UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF WATER

December 2, 2022

MEMORANDUM

SUBJECT: Bipartisan Infrastructure Law: Gulf Hypoxia Program FY 23 Implementation Memorandum for Tribal Cooperative Agreements

FROM: Radhika Fox
Assistant Administrator

TO: Honorable Tribal Leaders
Eligible Tribal Environmental Directors
Eligible Tribal Environmental Staff
Regional Water Division Directors
Regional Tribal Coordinators for CWA Section 319 and CWA Section 106

1. Introduction

On November 15, 2021, President Biden signed the Bipartisan Infrastructure Law (BIL, P.L. 117-58), also known as the "Infrastructure Investment and Jobs Act of 2021" (IIJA). The law's investment in clean water is nothing short of transformational. It includes approximately $50 billion for water infrastructure and water resource protection to the U.S. Environmental Protection Agency (EPA), the single largest investment in water infrastructure the federal government has ever made.

Through the BIL, EPA will be able to invest in critically needed strategies to improve water quality in the Mississippi River/Atchafalaya River Basin (MARB) and reduce the low oxygen (hypoxic), or "dead," zone in the northern Gulf of Mexico (Gulf), which is one of the largest hypoxic zones in the world. Specifically, the BIL includes $12 million per year for five years ($60 million in total) for actions to support the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force's (Hypoxia Task Force or HTF) Gulf Hypoxia Action Plan (Action Plan) through a new Gulf Hypoxia Program (GHP). EPA will provide 10 percent of GHP funds to eligible Tribes and Nations[1] within the MARB part of the HTF states, for a total of $6 million.[2]

The HTF is composed of 5 federal agencies,[3] 12 states[4] bordering the Mississippi and Ohio rivers, and a representative from the National Tribal Water Council. EPA and the State of Iowa serve as Co-Chairs of the HTF. Three multi-state sub-Basin Committees and a Land Grant University (LGU) consortium are key partners. While EPA has long supported the HTF, with general support for state and tribal water

[1] For the purposes of this memorandum, Tribe is used as a collective term encompassing Tribes, Nations, Pueblos, and other entities.
[2] See Section 2 of this guidance for details on eligibility and funding amounts.
[3] National Oceanic and Atmospheric Administration, U.S. Army Corps of Engineers, U.S. Department of Agriculture, U.S. Department of Interior, and U.S. Environmental Protection Agency.
[4] Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

quality programs and small, intermittent grants, the BIL provides for dedicated, sustained funding for implementing the Action Plan.

Through this BIL investment, EPA will build on its partnership with the states, tribes, sub-basin committees, and the LGU consortium to make significant progress toward reducing nutrient loads that will improve water quality in the Gulf and throughout the MARB. Through improved water quality, communities across the MARB can benefit from safer drinking water, protected fisheries, and a more stable economy.

This memorandum is a supplement to EPA's June 9, 2022 memorandum, *Bipartisan Infrastructure Law: Gulf Hypoxia Program FY 22 Guidance for State Cooperative Agreements* (state guidance) and will support the award of cooperative agreements[5] to as many as 21 eligible tribes with FY 23, 24, and 25 BIL appropriations. Section 2 of the state guidance provides information on the history of the HTF and the Action Plan while Section 3 presents an overview of key GHP priorities. Consistent with EPA's implementation of the BIL across various programs, this memorandum also builds on key agency priorities discussed in Section 4 of the state guidance, which include ensuring that program benefits are realized by disadvantaged communities, advancing water quality actions that provide climate co-benefits, fully enforcing civil rights, supporting the American worker, and supporting domestic manufacturing.

This memorandum is organized in the following manner:

[5] GHP cooperative agreements are awarded under Federal Assistance Listing 66.487.

2. BIL GHP Tribal Eligibility

BIL funding is to be used to support implementation of the Action Plan and must be spent within the MARB part of the HTF states. Eligible tribes must have land (reservation or trust) in the MARB part of an HTF state and currently receive EPA funding through the Indian Environmental General Assistance Program (GAP), or the Clean Water Act (CWA) Section 106, and/or Section 319 grant programs. Currently, 21 tribes meet these eligibility thresholds.

To determine the 21 eligible tribes, EPA conducted a GIS analysis of tribal lands (reservation or trust[6]) within the MARB part of the HTF.[7,8] EPA also determined that tribes with current GAP, CWA Section 106, and/or Section 319 grants may have sufficient program capacity to carry out projects that support implementation of the Action Plan and are eligible for BIL GHP funds.

On July 15, 2022, EPA initiated a tribal consultation and coordination with federally recognized tribes that informed EPA's development of this memorandum, including the eligibility criteria.[9] The consultation was open for 60 days and closed on September 15, 2022. During this time EPA held two informational webinars for tribes to provide feedback.

As described in Table 1, EPA identified three categories for funding availability. Tribal eligibility category factors include eligible land acreage (see Appendix 1) and current programs (CWA Sections 319 and/or 106, GAP). These categories and factors were informed by feedback received through the consultation and supporting informational webinars. Tribes with treatment in a similar manner as a state (TAS) are eligible for category 1 or 2, depending on acreage. Tribes with GAP programs will receive no less than $150K. Funding is available for three years and funding categories are provided as ranges, as the final amount will be determined by the amount of funds requested and the number of applicants.

Table 1. Tribal Eligibility and Potential Funding Ranges for Three Years of Funding

Tribal Eligibility Category	Number of Eligible Tribes	Potential Funding Ranges
TAS 319/106 & >10K acres in MARB	5	$300K–$500K
TAS 319/106 & <10K acres in MARB	13	$150K–$380K
GAP & <10K acres in MARB	3	$150K–$195K

[6] Ceded Tribal lands are not considered based on precedent from other EPA funding opportunities, including CWA Section 319, CWA Section 106, and GAP funds. Funds can be used on ceded lands if work being conducted is within the MARB portion of a HTF member state.
[7] USEPA. *Mississippi River Drainage Area.* https://services.arcgis.com/cJ9YHowT8TU7DUyn/ArcGIS/rest/services/Dissolve_Mississippi_River_Drainage_Area/FeatureServer/0.
[8] USEPA. *American Indian Reservations.* https://services.arcgis.com/cJ9YHowT8TU7DUyn/arcgis/rest/services/BND___American_Indian_Reservations/FeatureServer.
[9] USEPA. 2022. *Notification of Consultation and Coordination for the Infrastructure Investment and Jobs Act—Gulf Hypoxia Program Guidance for Tribal Cooperative Agreements*. https://www.epa.gov/system/files/documents/2022-07/Final_Gulf%20Hypoxia%20Program_Consultation_508.pdf.

3. BIL GHP Requirements

Workplan. Tribal BIL GHP workplans are the primary vehicles for documenting activities undertaken with BIL GHP funds. The workplans will provide transparency and communicate the intended outputs and outcomes of BIL GHP funded actions on advancing the Action Plan. Additionally, tribes should consider how their water programs anticipate and prepare for climate-related impacts and disasters (e.g., droughts, floods, sea level rise and storm surge, changing salinity, extreme heat, wildfires) and identify water quality actions that can also yield climate adaptation or mitigation co-benefits (e.g., nature-based solutions for natural hazard mitigation). See Section 4 for details on workplan components.

To aid tribes in workplan development, EPA will hold optional bi-weekly *office hours* beginning in 2023 until the cooperative agreement application deadline. During this time EPA staff will be available to answer questions and provide feedback as needed. See Section 5 below for more information.

EPA requests that tribes submit draft workplans to EPA staff by February 10, 2023, with final workplans due by May 5, 2023. Draft workplans should, at a minimum, provide a high-level overview of proposed projects, budget table, and draft SF 424-A, Budget Information (see Appendix 2). EPA also requests that, following the submittal of the draft workplans, tribes participate in a meeting with EPA to review the draft workplan. EPA will coordinate the scheduling of this call with the tribe.

Tracking of funds. BIL GHP funds must be awarded and tracked separately from other EPA State and Tribal Assistance Grants (STAG) or Environmental Program Management (EPM) funds, such as those from CWA Section 319, CWA Section 106, Gulf of Mexico Division Farmer to Farmer grants program, Wetlands Program grants, or those in a Performance Partnership Grant (PPG). Eligible tribes may use BIL GHP cooperative agreement funds to provide subawards or contracts, but the funds must be tracked separately from other EPA STAG or EPM funds, either through a separate task or a phased approach. EPA will provide further guidance on these reporting processes and requirements well before grantees are asked to report. The earliest grantees will need to report will be one year after funds are awarded.

Match. There are no match requirements in the BIL applicable to the GHP funds; recipients must justify any subaward match requirements.

Cooperative agreements. EPA will award BIL funding in designated portions to eligible tribes through cooperative agreements.

Cooperative agreement timelines are to be no more than five years. Cooperative agreements will be funded incrementally over three years, but tribes may plan for a cooperative agreement that extends up to five years. For example, the cooperative agreement can utilize GHP funds over the three years that funds are distributed, or they can plan to use the funds over five years. The estimated project period for cooperative agreements will begin in the third quarter of 2023, with work expected to be completed by the end of the fifth year following cooperative agreement award.

Non-competitive awards. EPA will make awards on a non-competitive basis, which will allow for close collaboration between EPA and individual tribes to advance the Action Plan goals.

Authority. Funding for this program is provided by the BIL. EPA will utilize CWA Section 104(b)(3) to award tribal cooperative agreements. Section 104(b)(3) permits EPA to make grants and cooperative agreements to "conduct and promote the coordination and acceleration of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent,

prevention, reduction, and elimination of pollution."[10] Appropriations are provided for annual funding for FYs 23–25.

Project areas. The BIL authorizes funds to be used to support implementation of the Action Plan; therefore, project funding must be expended to benefit Tribal lands in the MARB[11] part of the 12 HTF member states. *BIL GHP-funded Tribal staff must support Action Plan implementation.* These BIL GHP-funded staff can also work on broader Tribal nutrient reduction projects or projects in other geographic areas, provided other funds are used to support their work in areas of the Tribal reservation or trust land outside of the MARB part of the 12 HTF states. See Appendix 1 for the estimated percentage of eligible tribal land in the MARB portion of HTF states. Tribes should note the percentage of staff time in the budget worksheet (Appendix 2, Documents 2 and 5) that will be used to support GHP activities.

4. BIL GHP Eligible Activities for Tribal Workplans

Eligible tribes must submit a workplan for the desired length of the cooperative agreement to receive their allotment on an annual basis. Tribes can build programmatic capacity to manage nonpoint source (NPS) pollution, take action to reduce nutrients, and/or engage with partners across the basin on cooperative efforts to reduce nutrient loads in the MARB and Gulf. Tribes can develop workplans that prioritize both proven and innovative approaches that are now possible with GHP funding.

Workplans must support one or more of the four strategic outcomes described below. *Sub-bullets are examples of activities that can be included in the workplan to support these strategic outcomes—they are not exhaustive lists of eligible activities.* Proposed workplan activities should support the HTF Action Plan.[12] Refer to Appendix 2 for required workplan content.

1. **Support staff to implement the workplan.** Tribes may strategically deploy staff to accomplish the goals of the GHP, participate in partner public meetings, engage and reach out to HTF states and partners, and support tribal, regional, and basin-wide progress tracking. Staff can undertake a range of activities, such as:
    - Setting priorities, pursuing opportunities to leverage additional funds,[13] and overseeing general cooperative agreement administration.
    - Engaging partners and stakeholders in MARB watersheds, including but not limited to state, county and local governments, farmers and ranchers, conservation groups, and other tribes.
    - Participating in inter-tribal and state collaborations and agriculture-sector led meetings for coordination and knowledge sharing.
    - Leading and facilitating actions to reduce nutrient loads.
    - Leading and facilitating tribal program development activities in support of Action Plan goals.
    - Attending inter-tribal trainings and workshops, HTF meetings, or other information exchange opportunities.

[10] CWA 104(b)(3), 33 USC 1254(b)(3).
[11] The MARB is defined as HUC Codes 05, 06, 07, 08, 10, and 11 (https://water.usgs.gov/GIS/huc.html).
[12] HTF Action Plan and Goal Framework. https://www.epa.gov/ms-htf/hypoxia-task-force-action-plans-and-goal-framework.
[13] In consultation with the EPA Project Officer, the tribe may directly charge the cost of preparing proposals for non-EPA federal grants that support nutrient load reduction activities.

2. **Implement nutrient reduction demonstration projects.** Tribes can explore and identify the most effective conservation practices to reduce nutrient loading via implementation of nutrient reduction demonstration projects. Demonstration projects are actions that show the feasibility or effectiveness of a strategy, approach, or conservation practice(s) to reduce nutrient loading. Tribes should develop plans to scale-up successful projects and disseminate findings to local and regional HTF partners, conservation groups, and other relevant stakeholders. The following are examples of demonstration projects, with benefits in parentheses, which may advance the goals of the Action Plan:
    - Installing fencing to exclude livestock from river and stream banks (aquatic habitat restoration and preservation).
    - Planting native riparian plants (soil erosion reduction and streambank stabilization).
    - Installing bioswales or rain gardens (nutrient retention and reduced nutrient loads).
    - Inspecting or repairing septic tanks (nutrient and pathogen reduction).
    - Conducting wastewater treatment plant optimization studies.

Tribal workplans and actions should describe and support measures for documenting, validating, and verifying conservation practice systems to quantify expected nutrient reduction, including practices with climate resilience benefits, such as carbon sequestration and flood and drought mitigation.

3. **Implement NPS management programs.** Tribes may initiate new or enhance existing NPS management program activities for their lands that include a focus on Action Plan goals and reducing nutrient pollution. NPS management program activities can include the following:
    - Updating existing tribal NPS assessment reports and tribal NPS management program plans to incorporate nutrient reduction goals, objectives, and strategies.
    - Developing watershed plans, such as 9-element watershed plans, to guide nutrient management work.[14,15]
    - Developing partnerships with relevant stakeholders such as state, local, federal, and tribal agencies, utilities, conservation groups, and agricultural industry partners.
    - Leveraging funds to maximize program efficiency and reach of NPS management program outcomes.

4. **Increase capacity building for nutrient reduction activities.** Tribes may increase their capacity to conduct nutrient reduction activities towards Action Plan goals. Capacity building means establishing resources needed to fulfill a mission or achieve a goal. Resources can include technical tools for scientific support, engineering support, information technology, assistance with legal issues, project management, outreach, and planning support.[16] Capacity building activities include, but are not limited to the following:
    - Developing a water quality monitoring plan, establishing new monitoring sites, or continuing existing water quality monitoring programs.

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[14] USEPA. *Handbook for Developing Watershed Plans to Restore and Protect Our Waters*. 2008. https://www.epa.gov/sites/default/files/2015-09/documents/2008_04_18_nps_watershed_handbook_handbook-2.pdf.
[15] USEPA's website *Addressing Water Quality Challenges Using a Watershed Approach* (https://www.epa.gov/nps/addressing-water-quality-challenges-using-watershed-approach) provides technical, planning, capacity and funding resources for organizations interested in developing a 9-element plan.
[16] USEPA. 2022. *Capacity-Building Resources for the Watershed Approach.* https://www.epa.gov/nps/capacity-building-resources-watershed-approach.

- Improving access to the most up-to-date analytical tools, data systems, training materials, and general information technology.
- Developing ordinances to protect tribal water resources, which are impaired or threatened from nutrient pollution.
- Promoting inter-tribal education and outreach, for example by offering in-person (or virtual) tours—as safety restrictions allow—and giving presentations at tribal-specific conferences on the successes and benefits of NPS pollution reduction projects.

Applying for TAS status for programs under the CWA can further help a tribe build capacity to manage nutrient pollution. TAS is required for a tribe to develop a water quality management program that is eligible for CWA Section 106 grant funding, and a NPS management program that is eligible for CWA Section 319 grant funding. Certain water quality regulatory programs, including water quality standards under CWA Section 303(c), and the program for listing impaired waters and developing Total Maximum Daily Loads under CWA Section 303(d) also require obtaining TAS to administer those programs. See Appendix 4 for more information on TAS for various CWA programs.

Tribes may only use BIL GHP funds towards obtaining TAS for lands in the MARB area of the 12 HTF states. For example, if a Tribe has 50% of its land in the MARB area of the HTF states, then 50% of funds used towards obtaining TAS may be GHP funds. See Appendix 1 for the percentages of Tribal lands that are in the MARB area of the HTF states.

Workplans must reflect one or more strategic outcomes described above in addition to any further outcomes that are most suitable and beneficial to each tribe. EPA will evaluate other potentially eligible activities on a case-by-case basis when reviewing draft workplans. Tribes should work with EPA as appropriate to explore the eligibility of actions proposed in their workplans. See Appendix 3 for examples of the types of tribal demonstration projects EPA envisions supporting in GHP cooperative agreements.

5. EPA Staff Support

Through Tribal consultations, EPA learned that tribes may be interested in receiving support as they develop their final workplans. To assist tribes, EPA will hold bi-weekly *office hours* beginning in 2023 until the cooperative agreement application deadline. During this time EPA staff will be available for tribes to ask questions and receive feedback on their draft workplans. EPA will continue to assist tribal recipients in the form of substantial involvement throughout the life of the cooperative agreement, through informational webinars and sharing relevant resources and tools.

In-kind Services: Tribes will have the option to request additional technical assistance in the form of "in-kind" services from EPA, through their workplan budgets. If a tribe chooses to request in-kind services, a tribe should designate in its workplan that a portion of its cooperative agreement funding would be retained by EPA; EPA would procure contractor support for the in-kind activities that may include watershed plan development, data analyses, and other services a tribe may need.

Tribes must include the request for in-kind services in their cooperative agreement application for the GHP. The cooperative agreement must include the funding amount and services requested outlined in the draft and final workplan and identified on the Federal Assistance Standard Form (SF) 424 in the "*Other*" category. Tribes must take into consideration when in-kind services will be completed by the

contractor (e.g., December 2024 for NPS assessment report and December 2025 for NPS management plan) when identifying the project period for the cooperative agreement.

EPA will then set aside the requested funds to stand up a tribal technical assistance contract beginning in FY24. Tribes interested in accessing technical assistance and needing guidance on estimating costs should utilize the office hours EPA will hold early in FY 23.

6. BIL GHP Documentation and Reporting

Tribal BIL GHP workplans are the primary vehicles for documenting activities undertaken with BIL GHP funds. The workplans will provide transparency and communicate the intended outputs and outcomes of BIL GHP funded actions on advancing the Action Plan. EPA is building a simplified GHP module in the existing NPS Program Grants Reporting and Tracking System (GRTS) that will house GHP annual reports. Tribes will be asked to report how outputs address both equity and climate priorities.

Tribes will enter all water quality monitoring data collected using BIL GHP funds into the Water Quality Exchange (WQX). In addition to the required WQX data elements, tribes must submit "GHP" as the Project ID; a requirement for all water quality data collected using GHP funds. A standard Project ID across all data collected under GHP is essential to tracking progress and measuring and promoting the program's success. Resources for WQX submissions and WQX training information are available in Appendix 4.

EPA is building out a simplified GHP module in the existing NPS Program Grants Reporting and Tracking System[17] (GRTS) that will house GHP annual reports. Tribes are encouraged to enter data directly to GRTS via the GRTS database, however an XML enabled Excel spreadsheet will be made available for offline data entry as well. GRTS training will be available upon request. If a Tribe opts to submit GRTS data via the Excel spreadsheet, they must submit the file to the appropriate EPA Region to be uploaded to GRTS. The following information will be reported for each cooperative agreement in GRTS. The type of data entered for each item is shown in parentheses:

1. Implementation project type (dropdown list)
2. Tribal full-time employees funded by GHP cooperative agreements (number)
3. Dollars awarded to sub-recipients, grants, and contracts (amount)
4. Project title (narrative)
5. Project description (overview narrative, objective, and methods)
6. Project schedule (start date and completion date)
7. Waterbody name (text)
8. Waterbody information (waterbody type) (drop-down menu)
9. HUC12 (dropdown)
10. Region/Tribe (dropdown list)
11. Tribe project contact (text)
12. Contact email (text)
13. Description of planning and review of GHP workplan and implementing activities to ensure compliance with Title VI (narrative)

[17] USEPA Grants Reporting and Tracking System (GRTS). https://www.epa.gov/nps/grants-reporting-and-tracking-system-grts.

14. Description of actions that provide climate adaptation or mitigation co-benefits (narrative)
15. Public meetings, trainings, or workshops attended, location, date, and number of Tribal participants (narrative)
16. Appropriation year (text)
17. Project budget (breakdown per federal/GHP/other, state, in-kind, etc.)
18. Sources of point source and NPS pollution (drop-down menu)
19. This project will/did result in pollutant load reductions for nitrogen (yes/no); estimate (narrative: load reduction amount, units, method [model name, or direct measure/monitoring data])*
20. This project will/did result in pollutant load reductions for phosphorus (yes/no); estimate (narrative: load reduction amount, units, method)*
21. This project will/did result in pollutant load reductions for sediment (yes/no); estimate (narrative: load reduction amount, units, method)*
22. Description of actions and opportunities provided to ensure disadvantaged communities realize the benefits of the GHP to the greatest extent possible; report the percentage of investments going to disadvantaged communities (%)
23. Conservation practices and systems implemented (acres, feet, etc.); identify the drainage area treated by these practices and systems (acres)
24. Description of anticipated outputs and outcomes (qualitative and quantitative), referenced by strategic outcome number in Section 3 (narrative for each of 1–4)
25. Description of additional anticipated outputs and outcomes that support the goals of the Action Plan (narrative)
26. Project progress reports and final reports (narrative)

*Optional field

EPA may include additional reporting requirements. If so, the Regional Project Officer (PO) for the cooperative agreement will inform tribes in advance of reporting deadlines.

7. BIL GHP Regional Oversight

EPA Regions will oversee performance of tribal GHP-funded assistance agreements. Oversight entails evaluating progress towards completing the outputs identified in approved workplans; providing findings/feedback to each recipient; including findings in the cooperative agreement file; and in cases where deficiencies are noted, developing an action plan to address performance problems. Specifically, Regions will evaluate draft workplan documentation of efforts to advance climate priorities with BIL GHP funds and provide technical assistance, as appropriate, to Tribes to support meeting the objectives outlined in this implementation memorandum.

EPA Regional staff will serve as project officers for tribal cooperative agreements; EPA Headquarters and Regional staff will review both Tribal draft and final workplans. See Section 3 for details on workplan components. EPA Headquarters and Regional staff will provide direct technical support to tribes tailored to the specific needs of each tribe and their projects. For example, EPA can help identify opportunities for tribes to leverage additional federal programs in support of their projects; provide expert technical and policy support in implementing CWA programs; help tribes overcome programmatic barriers to progress by engaging other federal agencies; adaptively manage and assess

progress toward reaching the Action Plan goals; assist with data compilation and reporting; and promote innovative research at EPA and other agencies in support of tribe's needs.

8. EPA Contacts

For more information or for general questions, please reach out to Katie Flahive, flahive.katie@epa.gov, 202-566-1206.

Appendix 1: List of Eligible Tribes

Tribe	EPA Region	Estimated Tribal Lands in MARB Parts of HTF States (acres)	Estimated Percentage of Land in MARB Parts of HTF States	319 Eligibility	106 Eligibility	GAP Grant	Tribal Eligibility Category
Mississippi Band of Choctaw Indians	4	1,048	3%	X	X	X	2
Fond du Lac Band	5	3,826	4%	X	X	X	2
Ho-Chunk Nation of Wisconsin	5	9,303	91%		X	X	2
Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin	5	79,582	100%		X	X	1
Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin	5	86,564	100%	X	X	X	1
Leech Lake Band	5	735,476	88%		X	X	1
Lower Sioux Indian Community in the State of Minnesota	5	1,751	100%		X	X	2
Mille Lacs Band	5	103,445	100%		X	X	1
Minnesota Chippewa	5	168	59%		X	X	2
Pokagon Band of Potawatomi Indians	5	153	4%	X	X	X	2
Prairie Island Indian Community	5	3,417	100%	X	X	X	2
Shakopee Mdewakanton Sioux Community of Minnesota	5	3,088	60%	X	X	X	2
St. Croix Chippewa Indians of Wisconsin	5	2,436	100%		X	X	2
Upper Sioux Community, Minnesota	5	1,502	100%		X	X	2
White Earth Band	5	62,679	8%		X	X	1
Coushatta Tribe of Louisiana	6	1,064	100%			X	3

Tribe	EPA Region	Estimated Tribal Lands in MARB Parts of HTF States (acres)	Estimated Percentage of Land in MARB Parts of HTF States	319 Eligibility	106 Eligibility	GAP Grant	Tribal Eligibility Category
Jena Band of Choctaw Indians	6	436	100%			X	3
Omaha Tribe of Nebraska	7	3,897	2%		X	X	2
Ponca Tribe of Nebraska	7	1	1%			X	3
Winnebago Tribe of Nebraska	7	645	1%	X	X	X	2
Sac & Fox Tribe of the Mississippi in Iowa	7	6,617	100%	X	X	X	2

Appendix 2: Content of Application Submission

The cooperative agreement application materials must be submitted through Grants.gov (https://www.grants.gov/view-opportunity.html?dpp=1&oppId=344727), by **11:59pm EDT on Friday, May 5, 2023**. See the state guidance[18] for step-by-step instructions on registering at Grants.gov. The application package must include the following application forms and attachments:

1. **Application for Federal Assistance Standard Form (SF) 424:** The electronic submission of the application must be made by an Authorized Official Representative of the Tribe who is registered with Grants.gov and is authorized to sign applications for Federal assistance. Applicants need to ensure that the Authorized Official Representative who submits the application through Grants.gov and whose Unique Entity Identifier (UEI) is listed on the application is an Authorized Official Representative for the applicant listed on the application. Applicants must ensure that the UEI listed in Block 8.c. is assigned to the applicant organization in Block 8.a.
2. **SF-424A, Budget Information:** Applicants are to characterize costs for construction contractors as "Construction" and costs for architectural and engineering services as "Contractual." Costs for in-kind contractor services should be categorized as "Other."
3. **EPA Form 4700-4, Pre-Award Compliance Review Report.** Collects information that enables EPA to determine whether applicants are developing projects, programs, and activities on a non- discriminatory basis.
4. **EPA Key Contacts Form 5700-54:** A minimum of two contacts should be identified. Please be sure the contacts on this form are consistent with the other forms. The Authorized Official Representative on this form must be the signatory on the other forms. If additional pages are needed, attach these additional pages to the electronic application package by using the "Other Attachments Form" in the "Optional Documents" box.
5. **Project Narrative Attachment Form:** Includes Project Approach, Environmental Results, Milestone Schedule, Detailed Budget Narrative, Quality Assurance. Use this form to submit the **Summary Information Page and Project Workplan** (prepare as described below).

Application Preparation and Submission Instructions (see Grants.gov instructions at the end Appendix 1 in the state guidance):

Documents 1 through 5 listed under Application Materials above should appear in the "Mandatory Documents" box on the Grants.gov Grant Application Package page.

For Documents 1 through 4, click on the appropriate form and then click "Open Form" below the box. The fields that must be completed will be highlighted in yellow. Optional fields and completed fields will be displayed in white. If an invalid response or incomplete information in a field is entered, an error message will display. When finished filling out each form, click "Save." Return to the electronic Grant Application Package page, click on the completed form, and then click on the box that says, "Move Form to Submission List." This action will move the document over to the box that says, "Mandatory Completed Documents for Submission."

[18] USEPA. 2022. *Bipartisan Infrastructure Law: Gulf Hypoxia Program FY 22 Guidance for State Cooperative Agreements*. https://www.epa.gov/system/files/documents/2022-06/BIL%20GHP%20State%20Guidance%20FY%2022%20-%20June2022_Final_signed.pdf.

For Document 5, attach electronic files. Prepare the narrative workplan as described in the box below and save the documents as a PDF file. To attach the workplan to the application package, click on "Project Narrative Attachment Form," and open the form. Click "Add Mandatory Project Narrative File," and then attach the PDF file workplan using the browser window that appears. Click "View Mandatory Project Narrative File" to view it. Enter a brief descriptive title of the project in the space beside "Mandatory Project Narrative File Filename." The filename should be no more than 40 characters long. If there are other attachments to submit to accompany the workplan, click "Add Optional Project Narrative File" and proceed as before. When finished attaching the necessary documents, click "Close Form." Return to the "Grant Application Package" page, select the "Project Narrative Attachment Form," and click "Move Form to Submission List." The form should now appear in the box that says, "Mandatory Completed Documents for Submission."

Describe each item in sufficient detail for EPA to determine cost-effectiveness, reasonableness and allowability of costs. Cost-effectiveness will consider the organizational overhead (indirect costs), direct costs, and ability to control costs versus anticipated results of services.

Do not include confidential business information in the workplan. Tribes should be aware that under 2 CFR 200.315 data produced under an award, and any information provided to EPA, is subject to the Freedom of Information Act.

Template for Document 5 Summary Information Page and Project Workplan

Summary Information Page (Should not exceed two pages)

Project Title: Please limit to 60 characters. EPA reserves the right to change the project title for its administrative convenience.

Organization Information: Include organization name, address, contact person, phone number, and e-mail address. Do not include private information.

Proposed Funding Request. Total dollar amount requested from EPA. See Table 1 in the memorandum to determine the amount of funding for the total length of the requested assistance agreement.

Brief Project Description. Summarize the workplan for implementing the Action Plan in a clear and succinct manner using **plain language** and in 100 words or less. Do not use acronyms. This description may be posted to the EPA Web, published in EPA press releases, and the HTF Newsletter. If applicable, include programmatic links to the Tribe's programmatic website(s). EPA reserves the right to make unilateral changes to conform to posting requirements.

Environmental Results: Please describe major environmental results anticipated from this project. (Details will be included in the workplan; this is a high-level summary.)

Place of Performance: Ensure the boundary is within the 12 HTF member states and in the MARB with benefit to Tribal lands. Identify the place of performance, defined as the geographic extent of where work will occur, of the cooperative agreement.

Project Period: Provide anticipated project start date and anticipated project completion date. The estimated project period will begin in Summer 2023.

Project Workplan (No page limit)

Project Approach: Describe the approach and include any maps, charts, and/or figures. Include a sentence briefly stating how the project supports EPA Strategic Plan[19] Goal 5: Ensure Clean and Safe Water for All Communities, Objective 5.2: Protect and Restore Waterbodies and Watersheds.

Workplans should reflect one or more of the required strategic outcomes described in Section 3 and any further outcomes that are most suitable and beneficial to the Tribe.

Include information about how the Tribe will manage and monitor subawards for successful completion of projects, and ensure subawardees comply with quality assurance, financial, and reporting requirements.

Include proposed public meeting dates, locations, and outreach strategies.

Tribes should identify and prioritize eligible activities in their FY 23 GHP workplans that will advance climate and HTF goals. Tribes should ensure that the development and implementation of their strategies and projects proposed for the GHP cooperative agreements are in compliance with the requirements of Title VI.

Include budget resources necessary for completing a Quality Management Plan (QMP) or Quality Assurance Project Plan (QAPP), if applicable, sharing project information broadly, and reporting progress.

Environmental Results: Include the following:

- Describe anticipated outputs and outcomes for strategic outcomes 1–4 defined in Section 4 of this memorandum (qualitative and quantitative, include social indicator(s)).
- Describe the anticipated products/results expected to be achieved from accomplishing the project.
- Describe how the Tribe will qualitatively and quantitatively measure and track the environmental results and pollutant load reductions (nitrogen, phosphorus, and co-benefits) from subaward projects and report those results (outputs and outcomes) to EPA.

Milestone Schedule: Provide a milestone schedule that covers each year of the total project period requested (up to five years for the cooperative agreement) and provide a breakout of the project activities into phases with associated tasks and a timeframe for completion of tasks. The milestone schedule should show timeframes and major milestones to complete significant project tasks. Include an approach to ensure that (1) any subawards are completed in sufficient time to allow the Tribe to aggregate results and lessons learned and to ensure subawardees have been reimbursed for eligible incurred costs and (2) awarded funds will be expended in a timely and efficient manner. The schedule must include a detailed table.

[19] USEPA. 2022. *FY 2022-2026 EPA Strategic Plan*. https://www.epa.gov/system/files/documents/2022-03/fy-2022-2026-epa-strategic-plan.pdf.

Transferability of Results and Dissemination to Public: Describe the plan to transfer results to similar projects and disseminate to the public, including the following:

- Gather and share information and lessons learned from the project(s) to include a written summary to be shared with the public at HTF meetings, materials to share on EPA's GHP website, blurbs to send to EPA for publication in the HTF Newsletter, any targeted materials to share with state stakeholders and partners, and any other plans to share results from the proposed projects.
- Efforts to support Tribal, regional, and basin-wide progress tracking.

Technical Support: Tribes requesting in-kind services from EPA, should detail the kind of work requested and describe the potential outcomes and benefits of the technical support.

Detailed Budget Narrative: Provide a detailed budget narrative referencing each category identified in the SF-424A (Document 2) and estimated funding amounts for each workplan component/task not easily understandable or that require additional information. Describe each item in sufficient detail for EPA to determine cost-effectiveness, reasonableness, and allowability of costs. Common examples where this is necessary are:

- Description of the roles and responsibilities of personnel.
- Description of what supplies will be used for.
- Description of why the purchase of equipment is preferable to rental of equipment.
- Description of activities of a subawardee, etc.
- Description of technical support request from EPA under "Other" category.

Tribes can refer to this guidance on budget development: https://www.epa.gov/sites/default/files/2019-05/documents/applicant-budget-development-guidance.pdf. In addition to this guidance, additional support that may be used by applicants when preparing budgets can be found on EPA's General Budget Development Guidance for Applicants and Recipients of EPA Financial Assistance webpage.

Quality Assurance: If the Tribe plans to collect or use environmental data or information, explain how the Tribe will comply with quality assurance requirements.

Appendix 3: BIL GHP Potential Nonpoint Source (NPS) Project Ideas to Advance Implementation of State Nutrient Reduction Strategies

For many years, EPA has requested applications from Indian Tribes and Intertribal Consortia for demonstration projects to manage nonpoint sources of pollution under Section 319 of the CWA. Below are several examples of the projects EPA selected for funding in FY 22 under the Section 319 program. These examples show the types of tribal demonstration projects that EPA envisions supporting in the Gulf Hypoxia Program.

Tribe: Match-E-Be-Nash-She-Wish Pottawatomi Indians
Project Title: Jijak Gatwéndan I Mbish Project (*Jijak Protect the Water Project*)
Proposed Activities: This watershed-based implementation project will address the main contaminants listed within the Gun Lake Tribe's NPS Assessment Report, NPS Management Program Plan, and Rabbit River Watershed Management Plan through streambank stabilization, check-dams, and biodiffusers. Environmental outcomes will include reduction in sediment, nutrient, and *Escherichia coli* (*E. coli)* pollution into Ingerson Lake and the downstream waters of the Rabbit River, and a reduction in flooding and stream flashiness at the Jijak property. This project will install biodiffusers at the most downstream point of the Jijak property storm water system and restore streambanks that have been scoured due to flashy stream flows protecting waters from NPS pollution.

Tribe: Santa Ynez Band of Mission Indians
Project Title: Reducing Pesticide and Nutrient Loading to Zanja de Cota Creek
Proposed Activities: The proposed project will focus on reducing pesticide and nutrient impacts to Zanja de Cota Creek and the Santa Ynez Chumash Reservation from upstream land uses. Pesticide uses in the watershed are widespread due to predominant agricultural land uses. These pesticides can migrate into Zanja de Cota Creek from storm water runoff and also be dispersed through aerial deposition. An exploratory sampling investigation conducted in 2020 detected specific pesticides in storm water and surface soils on the reservation. Utilizing strategies outlined in the Tribe's NPS Management Plan, the project will implement on-the-ground best management practices (BMPs), including constructing bioswales and planting trees along the riparian corridor to reduce pesticide and nutrient loading into Tribal waters and the reservation. Water quality samples will be collected prior to and after installation of the BMPs to monitor effectiveness. Education and outreach materials will also be developed and provided to the Tribal community about herbicide and pesticide impacts and best practices.

Tribe: Turtle Mountain Band of Chippewa Indians
Project Title: Barney's Beach Belcourt Lake Shoreline Restoration Project, Turtle Mountain Indian Reservation
Proposed Activities: This project will restore 100 feet of shoreline on an eroding stretch of beach on Belcourt Lake and reduce a major source of NPS sedimentation and phosphorus into the lake. Belcourt Lake is impaired for nutrients (among other pollutants, according to federal standards), and experiences harmful algal blooms. Much of the excess phosphorus pollution that contributes to these blooms has been shown to come from near-shore ungauged runoff, exemplified at the prominent Barney's Beach site. This project has five objectives: (1) conduct site design and project management; (2) educate the Tribal community on the importance of NPS pollution control at Belcourt Lake; (3) prepare and regrade the site for restoration; (4) restore the eroding shoreline using ScourStop Panels and biodegradable fiber blankets that facilitate natural vegetation growth; and (5) conduct project monitoring and maintenance. The anticipated environmental outcomes include decreased erosion and phosphorus delivery from the

Barney's Beach shoreline site into Belcourt Lake, decreasing the likelihood of future harmful algal blooms. In addition to this primary environmental outcome, the proximity of the site to the Turtle Mountain Community College and engagement efforts with students and Tribal members will increase awareness of the community about the importance of NPS pollution control.

Tribe: Penobscot Indian Nation
Project Title: Riverbank Stabilization on Penobscot Nation Lands to Control NPS
Proposed Activities: The Penobscot Nation Water Resources Program proposed project will implement riverbank stabilization BMPs to address high severity threats to water quality identified in the Tribe's NPS Assessment and Management Plan. The objective of this proposed project is to control and reduce sedimentation and nutrient input into Penobscot Reservation waters by stabilizing 500 feet of eroding riverbank and restoring 6,250 ft^2 of vegetated riparian shoreline by installing riverbank stabilization BMPs. The anticipated environmental outcome will be to improve water quality and help attain Tribal water goals to protect and support aquatic life by preventing ~250 tons/year of soil from entering the Penobscot River.

Tribe: Red Lake Band of Chippewa
Project Title: Restoring Little Rock Creek Watershed at Fireline Road
Proposed Activities: The repair/re-construction of this site at the Fireline Road stream crossing, along with the associated bank stabilization, would be the first step in restoring and improving connectivity to all portions of Little Rock Creek on the Reservation. The Little Rock Creek Watershed is identified as part of a priority watershed (as it is within the HUC 10 Puposky Lake-Lower Red Lake Watershed) by the Red Lake Band in the EPA approved 2020 NPS Management Plan. In addition, stream crossings are identified as one of three main water quality issues for the Tribe in the NPS management plan. EPA funding under this project will cover the cost of construction at the Little Rock Creek site and upstream/downstream before and after biological, physical, and chemical assessments. This model will allow the Red Lake Band to provide substantial evidence of the impact of the work being completed. It is expected that this work will reduce the sediment and nutrient load in the Little Rock Creek watershed, as well as increase the fish and invertebrate biodiversity of the watershed. Additionally, the assessment of streams using a newly created scoring system to identify and organize NPS/watershed priorities that have an impact on Reservation waters will begin, greatly increasing the number of NPS-impaired waterbodies that have been identified, assessed, and prioritized. Outreach will increase NPS knowledge of community members.

Tribe: Bishop Paiute Tribe
Project Title: Bishop Paiute Tribe FY22 CWA 319 Competitive NPS Management Program
Proposed Activities: This project is a continuation of the Tribe's longstanding NPS management program where each year staff prioritize projects based on the current environmental conditions detected through regular water quality monitoring, habitat assessments, observations, data analysis, and community resource usage. With known water quality pollution issues and risks within the watershed, staff use proven BMPs to lessen the contamination through stream stabilization, erosion control, restricting grazing animal access to waterways, and working with community members and stakeholders in the watershed to educate them about NPS pollution. Example methods used for stream stabilization include hardening and/or armoring the channel in areas with high animal crossings. Installing channel meanders and riparian vegetation slows streamflow and lessens erosion. Improved grazing management, along with limiting and excluding animals, is accomplished with fencing to significantly reduce bacteria

and nutrient input into waters. Community education helps homeowners, agricultural grazers, and other stakeholders to understand what NPS impacts they have and how to lessen them. Anticipated outcomes include increased knowledge of trained staff and community members to better manage NPS pollution, increased sections of Bishop Creek (an NPS-impaired waterbody) that have been partially or fully restored to meet water quality standards, and increased diversity and abundance of aquatic species within Bishop Creek.

Tribe: Southern Ute Indian Tribe (SUIT)
Project Title: CWA Section 319 Agricultural BMP Implementation Project
Proposed Activities: The main objective of this application is to fund the SUIT Cost Share Program (CSP). The Section 319 program implemented 45 agricultural BMP projects through the CSP from 2004–2016 that have reduced NPS pollution on approximately 1,000 acres of land throughout the Reservation. These projects are primarily irrigation improvement projects, exclusion fencing, and field filter strips. Implementing future agricultural BMPs will protect and restore water quality by reducing sediment, nutrient, and *E. coli* inputs into the waters of the SUIT Reservation.

Appendix 4: Web Resources

Enforcement and Compliance History Online (ECHO) Water Quality Indicators (WQI) Map: ECHO provides integrated compliance and enforcement information for more than one million regulated facilities. Tribes may be able to utilize this data to identify permitted dischargers within their watersheds. The Water Quality Indicators (WQI) Map makes it easy to identify pollutant hotspots based on nutrient and pathogen water quality monitoring data from the U.S. Water Quality Portal. This data may be useful to Tribes for identifying hotspots within their watershed if monitoring data are available.

- ECHO Home Page: https://echo.epa.gov/
- WQI Map: https://echo.epa.gov/maps/wqimap
  *Users may need to request access by visiting https://echo.epa.gov/help/login-and-access#governmentusers

How's My Waterway: This tool provides the public with information about the condition of their local waters based on data that states, federal, tribal, local agencies, and others have provided to EPA. Water quality information is displayed on three scales: community, state, and national. More recent or more detailed water information may exist that is not yet available through EPA databases or other sources. Tribes may find information on local watershed water quality, restoration and protection efforts, information about state water programs, and more. For assistance with the website contact mywaterway@epa.gov.

- How's My Waterway: https://mywaterway.epa.gov/

Nonpoint Source (NPS) Data Explorer (GRTS Data Explorer): This map presents all states and territories that contain NPS watershed restoration projects. The NPS projects are summarized by state as well as various levels of watersheds: subbasins (8-digit HUCs) and subwatersheds (12-digit HUCs) at the local level. You can click on any state or territory to drill deeper into these watersheds to find NPS projects, or you may selectively search by HUC12 code, HUC8 code, or by subwatershed name. This mapper is primarily useful for displaying watershed projects entered in GRTS. However, there is also the option to include in your search the number of 'statewide' projects entered in GRTS. These 'statewide' projects will not show on the map itself once watersheds are visible; however, data for these projects will still appear in the reports by state. Tribes may find this tool useful for technical assistance resources and monitoring strategy development.

- NPS Data Explorer: https://ordspub.epa.gov/ords/grts/f?p=109:940::::::

Nonpoint Source (NPS) Success Story Mapper: This page features water quality improvements and success stories about primarily NPS pollution-impaired water bodies, where restoration efforts have led to documented water quality improvements. Projects described on these pages have received funding from CWA Section 319 and/or other funding sources dedicated to solving NPS impairments. These stories also describe innovative strategies used to reduce NPS pollution, the growth of partnerships and a diversity of funding sources. Tribes are encouraged to use the mapper to identify potential project ideas based on what has been conducted in their region.

- NPS Success Story Mapper: https://ordspub.epa.gov/ords/grts/f?p=109:191:::NO:::#map

Treatment in the Manner of a State (TAS): These pages provide information about TAS for specific water quality management programs as well as Tribes approved for TAS. Each of the CWA program links contain further information on TAS eligibility for the respective programs, and links to other helpful resources too. The link *Tribes Approved for TAS* includes details of Tribes approved for TAS, including those approved to operate regulatory programs, perform administrative functions, and receive grant funding. Figure 1 shows common pathways for Tribes to implement and expand their water quality programs using CWA Section 106 funding. See Chapter 1, Common Pathways for a Water Quality Program in the *Guidance for Clean Water Act Section 106 Tribal Grants DRAFT*.[20]

- CWA Section 106 and TAS: https://www.epa.gov/water-pollution-control-section-106-grants/tribal-grants-under-section-106-clean-water-act
- CWA Section 303(d) and TAS: https://www.epa.gov/tmdl/final-rule-treatment-indian-tribes-similar-manner-states-purposes-section-303d-clean-water-act
- CWA Section 319 and TAS: https://www.epa.gov/nps/tribal-nonpoint-source-program
- Tribes Approved for TAS: https://www.epa.gov/tribal/tribes-approved-treatment-state-tas
- Tribes and Water Quality Standards: https://www.epa.gov/wqs-tech/tribes-and-water-quality-standards

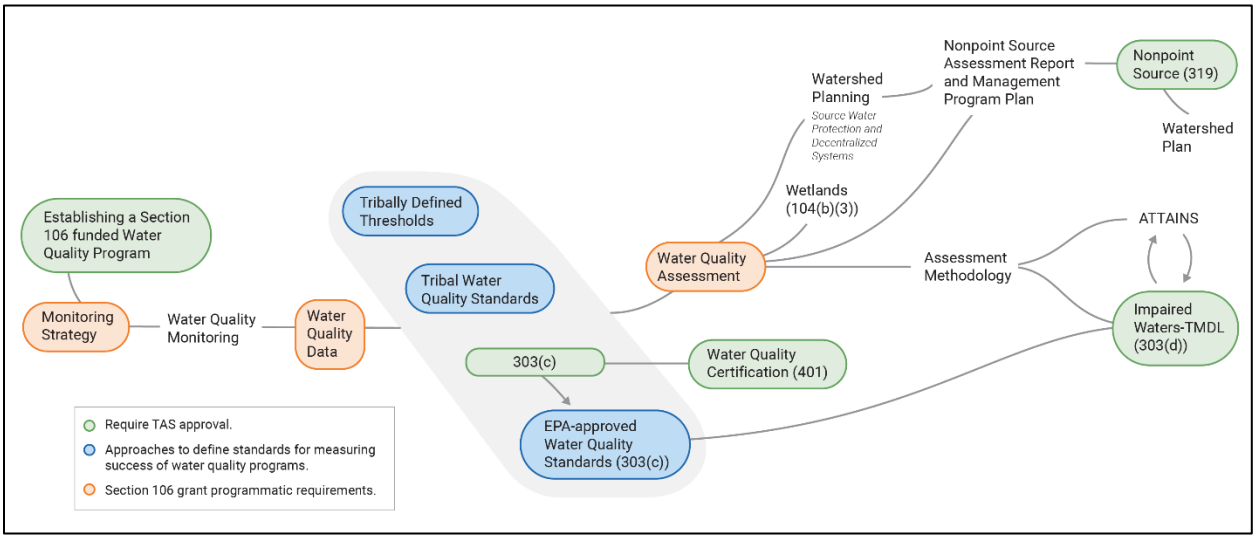

Figure 1. Common pathways for implementing CWA Section 106-funded water quality programs.

Water Quality Exchange (WQX) and Water Quality Portal (WQP): WQX is the mechanism for data partners to submit water quality monitoring data to EPA. WQP is the mechanism for anyone, including the public to retrieve this data from EPA. WQP is the largest source for water quality monitoring data in the nation. Water quality data from over 900 federal, state, and tribal agencies and other groups are available to support water quality analyses. For assistance with WQX or WQP contact your Regional WQX Contact or wqx@epa.gov.

- Water Quality Data Home Page: https://www.epa.gov/waterdata/water-quality-data
- Water Quality Portal: https://www.waterqualitydata.us/
- Water Quality Exchange: https://www.epa.gov/waterdata/water-quality-data-upload-wqx

[20] USEPA. 2022. *Guidance for Clean Water Act Section 106 Tribal Grants DRAFT.* https://www.epa.gov/system/files/documents/2022-06/Draft%20Section%20106%20Supplemental%20Grant%20Guidance%20to%20States-Tribes%20FY23-FY24.pdf.