

Frequently Asked Questions

BIL Sec. 40601 Orphaned Well Plugging, Remediation, and Reclamation

Large-Scale Initial State Grants

August 25, 2022

While the Bipartisan Infrastructure Law (BIL) includes a number of statutory purposes, including identifying and ranking wells and measuring and tracking methane emissions, 90% of the grant funds are to be used for the first statutory purposes: “to plug, remediate, and reclaim orphaned wells located on State-owned or privately owned land” and that the grant recipient “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.”

The remaining 10% may be used for any of the other statutory purposes. Additionally, there is a 10% cap on administrative costs, which will apply should the state elect to use all remaining funds for administration of its initial grant.

Q: What is meant by will “use” with respect to the 90% certification?

- To “use” these grant funds is understood to mean obligate funds for authorized purposes through the award of new contracts, amendment of existing contracts, or issuance of grants. See the definitions section of Initial State Grant guidance under “Date of receipt of funds.”

Q: What is “the date of receipt of funds”?

- The date of receipt of funds is the effective date of the grant. For most states, that will be October 1, 2022. This is the date the State may begin to drawdown funds and the beginning of the grant’s period of performance. This term is defined in the Initial State Grant guidance.

Q: What activities or expenses count toward the 90% (“plugging, remediation, and reclamation work”)?

- Any costs that are reasonably necessary pursuant to the applicable contracts or grants to facilitate the work of plugging, remediation, and reclamation of a particular well or well-site or set of wells or well-sites can be included in the 90%.
 - This includes labor, travel, and contractor costs associated with methane and other gas measurement at sites that are the subject of plugging, remediation, and reclamation using Initial State Grant funds.
 - Also included is the purchase of methane measurement and related equipment used for pre- and post-plugging measurement or needed as part of health and safety protocols associated with site work to plug, remediate, and reclaim well sites with Initial State Grant funds.
 - Costs for hiring a subject matter expert (e.g., restoration firm or landscape architect) to the extent reasonably necessary to carry out the remediation or reclamation of a well or well site are properly included in the 90%.

- Costs associated with sampling, remediating, or monitoring soil, surface water, or groundwater contamination at a site to be plugged and abandoned with Initial State Grant funds.
 - This includes related labor, travel, and contractor costs associated with site work to plug, remediate, and reclaim well sites with Initial State Grant funds.
- Costs associated with mobilizing to a well site to be plugged, remediated or reclaimed
 - This includes labor, vehicles, equipment, or contracts used as part of site work to plug, remediate, and reclaim well sites with Initial State Grant funds.
- Preparing the site for plugging, remediation, or reclamation.
- Performance of the plugging, including plug witnessing and documentation.
- Transportation and disposition, including reuse or recycling of pipelines, facilities, and infrastructure associated with a site to be plugged and abandoned with Initial State Grant funds.
- Reclaiming the site following plugging, including recontouring, revegetation, and monitoring until reclamation performance standards have been attained.

Q: What activities or expenses count toward the remaining 10% for authorized purposes?

- The remaining 10% of the large-scale initial grant can be used for any of the eight authorized purposes in the BIL and/or for administrative expenses. Thus, the state has discretion regarding how to use these funds.
- Identifying, characterizing, or inventorying undocumented wells. This includes contracts, vehicles, drones, magnetometers, or methane detectors used to locate undocumented wells or collect data for plugging, remediation, or reclamation well sites under other funding sources (e.g., State Formula Grant, State Performance Grant, State funds).
- Ranking orphaned wells, so that the order of plugging may be determined.
- Making information available on a public website.
- Analysis or identification of 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.
- Program administration.

Q: What happens if a State is unable to meet the “90% in 90 days” target?

- The State will be notified by the DOI Agreements Officer (AO) that the 90-day period is approaching or has passed, and project execution is not on track to meet the “90% in 90 days” target. The State will have an opportunity to explain what circumstances led to the missed target and provide a timeframe and actions the State proposes to complete 90% obligations. The AO will accept, modify, or reject the State’s proposal and will consider corrective measures as allowed under 2 CFR 200.339. Failure to correct deficiencies may result in grant termination, which may be considered in any subsequent grant applications.

Q: At what point can a State no longer obligate Initial State Grant funds?

- The BIL requires that a State must reimburse the Secretary of the Interior for any funds that remain unobligated 12 months after the receipt of funds (the effective date of the grant). Reimbursement is commonly known as “de-obligation” of funds. For most states, the 12-month obligation period expires on September 30, 2023.
- While there is a deadline for the obligation of funds, the expenditure of obligated funds (e.g., payment of invoices under a contract) can continue beyond the 12-month anniversary of the effective date. For instance, the payment of contractor invoices will continue through the period of performance of the contract and will continue to be reported quarterly to DOI in the state’s financial reports.