



Answers To Frequently Asked Questions About The U.S. EPA Clean Water Indian Set-Aside Grant Program

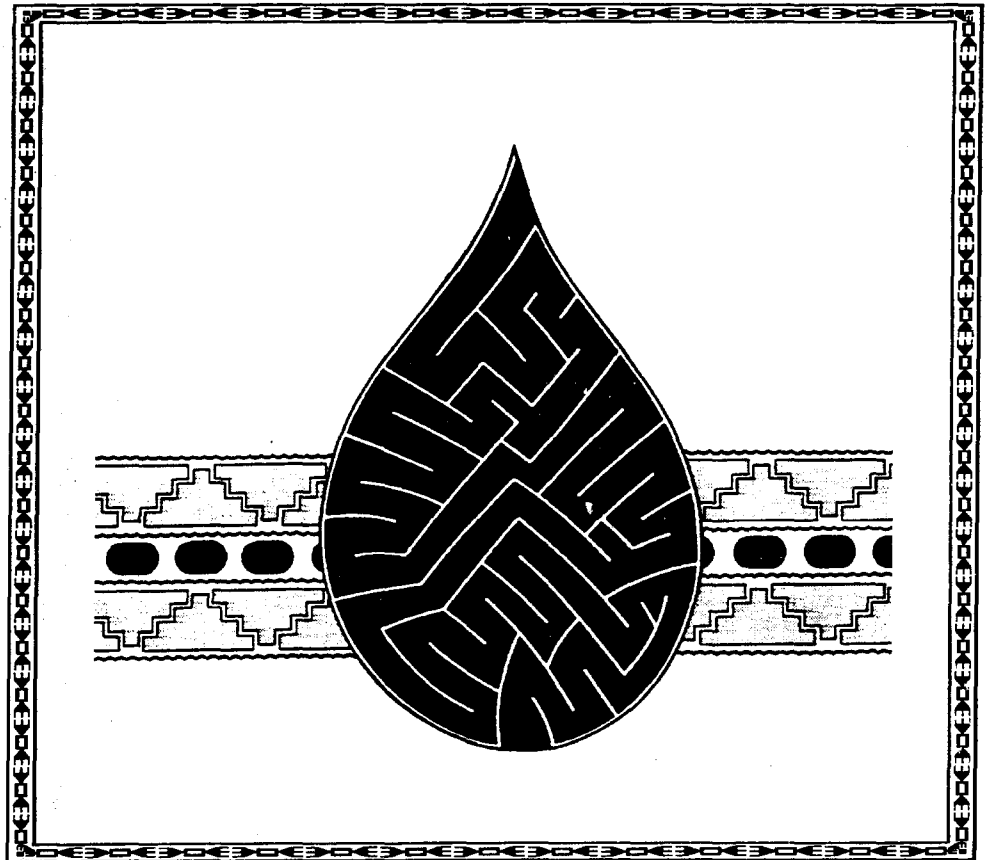


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Introduction

Below are answers to some of the most frequently asked questions about the Environmental Protection Agency's (EPA's) Clean Water Act (CWA) Indian Set-Aside (ISA) Grant Program. The CWA ISA Grant Program was created to provide grants to Indian tribes and Alaskan Native Villages (ANVs) to assist in the planning, design, and construction of wastewater treatment facilities. All federally recognized tribes, ANVs, and tribes on former reservations in Oklahoma are eligible for ISA grant funds.

General Questions

1. How does one obtain funding from the ISA Program?

Tribes must first submit their needs to the Indian Health Service's (IHS's) Sanitation Deficiency System (SDS). EPA uses this system to identify priority wastewater projects for funding. EPA Regional ISA Coordinators, in cooperation with the IHS Area Program Directors, select eligible projects for funding from the SDS priority lists. EPA regions will notify selected tribes that they have been identified to receive an ISA grant. Tribes must then submit a formal grant application to their EPA Regional offices. Guidance on submitting grant applications is found in EPA's *Guidelines and Requirements for Applying for Grants from the Indian Set-Aside Program* document (April, 1989.) EPA and IHS field contacts are listed on pages 9 and 10.

2. How does a tribe gets its wastewater needs into the IHS Sanitation Deficiency System and what is the SDS data collection cycle?

IHS has 12 Area offices which collect data for the SDS annually. Local IHS Area office representatives can help tribes identify their wastewater needs for this purpose. During the data collection process, IHS personnel may meet with or contact tribal representatives to discuss or obtain specific project proposals. Please contact your local IHS Area office to determine its SDS data collection process and schedule. However, some key dates are:

Date	Milestone
April - May	Identify sanitation needs to IHS Area offices
June	Deadline for submission of needs (Check with your Area office to determine the exact date)
September-November	IHS HQ review of SDS project submissions
December	Final SDS priority lists available

3. **What is the relationship between EPA and IHS in the administration of the ISA Program?** Section 518(c) of the 1987 Amendments to the Clean Water Act (CWA) established the ISA program and authorized EPA to make wastewater treatment grants available to tribes and Alaska Native Villages. The Amendments directed EPA to work with IHS to identify and address the sanitation needs of tribes. To accomplish this, EPA entered into an interagency agreement with IHS in 1988 to provide help with the administration of the ISA Program. Because EPA does not have the resources necessary at the field level to administer project level grants by itself, this partnership has allowed EPA and IHS to work together to leverage the technical resources available through both agencies to address tribal sanitation needs.

Funding Eligibility

4. **What types of projects are funded by the ISA Program? Do they have to be wastewater-related?** All projects funded by the ISA Program must be wastewater-related. Project components that are eligible for funding include:
- Interceptor sewers;
 - Wastewater treatment facilities (conventional or alternative);
 - Infiltration/inflow correction;
 - Collector sewers;
 - Major sewer rehabilitation; and
 - On-site treatment systems (e.g., septic systems.)
5. **Are matching funds required for an ISA grant?** No. The purpose of the ISA Program is to provide an opportunity for tribes to obtain wastewater treatment grant money through a simplified priority process not requiring any matching funds. Up to 100 percent of eligible project costs can be funded.
6. **Can ISA funds be used to pay for the operations and maintenance of a wastewater treatment facility?** No. ISA funds can only be used to pay for the planning, design, and construction of wastewater projects. They cannot be used to pay for the cost of operating and maintaining the wastewater facility. Nor can they be used to pay for repairs to the treatment system in emergency situations.

7. **Are sanitation system costs for homes built with the Department of Housing and Urban Development (HUD) funds eligible under the ISA Program? If so, what costs are eligible?** Yes. Wastewater systems for HUD-funded homes are eligible for funding under the ISA Program. However, funding cannot be used for indoor plumbing or lateral connections to individual homes.
8. **Does EPA specifically address water quality problems through the ISA Program? Are water quality needs identified in the SDS?** Yes. Water quality needs can be addressed through the ISA program. As stated in Section 216 of the Federal Water Pollution Control Act (Clean Water Act) as amended by the Water Quality Act of 1987, EPA's water quality goals in the ISA Program are first to rectify deficiencies that are causing, or may potentially cause, human health problems. Once public health goals are attained, EPA will then concentrate on projects that address water quality goals, such as meeting effluent permit limits or loading criteria. This is also reflected in EPA's use of the SDS to prioritize projects. The SDS scoring criteria gives more weight to public health needs than to water quality needs. Projects necessary to solve public health problems would have higher SDS scores than projects designed to rectify water quality problems. EPA would most likely give higher priority to a wastewater treatment project which addressed environmental and human health needs over a project which addressed only environmental needs.
9. **Can future needs be addressed through SDS?** Generally, no. The SDS system is primarily for identifying current sanitation deficiencies for existing Indian homes. Therefore, a project that was submitted primarily to meet future needs (such as projects necessary to meet projected population growth) will not be considered. IHS SDS guidelines (Draft Guide to Reporting Sanitation Deficiencies for Indian Homes and Communities, IHS, February 1993, p. 14) indicate that "IHS can only address the sanitation deficiencies of existing Native American homes within the scope of the definitions described in [the] guidelines." However, facilities constructed to meet existing needs are usually designed with flexibility to accommodate some future expansions.

10. Can ISA funds be used for wastewater projects that are linked to economic development projects?
- No. These projects are not eligible for ISA grant funds. EPA currently uses the SDS to prioritize wastewater needs. The SDS considers only immediate needs for sanitation facilities and not those needs that will spur economic development or growth. However, federal programs such as the Department of Housing and Urban Development's (HUD) Indian Community Development Block Grant (CDBG) Program; the Rural Utilities Service Water and Waste Disposal Program of the Department of Agriculture; and the Department of Commerce's Economic Development Grants for Public Works and Development Facilities Program do fund economic development projects. (See page 11 for more information.)

Administration of the ISA Program

11. What program requirements or regulations must tribes meet in order to be eligible to receive an ISA grant directly from EPA?
- The requirements for a tribe to receive an ISA grant from EPA are discussed in the EPA's *Guidelines and Requirements for Applying for Grants from the Indian Set-Aside Program* document (April, 1989.)
- While the requirements are designed specifically for the ISA Program, they are based on the regulations contained in 40 CFR Part 31 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments) and 40 CFR Part 35 Subpart I (Grants for Construction of Treatment Works.) Tribes should work closely with their Regional ISA Coordinator to determine which regulations apply to their project, as well as to ensure that all of the regulations are followed properly.
12. Are pre-award costs (prior to the award of the grant) eligible for ISA funding?
- Generally, no. Pre-award costs for projects selected for funding are eligible only with prior approval from the EPA Regional Office and only for emergency or other exceptional circumstance (see 40 CFR 35.2118.) For example, in emergencies or instances where delay could result in significant cost increases, the Regional Administrator may approve preliminary building work, such as procurement of major equipment requiring long lead times.

13. Where can tribes obtain technical assistance or information to help them comply with requirements for an ISA grant?

EPA or IHS can provide technical assistance on a variety of topics, from complying with regulations to choosing low-cost alternative wastewater treatment technologies to administering an ISA grant. In addition, EPA can provide contacts for a variety of additional technical assistance providers, including the National Small Flows Clearinghouse and the Rural Community Assistance Program (RCAP), the Native American Water Association (NAWA), and other government agencies, such as the Bureau of Indian Affairs, the Bureau of Reclamation, and the Department of Agriculture's Extension Service, all of which may be able to assist tribes in specific areas. More information on these and other resources can be obtained by contacting the agencies listed on page 11. Information is also available from the ISA Coordinator in your region.

14. Are tribes required to use the services of IHS to help with the administration of wastewater projects if they receive an ISA grant?

No. The tribe may choose to have EPA administer the grant directly with no IHS involvement, or it may choose to have the IHS Area office administer the grant. For more information on EPA-administered grants, see EPA's *Guidelines and Requirements for Applying for Grants from the Indian Set-Aside Program* document (April, 1989.)

15. Are tribes required to use the services of IHS for the design and/or the construction of their wastewater projects if they receive an ISA grant?

No. A tribe has three options for designing and/or building its wastewater project:

- a. The tribe can receive a grant directly from EPA. The tribe then chooses an architectural/engineering (A/E) firm to design the project and, through competitive procurement, chooses a construction contractor to build the facility. EPA then administers the project and works with the tribe and the A/E to ensure that all applicable regulations and requirements regarding the grant are followed. These requirements are outlined in CFR 40 Parts 31 and 35. This document can be obtained by writing to the following address (*please reference Ordering Number 869-032-00134-1 when requesting this document*):

Superintendent of Documents
PO Box 371954
Pittsburgh, PA 15250-7954

(Answer to Question 15, continued from previous page)

- b. The tribe can have IHS administer the grant, and design and/or build the facility. In this case, EPA would enter into an Inter-Agency Agreement (IAG) with IHS and would sign a Memorandum of Agreement (MOA) with the tribe and IHS. This MOA would designate the specific responsibilities of each of the parties involved in the agreement. IHS would then design and build the project according to its administrative and construction policies and procedures (i.e., procurement, environmental review, audit procedures, and accounting principles).
- c. Finally, the tribe can have IHS administer the grant but request an outside A/E firm to design the project and/or an outside construction contractor to build the facility. IHS would work with the tribe and the A/E to ensure (to the greatest extent possible) that all applicable EPA and/or IHS guidelines regarding the project are followed.

16. Does the IHS/SDS project cost estimate recognize the additional costs of using a non-governmental engineer to design/manage the project? If not, how are these costs covered

Generally, no. IHS, with tribal consultation, provides the project cost estimate that is included in the SDS. Any grant award will be based on this project cost estimate. Because of the method by which IHS structures its project cost estimate, the estimate could be low relative to what it would cost a non-governmental engineering firm to design/manage the same project. The tribe needs to let the IHS know during the SDS cycle if they desire an outside engineering organization, so that, if possible, an additional cost can be incorporated. Thus, if the tribe chooses to hire an outside engineering firm to do the work after the grant is approved, the project cost might be higher than the cost estimate contained in the SDS. In some cases when this has occurred, EPA regions and the tribes have worked together to offset the increased project costs by scaling back the scope of the project.

17. Does the ISA Program cover cost overruns on projects?

No. There are no additional ISA funds for projects that exceed their budget. Projects which have cost overruns must be addressed by reducing the scope or restructuring the project, applying for additional funding under any subsequent set-aside priority list, or seeking additional funds from other sources.

18. **Can tribes who have assumed the IHS SFC Program responsibility under Title I or Title III of P.L. 93-638 (Indian Self-Determination Act) have EPA ISA funds transferred into their IHS compacts or contracts?** No. EPA does not have the authority within the CWA to enter into P.L. 93-638 contracts or compacts with tribes directly nor through interagency agreements with IHS for tribes. All of EPA's grant conditions and regulations must be fulfilled if a tribe is to receive an ISA grant.
19. **How are multi-phase wastewater treatment project costs covered by the ISA Program?** Multi-phase projects are considered as separate projects. Tribes must apply for ISA funds for each project. Of course, the project must be ranked within the SDS to be eligible to receive funding. All phases must be independently operational and beneficial.
20. **How will disputes between EPA and IHS, or EPA and the tribes, be settled?** Some disputes arise as a result of a misunderstanding of the project scope or program requirements. Problems may occur if the tribe is not involved in the project's development from the beginning. Disputes can often be avoided by emphasizing communications and developing a joint understanding of the technical, administrative and programmatic aspects of the project.
- An agreement on the resolution of disputes should be part of the Project Scope and/or the Memorandum of Agreement (MOA) signed by the parties for each project. In many MOAs, the disputing parties are required to try to work out their differences among themselves. If no resolution can be achieved using this method, then the dispute is often turned over to a review board appointed by the lead agency (EPA or IHS) for resolution. Many of these MOAs also give IHS and EPA the right to cancel projects if they feel that their requirements are not being met.

21. **What other sources of federal financial assistance are available for Tribal wastewater treatment systems?** Other federal agencies providing loan or grant program assistance for tribal wastewater systems include: 1) HUD's Indian Community Development Block Grant (CDBG) Program, 2) USDA's Rural Utilities Service Water and Waste Disposal Program, 3) IHS's Sanitation Facilities Construction Program, 4) Department of Commerce's Economic Development Grants for Public Works and Development Facilities, and 5) EPA's Clean Water State Revolving Fund (CWSRF) loan program (see page 11.) Contact your Regional ISA Coordinator for more information on these programs.

EPA REGIONAL CWA ISA COORDINATORS:

EPA Region 1 (CT, ME, MA, NH, RI, VT)	Debbie Kerr EPA Region 1 JFK Federal Bldg. One Congress St. Boston, MA 02203 Tel.: 617 565-4886	EPA Region 6 (AR, LA, OK, TX, NM)	Gene Wossum EPA Region 6 1445 Ross Ave. Suite 1200 Dallas, TX 75202-2733 Tel.: 214 665-7173
EPA Region 2 (NJ, NY)	Muhammad Hatim EPA Region 2 290 Broadway New York, NY 10007-1866 Tel.: 212 637-3855	EPA Region 7 (IA, KS, MO, NE)	Gerald Gutekunst EPA Region 7 726 Minnesota Ave. Kansas City, KS 66101 Tel.: 913 551-7484
EPA Region 3 (DC, DE, MD, PA, VA, WV)	There are no federally recognized tribes in Region 3	EPA Region 8 (CO, UT, WY, MT, ND, SD)	Terry Griffith EPA Region 8 999 18th St., Suite 500 Denver, CO 80202-2466 Tel.: 303 312-6153
EPA Region 4 (AL, GA, FL, MS, NC, SC, TN, KY)	Walter Hunter EPA Region 4 61 Forsyth Street Atlanta, GA 30303-3104 Tel.: 404 562-9477	EPA Region 9 (AZ, CA, NV)	Loretta Vanegas EPA Region 9 75 Hawthorne Street San Francisco, CA 94105 Tel.: 415 744-1946
EPA Region 5 (IL, IN, OH, MI, MN, WI)	Charles Pycha EPA Region 5 77 W. Jackson Blvd. Chicago, IL 60604 Tel.: 312 886-0259	EPA Region 10 (AK, ID, OR, WA)	Judy Fey EPA Region 10 1200 Sixth Ave. Seattle, WA 98101 Tel.: 206 553-1302

HEADQUARTERS, EPA CWA ISA PROGRAM:

Sylvia Bell
EPA Headquarters (4204)
401 M Street, SW
Washington, D.C. 20460
Tel.: 202 260-7255

INDIAN HEALTH SERVICE PROGRAM DIRECTORS:

Aberdeen Area Office (NE, IA, ND, SD)	Curt Bossert Aberdeen Area Office 115 4th Street, SE Aberdeen, SD 57401 Tel.: 605 226-7451	Nashville Area Office (NY, ME, NC, MS, FL, AL, CT, LA)	Craig Larson Nashville Area Office 122 E. Seneca St. Manlius, NY 13104 Tel.: 315 682-3167
Anchorage Area Office (AK)	Ken Evans Anchorage Area Office 3925 Tudor Centre Dr. Anchorage, AK 99508 Tel.: 907 729-3500	Navajo Area Office (Navajo)	C. Lewis Fox (Navajo) Navajo Area Office P.O. Box 9020 Window Rock, AZ 86515 Tel.: 520 871-5852
Albuquerque Area Office (CO, NM, except Navajo)	Sam Bradshaw Albuquerque Area Office 5338 Montgomery Blvd. NE., Room 123 Albuquerque, NM 87109-1311 Tel.: 505 248-4596	Oklahoma City Area Office (OK, TX, KS)	Greg Haase Oklahoma City Area Office Five Corporate Plaza 3625 N.W. 56th St. Oklahoma City, OK 73112 Tel.: 405 951-3744
Bemidji Area Office (MN, MI, WI)	Mike Yavarow Bemidji Area Office 305 Federal Building Bemidji, MN 56601 Tel.: 218 759-3372	Phoenix Area Office (UT, NV, AZ - All tribes except Navajo and Tucson Area)	John Hamilton Phoenix Area Office Two Renaissance Square 40 N. Central Ave., Suite 600 Phoenix, AZ 85004 Tel.: 602 364-5068
Billings Area Office (MT, WY)	Richard Oksness Billings Area Office P.O. Box 2143 Billings, MT 59103 Tel.: 406 247-7096	Portland Area Office (WA, OR, ID)	Kelly Titensor Portland Area Office Federal Bldg., Room 476 1220 SW 3rd Avenue Portland, OR 97204 Tel.: 503 326-2001
California Area Office (CA)	Ernie Leporini California Area Office 1825 Bell Street, Suite 200 Sacramento, CA 95825 Tel.: 916 566-7001	Tucson Area, Tohono O'odham, Pasqua-Yaqui	Martin McCarthy Tucson Area Office 7900 South J. Stock Rd. Tucson, AZ 85746 Tel.: 520 295-2580

TECHNICAL OR FUNDING ASSISTANCE CONTACTS

You may contact the agencies listed below to obtain the name and phone number of the representative in your state or local area:

U.S. Department of Agriculture
Rural Utilities Service
Water and Environmental Program
1400 Independence Avenue, S.W.
Washington, DC 20250
Tel: 202 720-9583

U.S. Department of Interior
Bureau of Indian Affairs
1849 C Street, N.W.
Washington, DC 20240-0001
Tel: 202 219-4152

U.S. Department of Agriculture
Natural Resources and Environment
State Extension Offices
1400 Independence Avenue, S.W.
(AgBox 2210) room 828
Washington, DC 20250
Tel: 202 401-4555

U.S. Department of Interior
Bureau of Reclamation
Native American Affairs Office
1849 C Street, N.W.
Washington, DC 20240
Tel: 202 208-5000

U.S. Department of Commerce
Economic Development Administration
Public Works Division
Herbert C. Hoover Building
Room H7326
Washington, DC 20230
Tel: 202 482-5265

Native American Water Association
P. O. Box 511
Minden, NV 89432
Tel: 702 782-6636

U.S. Environmental Protection Agency
Office of Wastewater Management
Clean Water State Revolving Fund
401 M Street, S.W.
Washington, DC 20460
Tel: 202 260-2268

National Small Flows Clearinghouse
Environmental Services & Training Division
West Virginia University
P.O. Box 6064
Morgantown, WV 26506-6064
Tel: 1 (800) 624-8301

U.S. Department of Housing
and Urban Development
Community Planning and Development
Office of Block Grant Assistance
451 7th Street, SW
Washington, DC
Tel: 202 708-1322

Rural Community Assistance Program
602 South King Street
Leesburg, VA 22075
Tel: 703 771-8636