

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 Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) formerly known as the Minerals Management Service.

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. BOEMRE 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 BOEMRE 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. BOEMRE, in consultation with the States, has determined 67 CPS's are eligible to receive CIAP funding.

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

During fiscal years 2007 through 2010 \$250 million will be made available for a total of \$1 billion for all of the eligible States to share. 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 BOEMRE 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 BOEMRE 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, BOEMRE 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 BOEMRE approval will be eligible to receive CIAP funds. State Plans must be developed in consultation with eligible CPS's. Applications can be submitted only for projects and funds in approved Plans. State Plan Amendments developed in consultation with eligible CPS's may be submitted for additional projects and remaining funds. The BOEMRE has published guidelines for States to use in preparing their CIAP Plan or Plan Amendment.

Once a State Plan or Plan Amendment is approved, CIAP recipients may submit grant applications for projects included in the Plan or Plan Amendment. CIAP funds for an individual application will be disbursed following the grant award by BOEMRE. The BOEMRE 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. Where can CIAP guidelines be found?

The BOEMRE 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.boemre.gov/offshore/CIAPmain.htm. The BOEMRE was open to receiving State Plan guidelines as of October 2, 2006. The guidelines have since been revised in September 2010 and are available through the CIAP website.

10. When can States submit a Plan Amendment?

Plan Amendments may be submitted any time with the following caveats; no sooner than two months after its last approved Plan or Plan Amendment; and no Plan Amendments will be accepted after December 31, 2012.

11. Once a Plan or Amendment to a Plan is submitted, how long will it be before BOEMRE approves it?

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

Following its review, BOEMRE 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 or Amendment review comments, the State may revise and re-submit once.

The BOEMRE will review a revised Plan or Amendment within 90 days to confirm that the State sufficiently addressed the review comments.

If the revised Plan or Amendment sufficiently addressed all of the review comments, BOEMRE staff will send to the Director a determination recommending approval of the Plan. Every effort will be made to review and approve an adequate Plan or amendment within 90 days of a submittal.

If the revised Plan or Amendment did not sufficiently address all of the review comments, BOEMRE will provide the State with a list of project(s) that remain incomplete and/or inadequate and therefore must be removed from the Plan or Amendment in order for it to be recommended for approval. If the State removes the requested projects from the Plan or Amendment and re-submits a final copy of the Plan within 10 working days a determination recommending approval of the Plan or Amendment will be sent to the Director. Every effort will be made to approve the Plan or Amendment within 30 days of the submittal of the package recommending approval. For more details go to:

www.boemre.gov/offshore/CIAPmain.htm/ProgramDocuments/StatePlanGuidelines

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

CIAP funds can only be used for one or more of the following authorized uses (AU):

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.

States and CPS's shall be responsible to demonstrate in their proposed project descriptions that each proposed project is consistent with one of the five authorized uses and, directly or indirectly benefits the natural coastal environment. The primary use or benefit of a project shall determine its authorized use.

To expedite review and approval of grant applications, project descriptions should be clearly and concisely written, and point directly one of the five 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.

13. Can infrastructure be built as part of a coastal restoration effort (Authorized Use 1) or is infrastructure 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.

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

Projects need not be undertaken in the coastal zone, however, authorized use (AU) 1 restricts the use to the coastal area. As a practical matter, BOEMRE interprets the Act to say that all projects, regardless of location, should somehow benefit the coastal zone. Although we will not restrict projects to a certain area (except for AU 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.

15. When will CIAP funds be disbursed?

The CIAP is authorized for FY 2007 through FY 2010. The first year funding was available April 2007. Before fiscal year funds can be disbursed the state must have an approved State Plan or Amendment to a Plan the fiscal year funds. For example, a state with an approved Plan that addresses only FY 2007 funds can only apply for FY 2007 until it has an approved Amendment to the Plan that addresses implementation of and projects for FY 2008, 2009 and 2010. After the State's Plan or Amendment to a plan is approved, CIAP recipients may submit grant applications for projects described in the Plan or Amendment. CIAP money will be available for draw down with the awarding of the grant.

16. How long does CIAP run?

While the funding years are FY 2007 through FY 2010, the Program itself extends beyond that timeframe due to the length of time to complete any approved, ongoing project. Presently the program timeline consists of: all Plan Amendments must be submitted no later than December 31, 2012; all grant applications must be submitted no later than December 31, 2013; and all projects must be completed and closed-out by December 31, 2016

17. 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.

18. How will CIAP funds be disbursed?

All CIAP funds will be disbursed through a grant process. The BOEMRE will utilize Grants.gov as its electronic system for applicants to submit their 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>.

19. What is the BOEMRE 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 BOEMRE will work with the recipients to streamline recipient efforts when applying for the grant funds. For more information on the process BOEMRE follows see Grants Guidelines at www.boemre.gov/Offshore/CIAPmain.htm. The BOEMRE will utilize Grants.gov as its electronic system for recipients' 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>.

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

No; BOEMRE 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 or Amendment that has been approved by BOEMRE. 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, BOEMRE 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.

No projects initiated before August 5, 2005 are eligible for reimbursement even if it meets and authorized use.

21. 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. BOEMRE 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 BOEMRE determines that funds are being expended on an unauthorized use, BOEMRE 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.

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

The approval of Plans or Amendments 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.

BOEMRE 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 BOEMRE provide guidance to help determine what other Federal laws may apply to a CIAP project?

BOEMRE 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.