

## MEMORANDUM

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**TO:** RTOC Tribal Caucus  
**FROM:** Rick Eichstaedt, RTOC Policy Analyst  
**DATE:** April 14, 2022  
**RE:** Overview of New GAP Guidance/Allocation

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This memo is intended to provide an overview of the significant changes to the GAP process proposed by EPA's draft GAP Guidance and GAP Allocation.

These documents are available at <https://www.epa.gov/tribal/indian-environmental-general-assistance-program-gap>

### 1. Changes in the 2022 GAP Guidance

The draft GAP Guidance made some significant changes and clarifications to the previous GAP Guidance, including:

- Clarifies that GAP can be used to build capacity to implement environmental programs under tribal laws and regulations, meaningfully participate in EPA programs, and establish and maintain an environmental presence. The 2018 Congressional provision to provide collection, backhaul, transportation and disposal services is also incorporated.
- States that GAP funds cannot be used for implementation. The Guidance provides a definition of "implementation" as having received delegation, authorization, or approval to administer an EPA program or function and/or administering environmental programs under tribal laws and regulations. There are 4 exceptions defined in the Guidance, including work on TAS approval, demonstrated need to continue capacity building limited to 4 years with AIEO approval, building capacity in a new area, and PPG flexibilities.
- Clarifies allowable solid waste activities to include collection, backhaul, transportation, and disposal of solid waste and/or recovered resources (service delivery activities). Funding these activities requires either an Integrated Waste Management Plan or an ETEP with the needed information.
- The Guidance removes the requirement for a Tribe to complete solid and hazardous activities in a specific order, but strongly encourages Tribes to have an established solid waste program in place or under development before funding cleanup activities to prevent new, or recurring, unauthorized dumping on tribal lands.
- Provides that Capacity Indicators will be in ETEPs not GAP work plans and that Capacity Indicators will not represent all GAP eligible activities.

- The Guidance establishes expectations for intertribal consortia recipients to document how their work plan supports GAP-eligible member Tribes' capacity building efforts, including what capacity indicators they are helping Tribes to develop.
- A consortium receiving GAP funds in lieu of a Tribe(s) is expected to develop an ETEP that is representative of all GAP-eligible member Tribes included in the consortium's work plan.
- Documentation of GAP-eligible member Tribes' authorization is required with each new application versus each funding action.

When final, the 2022 GAP Guidance will replace the 2013 GAP Guidance and will be effective for negotiating and awarding GAP financial assistance agreements.

## **2. GAP Allocation Changes**

The GAP allocation will provide GAP funds to the Regions based upon "number of federally recognized Tribes with active GAP awards in each region." This change is significant because the current allocation is based on the number of federally-recognized Tribes in each Region. The changes to the GAP allocation will have significant changes to Region 10. EPA indicates that the allocation will result in a \$1.556 million cut in Region 10's GAP allocation from FY22 amounts to \$29 million.

While consortium will still be able to receive GAP funds, there will be a significant reduction in the amount of funds available for EPA to award consortium and it will be unlikely that consortium will be able to receive funding without impacting Tribes. The allocation gives the Regions discretion in how to allocate their share of the GAP funds – "The methodology described below does not prescribe how regional offices award funds to GAP grantees (e.g., a region may make an award that is greater or less than the national per Tribe allocation and/or may fund grantees not included in the national regional allocation formula).

Many consortia in Region 10 benefit from GAP funds.

In FY 21, Region 10 funded 24 consortia were funded of the 257 total GAP grantees. 19 of those consortia serve Alaska Tribes, 3 serve OR/ID/WA Tribes, and RTOC serves all Region 10 Tribes. The number of consortia is relatively consistent over the last six years with new consortia forming and others going inactive.

In FY 21, Region 10 granted \$4.14 million to consortia of the \$32 million GAP funds granted. This funding level has been between \$3.9 and \$4.2 for the last 6 years. Alaska consortia received \$3.4 million (including RTOC which serves all Region 10 Tribes) and OR, ID, WA Consortia received \$725 K. Of the consortia, RTOC and the Northwest Indian Fisheries Commission in Puget Sound have much larger budgets at \$400,000 and \$350,000 respectively. The rest are funded at similar baseline levels as other Tribes in Region 10 e.g., \$125,000 for FY 21.

Disturbingly, EPA does not track how many consortia provide services for Tribes that do not receive GAP grants. Michael Ortiz in an email indicated, "[W]e do not track how many

Consortia in Region 10 provide service to Tribes that currently do not receive a GAP grant. We currently don't have a mechanism in place to track that.”

### 3. Comment and Consultation Opportunities

Tribal governments may submit written comments on the Allocation through August 2, 2022. Tribal governments may request one-on-one consultation meetings with EPA. Requests for consultation should be made to Lisa Berrios at [berrios.lisa@epa.gov](mailto:berrios.lisa@epa.gov) or at (202) 564-1739.

In addition, EPA will be conducting webinars to discuss the changes:

#### Allocation Webinars

<p><u>Facilitated Discussion with Tribes</u>          - Provide Tribes an opportunity to ask questions and comments on proposed revisions to the GAP allocation</p> <p>Conference call line: (202) 991-0477          Conference call code: 773 205 399#          Webinar access via computer on mobile app: <a href="#">Click here to join the meeting</a></p>	<p>Monday, May 23, 2022          Time: 3:00-4:30 EDT</p>
<p><u>Informational Webinar for Intertribal Consortia</u>          - Provide Intertribal Consortia with an opportunity to ask questions and provide comments</p> <p>Conference call line: (202) 991-0477          Conference call code: 916 834 372#          Webinar access via computer on mobile app: <a href="#">Click here to join the meeting</a></p>	<p>Thursday, June 16, 2022          Time: 2:00-3:30 EDT</p>
<p><u>Facilitated Discussion with Tribes</u>          - Provide Tribes an opportunity to ask questions and comments on proposed revisions to the GAP allocation</p> <p>Conference call line: (202) 991-0477          Conference call code: 106 019 660#          Webinar access via computer on mobile app: <a href="#">Click here to join the meeting</a></p>	<p>Wednesday, July 13, 2022          Time: 3:00-4:30 EDT</p>

## GAP Guidance Webinars

<p>National Notification Call to Tribal Leaders            - Provides Tribes with an overview of the consultation scope, process, &amp; timeline            Conference call line: (202)991-0477            Conference call code: 292 282 927#            Webinar access via computer on mobile app: <a href="#">Click here to join the meeting</a></p>	<p>Wednesday, April 20, 2022            2:00 PM – 3:30 PM EDT</p>
<p>Facilitated Discussion: Overview of the draft 2022 GAP Guidance            - Provides Tribes with an opportunity to ask questions and provide comments            Conference call line: (202)991-0477            Conference call code: 614 770 08#            Webinar access via computer on mobile app: <a href="#">Click here to join the meeting</a></p>	<p>Tuesday, April 26, 2022            2:30 PM – 4:00 PM EDT</p>
<p>Facilitated Discussion: The Scope of GAP            - Provides Tribes with an opportunity to ask questions and provide comments            Conference call line: (202)991-0477</p>	<p>Wednesday, May 11, 2022            3:00 PM – 4:30 PM EDT</p>

<p>Conference call code: 898 649 979#            Webinar access via computer on mobile app: <a href="#">Click here to join the meeting</a></p>	
<p>Facilitated Discussion: Performance Management, ETEPs and Indicators            - Provides Tribes with an opportunity to ask questions and provide comments            Conference call line: (202)991-0477            Conference call code: 109 662 846#            Webinar access via computer on mobile app: <a href="#">Click here to join the meeting</a></p>	<p>Thursday, May 26, 2022            2:00 PM – 3:30 PM EDT</p>
<p>Facilitated Discussion: GAP Flexibilities            - Provides Tribes with an opportunity to ask questions and provide comments            Conference call line: (202)991-0477            Conference call code: 849 833 387#            Webinar access via computer on mobile app: <a href="#">Click here to join the meeting</a></p>	<p>Wednesday, June 15, 2022            3:30 PM – 5:00 PM EDT</p>
<p>Facilitated Discussion: Intertribal Consortia and GAP            - Provides Tribes with an opportunity to ask questions and provide comments            Conference call line: (202)991-0477            Conference call code: 455 231 020#            Webinar access via computer on mobile app: <a href="#">Click here to join the meeting</a></p>	<p>Thursday, June 23, 2022            1:30 PM – 3:00 PM EDT</p>
<p>Informational Webinar for intertribal consortia            - Provides intertribal consortia with an overview and an opportunity to ask questions and provide feedback            Conference call line: (202)991-0477            Conference call code: 731 868 885#            Webinar access via computer on mobile app: <a href="#">Click here to join the meeting</a></p>	<p>Tuesday, July 12, 2021            3:00 PM – 4:30 PM EDT</p>
<p>Facilitated Discussion: Overview of the draft 2022 GAP Guidance            - Provides Tribes with an opportunity to ask questions and provide comments            Conference call line: (202)991-0477            Conference call code: 212 023 556#            Webinar access via computer on mobile app: <a href="#">Click here to join the meeting</a></p>	<p>Monday, July 25, 2022            3:30 PM – 5:00 PM EDT</p>