Tribes receiving BIL AML funding may use the grant funds to operate and maintain AMD treatment facilities. Costs related to the construction of AMD treatment facilities should be included under direct project subaccounts such as 03 and 04. Costs related to the design of AMD treatment facilities should be included under subaccount 19.

23. BIL Emergency Projects Only

Authorized by the BIL. As defined at 30 C.F.R. § 700.5, an emergency is: a sudden danger or impairment that presents a high probability of substantial physical harm to the health, safety, or general welfare of people before the danger can be abated under normal program operation procedures. Emergency project costs cover the emergency restoration, reclamation, abatement, control, or prevention of adverse effects of coal mining practices, on eligible lands. Emergency projects must be pre-authorized by OSMRE, directly related to emergency hazard abatement, and are subject to availability of funds

Appendix II: Table for BIL AML Eligible Projects

Project or Activity	Type of Hazard	Estimated FY 2022 BIL AML Funding for Project	Schedule	Proposed Project Accomplishments
<i>Project 1 – Name of Project</i>	<i>E.g., Dangerous Highwall, Clogged Stream Lands, etc.</i>	<i>\$XXXX</i>	<i>Anticipated Start Date – Anticipated End Date</i>	<i>E.g., dangerous highwall reclaimed</i>

Appendix III: BIL AML Project Flowchart

