

Coastal Impact Assistance Program Frequently Asked Questions

1. What is the Coastal Impact Assistance Program?

The Energy Policy Act of 2005 created the Coastal Impact Assistance Program (CIAP) by amending Section 31 of the Outer Continental Shelf Lands Act (*43 U.S.C. 1356a*). Under Section 384 of the Act, \$250 million for each fiscal year (FY) 2007 through 2010 shall be disbursed to eligible producing States and coastal political subdivisions (CPS's).

2. What agency will manage CIAP?

Under the provisions of the Act, the authority and responsibility for the management of CIAP is vested in the Secretary of the Department of the Interior. The Secretary has delegated this authority and responsibility to the Minerals Management Service (MMS).

3. How will CIAP be managed?

CIAP funding will be disbursed to States and CPS's through a federal grants process. Broadly speaking, CIAP grant process will have two components: program requirements and business management requirements. MMS will monitor both components, and may conduct site visits and audits for individual projects. Program requirements are the technical provisions of the authorizing statute and guidelines, and are analogous to the scope of work that will be performed under CIAP. Business management requirements are the financial provisions spelled out by the statutes, regulations, administrative requirements, and relevant Office of Management and Budget (OMB) circulars; principle among these are:

- 43 CFR Part 12, *Administrative and Audit Requirements and Cost Principles for Assistance Programs*;
- 2 CFR Part 225 *Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87)*; and,
- OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*

The MMS will utilize Grants.gov as its electronic system for submitting grant applications. All announcements concerning CIAP grants will be available through the Grants.gov website. The URL for Grants.gov is <http://www.grants.gov>.

4. Who is eligible to receive CIAP funds?

There are six producing States and 67 coastal political subdivisions (CPS's) eligible to receive CIAP funds.

Eligible States are: Alabama, Alaska, California, Louisiana, Mississippi, and Texas.

Eligible CPS's are:

Alabama Counties: Baldwin, Mobile

Alaska Boroughs: Anchorage, Bristol Bay, Kenai Peninsula, Kodiak Island, Lake & Peninsula, Matanuska-Susitna, North Slope, Northwest Arctic

California Counties: Alameda, Contra Costa, Los Angeles, Marin, Monterey, Napa, Orange, San Diego, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, Ventura

Louisiana Parishes: Assumption, Calcasieu, Cameron, Iberia, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion

Mississippi Counties: Hancock, Harrison, Jackson

Texas Counties: Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Harris, Jackson, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Orange, Refugio, San Patricio, Victoria, Willacy

5. How were eligible states and CPS determined?

The Energy Act of 2005 establishes eligibility criteria for producing States and CPS's.

A “*producing State*” must have a coastal seaward boundary within 200 nautical miles of the geographic center of a leased tract within any area of the OCS. This does not include a State with a majority of its coastline subject to leasing moratoria unless production was occurring on January 1, 2005 from a lease within 10 nautical miles of the State's coastline.

Coastal political subdivisions (CPS's) are political subdivisions (such as counties, boroughs or parishes) of a coastal state that is within the coastal zone as defined by the CZMA and not more than 200 nautical miles from the geographic center of a leased tract. MMS, in consultation with the States, has determined 61 CPS's are eligible to receive CIAP funding.

6. How is a State's and CPS' allocation determined?

All of the eligible States will share \$250 million annually during fiscal years 2007 through 2010 for a total of \$1 billion. Each eligible State will be allocated their share based on the state's Qualified Outer Continental Shelf Revenue (QOCSR) generated off of its coast in proportion to total QOCSR generated off the coasts of all eligible States.

Allocations to States in FY 2007 and FY 2008 are based on FY 2006 QOCSR, and allocations to States in FY 2009 and FY 2010 are based on FY 2008 QOCSR. The Energy Policy Act 2005 defines which States are eligible, what constitutes QOCSR, and how QOCSR is associated with an eligible State.

A minimum annual share of one percent of CIAP funds is afforded any of the six States that would not otherwise qualify for the minimum share. Of any amount allotted to a State, 65% is directed to the State and 35% is directed to the eligible CPS's within the State.

Eligible CPS's will be allocated funding based on the following formula:

- a. 25% based upon proportional population of each CPS
- b. 25% based upon proportional length of coastline of each CPS
- c. 50% based upon relative distance of each CPS to the geographic center of each leased tract.

Exceptions to this formula are applied to Louisiana and Alaska.

In addition MMS was approved by Congress to make use of 3 percent of the 2007-2009 annual funds and 4 percent of the FY 2010 funds for the management and oversight of the program. These amounts were calculated and removed prior to the formula calculations.

7. How will MMS determine the length of coastline for purposes of disbursing CIAP funds among a State's coastal political subdivisions?

The phrase "the number of miles of coastline" is used to determine a portion of the allocation formula for payments to the CPS's of the State. Under the authorizing Act, the term coastline is defined as having the same meaning given the term 'coast line' in section 2 of the Submerged Lands Act (43 U.S.C. 1301). Consequently, MMS will use the federally recognized SLA coastline for establishing the length of the coastline for each CPS in the State.

8. What must a State do to receive funding?

Only States that submit a coastal impact assistance plan (Plan) that meets MMS approval will be eligible to receive CIAP funds. State Plans must be developed in consultation with eligible CPS's. The MMS will publish guidelines for State's to use in preparing their CIAP Plan. Plans must be submitted to MMS for approval not later than July 1, 2008. To expedite disbursement of funds, States are encouraged to submit their Plans by July 1, 2007, but not before October 2, 2006.

If a State does not submit an acceptable Plan, it will not receive a disbursement of any allocated funding. Any amount of CIAP funding allocated to a State that is not disbursed because the State did not have an approved Plan will be disbursed equally among the other producing States.

Once a State Plan is approved, CIAP recipients may submit grant applications for projects included in the Plan. CIAP funds for an individual application will be disbursed following the grant award by MMS. The MMS will utilize Grants.gov as its electronic system for submittal of grant applications. All announcements concerning CIAP grants will be available through the Grants.gov website. The URL for Grants.gov is <http://www.grants.gov>.

9. When will the final CIAP guidelines be available?

The MMS final CIAP State Plan guidelines came into effect on September 29, 2006. A Notice of Availability was published in the Federal Register on that date and available at www.mms.gov/offshore/CIAPmain.htm. The MMS was open to receiving State Plan guidelines as of October 2, 2006.

10. When can States submit a Plan?

State CIAP Plans must be submitted no later than July 1, 2008; MMS, however, encourages States to submit their Plans by July 1, 2007. The MMS will not accept Plans before October 2, 2006. States must develop their plans in coordination with their CPS's.

11. Why can't State Plans be submitted before October 2, 2006?

The Director of MMS determined that it would be inappropriate to accept documents for review and approval for which there are no standards or guidelines. The MMS has made

every effort to provide the necessary guidance in as timely a fashion as possible. The most reasonable date this could be achieved was September 29, 2006.

12. Once a Plan is submitted, how long will it be before MMS approves it?

States are encouraged to submit copies of their draft plans to MMS when it is available for public review. Submitting a draft plan to MMS will expedite the approval of the final plan by allowing us to identify issues early that could slow approval if left unresolved.

The MMS will review a Plan for completeness, adequacy, and the consistency of proposed projects to the identified authorized uses. Within 90 calendar days from receipt of a Plan, MMS will notify the State in writing of the status or determination on the Plan.

Following its review, MMS will provide detailed comments to the State that will offer the highest level of guidance possible to assist the State in achieving a greater number of approvable projects.

In order to address Plan review comments, the State may revise and re-submit its Plan once. The MMS will review a revised Plan within 90 days to confirm that the State sufficiently addressed the Plan review comments.

If the revised Plan sufficiently addressed all of the Plan review comments, MMS staff will send to the Director a determination recommending approval of the Plan within the 90 days.

If the revised Plan did not sufficiently address all of the Plan review comments, MMS will provide the State with a list of project(s) that remain incomplete and/or inadequate and therefore must be removed from the Plan in order for it to be recommended for approval. If the State removes the requested projects from the Plan and submits within 10 working days a final copy of the Plan, a determination recommending approval of the Plan will be sent to the Director.

13. What types of projects can be undertaken using CIAP funding?

CIAP funds can only be used for one or more of the following purposes:

1. projects and activities for the conservation, protection, or restoration of coastal areas, including wetland;
2. mitigation of damage to fish, wildlife, or natural resources;
3. planning assistance and the administrative costs of complying with CIAP;
4. implementation of a federally-approved marine, coastal, or comprehensive conservation management plan; and
5. mitigation of the impact of OCS activities through funding of onshore infrastructure projects and public service needs.

To expedite review and approval of grant applications, project descriptions should be clearly and concisely written, and point directly to at least one of these authorized uses. We encourage early consultation if you have questions about the approvability of a particular project. Not more than 23% of CIAP funds can be spent each fiscal year on projects done under category 3 or 5.

14. Can infrastructure be built as part of a coastal restoration effort or is infrastructure only limited to mitigating the impacts of OCS activities?

Infrastructure can be built under any of the authorized uses if its primary purpose is consistent with that authorized use. If infrastructure is built under category 1, 2, or 4 it is not limited by the 23% spending restriction placed on category 3 and 5 projects. Note also that if offshore infrastructure is built under category 5, it must meet a public service need in addition to mitigating the impacts of OCS activities.

15. Can CIAP projects be undertaken anywhere in the State?

Projects need not be undertaken in the coastal zone, however, authorized use category #1 restricts the use to the coastal area. As a practical matter, MMS believes that all projects, regardless of location, should somehow benefit the coastal zone. Although we will not restrict projects to a certain area (except for category 1), we will encourage applicants to pursue only projects where the benefit flows to the coastal area. These benefits should be clearly described in your project descriptions.

16. When will CIAP funds be disbursed?

The CIAP is authorized for FY 2007 through FY 2010. The earliest the first year funding will be available is Spring 2007. Before funds can be disbursed, States must work with their CPS's to develop a CIAP Plan and submit it to MMS for approval. After the State's Plan is approved, CIAP recipients may submit grant applications for projects described in the Plan. CIAP money will be disbursed following the grant award.

17. How long does CIAP run?

While the funding years are FY 2007 through FY 2010, the Program itself may extend beyond that timeframe due to the length of time to complete any approved, ongoing project.

18. Will CIAP money lapse if it is not spent during the fiscal year for which it is allocated?

CIAP funds will not lapse at the end of the fiscal year. If CIAP money is not spent during the fiscal year for which it is allocated, it remains available in the U.S. Treasury for the State or CPS to use in subsequent years. However, States and CPS are not entitled to interest accrued on any unspent funds held in the U.S. Treasury.

19. How will CIAP funds be disbursed?

All CIAP funds will be disbursed through a grant process. The MMS will utilize Grants.gov as its electronic system for submitting grant applications. All announcements concerning CIAP grants will be available through the Grants.gov website. The URL for Grants.gov is <http://www.grants.gov>.

20. What is the MMS CIAP grant process?

The CIAP grant process is guided by;

- 43 CFR Part 12 - requirements for projects
- 2CFR Part 225 - Cost Principals
- OMB Circular A-133 - Audits of States

The grant environment has been re-invigorated in the recent years to use existing guidance taken and conduct better oversight. The CIAP development was guided by the U.S. Department of the Interior, Office of the Inspector General, *Framework Needed to Promote Accountability in Interior's Grant Management*

Where possible the MMS will work with the recipients to streamline recipient efforts when applying for the grant funds. For more information on the process MMS will follow see Grants Guidelines at www.MMS.gov/Offshore?CIAPmain.htm. The MMS will utilize Grants.gov as its electronic system for submittal of grant applications. All announcements concerning CIAP grants will be available through the Grants.gov website. The URL for Grants.gov is <http://www.grants.gov>.

21. Can we start projects now and be assured of being reimbursed for those costs?

No; MMS offers no assurances that costs incurred prior to grant award will be reimbursed. While any of the 73 eligible CIAP grant recipients may start projects now, any reimbursement for incurred costs would depend on the recipient complying with all statutory, regulatory, and policy requirements, as well as upon the status of any unforeseen Congressional legislation affecting CIAP. Consequently, all pre-award costs are incurred at the recipient's own risk.

To receive reimbursement funds, the project must first be a part of a State Plan that has been approved by MMS. Secondly, the project must be submitted via the grant application process and with explanations and justifications of the work that clearly relates the projects to at least one of the 5 authorized uses listed in the Act. Finally, MMS will award the grant only after conducting a program and business management review of the application with positive results and determining there is compliance with all relevant Federal, State and local laws. It is the recipient's responsibility to be diligent in selecting and describing a project that clearly meets an authorized use to provide them with reasonable assurance that reimbursement costs will be met. Ultimately, however, if a recipient chooses to begin work before the grant is formally awarded, they incur project costs at their own risk.

22. What if a state spends money on a project that is later determined to be ineligible for CIAP funding?

The expenditure of funds before grant award is strictly at the recipients own risk. If the recipient expends funds for a project, which does not receive approval, no funds will be reimbursed for that project.

After the grant is awarded, states must clearly indicate the amount and nature of all costs incurred for which reimbursement is sought. The states will be reimbursed for these costs as long as all statutory and grant requirements are met. MMS is required by the Act to determine if any expenditure made by a State or CPS is not consistent with the authorized uses established under the Act. If MMS determines that funds are being expended on an unauthorized use, MMS will not disburse any additional money to that State or CPS until such time that all amounts obligated for unauthorized uses have been repaid or reobligated to an authorized use.

23. What other laws must be considered before undertaking a CIAP project?

The approval of Plans and disbursement of funds are Federal activities subject to authorities such as, but not limited to:

- National Environmental Policy Act of 1969 (NEPA) as amended (42 USC §4321 *et seq.*);
- Coastal Zone Management Act of 1972 (16 USC §1451 *et seq.*);
- Endangered Species Act of 1973 (16 USC §1531 *et seq.*);
- Flood Disaster Protection Act of 1973 (28 USC §4001 *et seq.*);
- Federal Water Pollution Control Act (FWPCA) (33 USC §1251 *et seq.*);
- Clean Air Act (42 USC §7401 *et seq.*);
- Endangered Species Act of 1973 (16 USC §1531 *et seq.*);
- Wild and Scenic Rivers Act of 1968, as amended (16 USC §1271 *et seq.*);
- National Historic Preservation Act of 1966 (NHPA), as amended (16 USC §470 *et seq.*); and
- Archaeological and Historic Preservation Act (16 USC §469 *et seq.*).
- Executive Orders 11988 and 11990 dealing with floodplain management and the protection of wetlands, respectively;

In addition, there are a number of other National policy requirements affecting grants. Broadly speaking, these requirements include, but are not limited to the following areas: Civil Rights, Labor Standards, Drug-Free Workplace, Contract Employment, Intergovernmental Review, Debarment and Suspension, Lobbying Restrictions, Conservation in Procurement, Crimes and Prohibited Activities and Impacts on the Human Community. A qualified attorney should advise recipients concerning laws applicable to the individual CIAP projects.

MMS will require submittal of pertinent documentation, determined by the responsible recipient, that compliance with these and other relevant authorities was met, before disbursing funds.

24. Will MMS provide guidance to help determine what other Federal laws may apply to a CIAP project?

MMS has posted on its website an Environmental Assessment (EA) to evaluate at the programmatic level the likely environmental effects of CIAP the program, and to provide a comprehensive guidance to States and CPS's for their determining and preparing the documentation needed for demonstrating compliance with relevant environmental law when funding requests are prepared for CIAP projects. The EA will identify types of projects that are likely to have no adverse impacts and types of projects that will likely cause environmental impacts.