

Coastal Impact Assistance Program

Expedited Funding Guidelines

(For Projects that Specifically Respond to the Deepwater Horizon Spill)

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ABBREVIATIONS AND ACRONYMS

Act	Energy Policy Act of 2005
Amendment	P.L. 111-212
AU	Authorized Use
BOEMRE	Bureau of Ocean Energy Management, Regulation and Enforcement
C.F.R.	Code of Federal Regulations
CIAP	Coastal Impact Assistance Program
CPS	eligible Coastal Political Subdivision
Department	Department of the Interior
EPA	Emergency Plan Amendment
ERP	Executive Review Panel
OCS	Outer Continental Shelf
OMB	Office of Management and Budget
Plan	Coastal Impact Assistance State Plan
Secretary	Secretary of the Department of the Interior
State	eligible producing State
U.S.	United States
U.S.C.	United States Code

1. INTRODUCTION

The Coastal Impact Assistance Program (CIAP) was created by the Energy Policy Act of 2005 (Act) 43 U.S.C. §1356a. The Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) administers CIAP as a formula grant program. The program is authorized to disburse \$250 million for each of four fiscal years, FY 2007-2010.¹ The purposes of the funds include coastal restoration, conservation, and protection. The appropriated funds are designated for six coastal states with oil and gas production off their coasts (Alabama, Alaska, California, Louisiana, Mississippi and Texas) and their eligible coastal political subdivisions (CPSs). There are a total of 67 CPSs in the six coastal states. Funding for each state is allocated by a formula mandated in the Act, which is based on the qualified revenues from oil and gas production within 200 miles of each state's waters, as well as the length of coastline and population. Of each state's allotment, 35% is shared among the state's eligible coastal political subdivisions. The portion of this percentage for each individual CPS is also calculated by a formula provided in the Act.

Prior to funds being disbursed, each state must have an approved plan that details (among other things) the individual state or CPS projects to be funded. The process and requirements for plan approval are set out in the Act and in the CIAP State Plan and Amendment guidelines.

On July 29, 2010, President Obama signed P.L. 111-212, which includes an amendment (Amendment) to the Energy Policy Act of 2005. Under the Amendment, projects *specifically* designed to *respond* to a spill of national significance² may be funded on an emergency basis by CIAP. This emergency funding provision has the potential to assist state and local governments in the Gulf as they work to restore their coasts from the impacts of the Deepwater Horizon spill.

This provision only modifies the section within the Act regarding the immediate disbursement of funds. The application of the Office of Management and Budget (OMB) Common Rule (codified by the Department at 43 C.F.R. Part 12) continues to apply to emergency funded projects and grant awards *after* the funds are awarded. This new language does not remove other ongoing obligations of the recipient – including providing additional information on projects funded under this paragraph and submitting plan amendments as needed. By the requirements in the Act and 43 C.F.R. Part 12, BOEMRE is still charged with oversight authority and has the responsibility to continue to ensure that a project meets an authorized use after funds are released.

¹ By subsequent legislation, Congress allowed the Department to retain certain percentages of each fiscal year's appropriation of \$250 million (3% of FY 2007 - 2009 and 4% of 2010 totaling, \$32.5 million) to meet BOEMRE's administrative costs in implementing CIAP. As such, the total allocated to the States and their CPSs is slightly less than the appropriated \$1 billion.

² The only currently declared spill of national significance is the Deepwater Horizon spill.

For planning purposes, grant recipients shall within the timeline provided in the Amendment, comply with all applicable sections of 43 C.F.R Part 12, Administrative and Audit Requirements and Cost Principles for Assistance Programs. (P.L.111-212 Amendment)

With regard to whether an individual project meets the criteria for emergency funding, the determination of whether a project meets an authorized use is no different under the amendment than is currently required for all CIAP funded projects. However, what constitutes a project that is “specifically designed to respond to a spill of national significance” is a new determination that will be explained in this guidance.

2. COASTAL IMPACT ASSISTANCE PROGRAM ALLOCATIONS

The Amendment did not change most aspects of the program, such as the allotment of available funds to the states and their CPSs.³ Projects submitted for expedited processing to respond to the national spill will be funded from the recipient’s CIAP funds allotment.

3. ELIGIBLE PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS

Only the four Gulf States subject to CIAP (Alabama, Louisiana, Mississippi, and Texas) and their CPSs in the area of the Deepwater Horizon spill may qualify at the present time to submit projects under the expedited funding procedure.

4. EXPEDITED DISBURSAL OF FUNDS

The Amendment gives the Department authority, in its sole discretion and notwithstanding 43 C.F.R. Part 12 (the OMB Common Rule for Federal grants as adopted by the Department), to immediately disburse CIAP funds. The CIAP funds will be disbursed to States and CPSs through an expedited noncompetitive grant process. The submittal for expedited funds must:

- Demonstrate that it is consistent with one of the five authorized uses;
- Demonstrate it is specifically designed to respond to the spill of national significance; and
- Contain an SF 424 form with the amount of funds being requested.

4.1. Authorized Uses of Funds

Under the Energy Policy Act of 2005, the five authorized uses for CIAP funds are:

³ BOEMRE staff has received inquiries as to whether Florida may apply for emergency funding under the amendment. However, Florida is not eligible because they are not one of the six states originally included in CIAP; the amendment did not allow any additional states to apply for CIAP funding.

1. Projects and activities for the conservation, protection, or restoration of coastal areas, including wetland [sic];
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.

4.2 Projects Specifically Designed to Respond to the Spill of National Significance

The project description must contain language that clearly identifies that the project is “specifically designed to respond to the spill of national significance.” Under the Amendment, the phrase “respond to a spill of national significance” is broadly interpreted to encompass projects with an immediate response to released oil from the Deepwater Horizon spill, but may include “recovery, mitigation or restoration” as well. Considering this broad view of the term, there are certain types of projects that may fit within this category so long as they otherwise meet an authorized use. Examples of such project types include, but are not limited to:

- Oil recovery operations in wetlands or coastal areas;
- Fish and wildlife rehabilitation services for animals impacted by the spill;
- Wetlands and coastal area restoration projects, such as replanting native grasses or buffers that were destroyed by oil; or
- Creation of riparian buffers to prevent the infiltration of oil further into wetlands or coastal areas.

5. SUBMITTAL FOR FUNDS

Eligible recipients of CIAP funds in the four Gulf of Mexico (GOM) States (Alabama, Louisiana, Mississippi, Texas) under P.L. 111-212 are also eligible to submit emergency projects specifically designed to respond to a spill of national significance. The projects will be reviewed on an emergency basis by BOEMRE staff administering the Coastal Impact Assistance Program.

Emergency Project applications shall be submitted by email to ciap@boemre.gov

6. PROJECT SUBMITTALS

6.1 Application Contents

The information for a spill response application should, at a minimum, include the standard information required for projects in a State Plan (see State Plan and Amendment Guidelines at www.boemre.gov/offshore/CIAPmain.htm). Any additional information that helps clarify the project and the need and use of the funds will expedite the funding process.

The standard information includes the following:

1. Designated State Agency or CPS;
2. Agency Name, Title, Address, Telephone, Fax, e-mail;
3. Project Title;
4. Contact Information;
5. Project Summary;
6. Authorized Use (AU);
7. National Spill Response Justification (including how it is specifically designed to respond to the spill); and
8. Completed SF-424 Application for Federal Assistance.

6.2 Review Process for Projects already in Approved Plans or Plan Amendments

The provided information should allow the Bureau to make the required determinations:

- Does the project meet one of the five CIAP authorized uses?
- Is the project specifically designed to respond to a spill of national significance?
- What is the cost and does the applicant have the requested funds available?

Within 4 business days of receipt of the request for funds, BOEMRE will:

- Prepare a requisition for funds, or
- Should there be questions, provide written comments to and immediately call the recipient to expedite the response time.

6.3 Response Process to Address Deficiencies in Emergency Funding Submittals

1. BOEMRE expects a written response from recipients within 4 business days of the delivery of comments and the phone call. Full replies to all comments should be emailed to the Project Officer who sent the comments and made the call.

2. If no response is received within the designated time frame, a follow up call will be made to the state point of contact.
3. If full and adequate responses to all comments are not received within the agreed-to timeframe of the second call, the application will be returned to the applicant.

6.4 Review and Response Process for Projects not in an Approved Plan or Plan Amendments

These will be referred to as “new” projects.

1. Procedures as described under **Sections 6, 6.1, 6.2 and 6.3** will be followed.
2. Forty-five days after the award of funds for a new project the Regional Representative of BOEMRE will remind recipients that 45 days remain for them to submit an Emergency Plan Amendment (EPA). If it has not already occurred, the EPA during this remaining time must have a 30-day public review period consistent with the CIAP State Plan and Plan Amendment Guidelines.

7. PROJECT INFORMATION REQUIRED AFTER FUNDING

For a project that is either in an approved Plan or is a new project, the following information is required within 90 days of the award of funds (per the Amendment).

1. Recipients must provide project information as described in each state Grant Announcement (see www.boemre.gov/offshore/CIAPmain.htm or www.Grants.gov) within 90 days of the award of emergency funding.
2. The information is to be submitted through Grants.gov and include the following:
 - a. The information as required in the State’s grant announcement; and
 - b. How the project is specifically designed to respond to a spill of national significance.
3. After receipt of the project information, BOEMRE will provide the applicant:
 - a. An approval email , or
 - b. If necessary, CIAP staff will provide written comments and questions on the project information by email.
4. BOEMRE expects complete written responses to all comments within 7 business days with a 30 day grace period.

- a. If no response is received within 7 business days, a CIAP staff member (a Project Officer) will call the applicant.
- b. If the response remains incomplete by the end of the 30-day grace period, all of the recipient's CIAP funds for all projects will be withheld until the issue is resolved (per the Amendment).

8. EMERGENCY PLAN AMENDMENTS

To follow the language of P.L. 111-212, an Emergency Plan Amendment (EPA) must be provided by the recipient for any new emergency projects. All Plans and correspondence should be sent to both the National CIAP Coordinator and the State's Regional CIAP Representative. States are directed to send one hard copy (unbound) and one digital copy on compact disk (in Microsoft Word) to each of these contacts.

8.1 Addresses for Emergency Plan Amendment Submittal

Submittal Addressee	Submittal Address
All States:	National CIAP Coordinator Bureau of Ocean Energy Management, Regulation and Enforcement 381 Elden Street Mail Stop 4040 Herndon, Virginia 20170
Alabama, Louisiana, Mississippi, and Texas:	Regional CIAP Representative Bureau of Ocean Energy Management, Regulation and Enforcement Gulf of Mexico OCS Region 1201 Elmwood Park Boulevard Mail Stop 5450 New Orleans, Louisiana 70123

8.2 Requirements for Emergency Plan Amendment Submittal

1. An EPA must be prepared with the same components and requirements as in a standard Plan Amendment.
2. Under the Amendment, States and individual CPSs may submit EPAs independent of each other, although BOEMRE does not advise this.

3. EPAs will contain only new emergency projects; they will not include projects to be conducted under the standard CIAP process (i.e. those unrelated to a spill of national significance).
4. Upon receipt of the EPA, BOEMRE will conduct a review and;
 - a. Prepare an approval letter for signature by the Director, or
 - b. If needed, provide written review comments to the recipient and conduct a follow-up phone call to discuss questions.
5. The Bureau expects complete and sufficient written responses within 30 business days.
6. If no response or an incomplete response is received from the recipient, all of the recipient's CIAP funds will be withheld until the issue is resolved (per the Amendment).
7. Funds will be released to recipient once all outstanding issues have been resolved.

9. MONITORING OF EMERGENCY PROJECTS

Projects will be monitored according to BOEMRE CIAP policy. If inappropriate use of funds is identified, the Act, as amended, requires that all CIAP funds of the recipient must be withheld and not released until either:

1. BOEMRE determines the problem has been corrected; or
2. The recipient reimburses the misused CIAP funds.