

PROPOSAL PROCEDURES FOR NAVAJO AML PUBLIC FACILITY PROJECTS (PFP)

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Navajo AML Reclamation/UMTRA Department
DIVISION OF NATURAL RESOURCES

PROPOSAL PROCEDURES FOR NAVAJO AML PUBLIC FACILITY PROJECTS (PFP)

Section 1. The Navajo Abandoned Mine Lands (AML) Public Facility Projects

Purpose: The purpose of the Public Facility Project (PFP) is to leverage construction funds to mining impacted Chapters/communities of the Navajo Nation for implementation of priority community projects.

What is the Public Facility Projects Fund?

The Navajo Abandoned Mine Lands Reclamation Code of 1987 (the Code), as amended, provided the authority for the Navajo AML Reclamation Program (the Program) to perform reclamation of abandoned mine sites. In 1994, the Navajo Nation through the Program was certified as having reclaimed all of its known abandoned coal mine sites. Under the Code and Subsection Part O of the Navajo Reclamation Plan (the Plan), the Navajo Nation is now permitted to use Navajo Abandoned Mine Lands Fund (AML Fund) monies for public facility projects. The Public Facility Projects (PFP) apply **to the construction of specific public facilities related to the coal or minerals industry on the Navajo Nation lands impacted by coal or mineral development** [Subsection Part O (4) of the Plan].

The AML Fund is generated by reclamation fees levied on current coal mining operations under the jurisdiction of the Office of Surface Mining Reclamation and Enforcement (OSMRE). The Fund is primarily used for the protection of public health and safety, general welfare, and property from the dangers of adverse effects of both coal or mineral mining and processing practices, the restoration of land/water resources and environment previously degraded by the adverse effects of mining [Section 403 (a) and 411 (c) of the Code].

The Program administers the AML Fund under the OSMRE and it receives AML Fund annually. The duration of PFP construction grant is three (3) years. Thus, while some PFP efforts may extend over three (3) years, funding for successive years will depend upon fiscal year allocations.

The awarding of funds will be based upon merits of the proposal's response to established evaluation criteria (see Section 5).

Who Can Apply to the AML Funds?

The following entities are eligible to apply to the AML Fund in the order stated below:

- 1) Navajo Nation chapters directly impacted by past and present coal mining activities or mineral industry.
- 2) Navajo Nation chapters directly impacted by past and present mineral (Uranium, Copper, etc.) mining activities or mineral industry.

- 3) Navajo Nation, Federal, State and County Programs and other entities acting on behalf of impacted chapters with a chapter resolution and verification of leverage funds attached. Listed below are the following entity examples:
 - a. Navajo Nation Divisions, Departments and Programs,
 - b. Navajo Nation Enterprises/entities, for example, Navajo Tribal Utility Authority (NTUA)
 - c. County, State and Federal Agencies, for example, Bureau of Indian Affairs (BIA), Indian Health Service (I.H.S.), etc.; and
 - d. Other entities or organizations providing public services to the impacted chapter/community.
- 4) Indirectly impacted chapters/communities with proper justification.

The chapter will submit one priority construction ready project. Chapters previously awarded are not eligible for funding until the PFP project is successfully completed.

What Types of Assistance Can the AML Funds be Used For?

The AML Fund will be applied to three (3) types of assistance pursuant to Section 411 (f) of the Code. Each PFP Proposal will be placed in the following priorities:

- 1) **Priority One (P1): Projects to Mitigate Threats of Public Health and Safety.** Highest priority will be given to projects dealing with imminent threats to human life by addressing existing conditions that have caused or could cause substantial physical harm to persons, property and/or the immediate environment.
- 2) **Priority Two (P2): Projects Related to Basic Service and Infrastructure.** Second priority will be given to projects that provide the basic human necessities to improve the quality of life.
- 3) **Priority Three (P3): Secondary/Optional Services.** These projects which will receive the third or lowest priority for AML funding will include community service projects such as recreational and cultural facilities, mining-related research facilities, projects for open-space benefits or those which address economic development.

Funding request may include the following types of PFP Projects:

- 1) The construction, renovation(s), repair or expansion of public facilities, such as chapter houses, senior citizen centers, preschools, and multipurpose buildings.
- 2) The cost of infrastructure construction such as electric power lines, water lines, transportation networks, solid waste disposal/management facilities, erosion control systems, irrigation systems and various projects dealing with public education, police and fire services, government administration, etc

- 3) The installation of sanitation facilities and electrical utilities required as a precedent to current waterline extensions or electrical power line extensions for the same project. The project must meet I.H.S. and NTUA funding criteria and selection of such projects.

The applicant(s), by chapter resolution(s), shall include within their proposals identification of sources of leverage funds from Federal, State, Tribal or other funding sources, partners who will be directly supporting the project efforts with account numbers or commitment letters. This may include NTUA, I.H.S., BIA and Tribal funding offices

What AML Funds Cannot Be Used For?

AML Funds are specifically for the use of PFP construction related activities as stated in the proposal. Examples of items, which **cannot** be funded with PFP funds, are provided below:

- 1) The purchase of office equipment (computer hardware and software, vehicles, office furniture, etc.).
- 2) Any activity not described in the PFP Proposal, the chapter resolution, grant statement of work or award letter.
- 3) Funding of individual projects such as housing, personal properties, etc.
- 4) Personnel costs such as salary and travel expenses.
- 5) Establishing an office through lease agreements.
- 6) Office supplies, equipment lease, rentals and utility costs.
- 7) Cost for proposal preparation.
- 8) Maintenance and operation costs including future upgrades of PFP.
- 9) Land purchase for site improvement.

It is important that the PFP Proposal procedures and requirements be followed closely to avoid delays in funding. Each Proposal will be reviewed for compliance.

What Technical Assistance is Available from the Program?

The Program may provide applicants orientation, recommendations and technical assistance upon written request detailing the scope of work from the chapter. **The technical assistance will be limited and provided on a case-by-case basis.** Assistance may include recommendations on obtaining cultural and/or environmental clearance, project design/specifications and cost estimates, contractor selection, construction monitoring, contract management, financial management and project closeout processes related to the PFP to the extent feasible depending on the work load and/or funding of the Program.

Section 2. Definitions

For all purposes as used in PFP procedures, the following definitions shall be applicable:

- 1) “Applicants” means Chapter or entities of the Navajo Nation who have applied for funding pursuant to these procedures and criteria.

- 2) “Cultural Resources” means any product of human activity or any object or place given significance by human action or belief and cultural resources are protected under the Navajo Nation Cultural Resources Protection Act.
- 3) “Evaluation Criteria” means Criteria used to evaluate applicants for funding.
- 4) “Finding of No Signification Impact (FONSI)” means a document, which briefly presents the reasons why a proposed AML project will not have significant effect on the human environment.
- 5) “Impacted Chapters,” means Navajo Nation Chapters that have been directly impacted by past or present coal or other mineral mining activities. These Chapters are identified by the Program as having AML sites or active mining activities within the Chapter vicinity.
- 6) “Infrastructure” means the basic facilities, services and installations needed for the operation or functioning of a community, such as transportation and communication systems, water and power lines and public institutions including schools, post offices and chapter houses.
- 7) “Leverage Funds” means additional funds from other sources committed to the AML Fund to be maintained in accounts administered by the Office of the Controller.
- 8) “National Environmental Policy Act of 1969 (NEPA)” means environmental laws, regulations and executive orders required for all federally funded projects and/or federal action. NEPA compliance is necessary when an activity may affect the human environment.
- 9) “Navajo Abandoned Mine Lands Fund (AML Fund)” means funds generated from reclamation fee collected on current coal mining activities and deposited in U. S. Treasury as Federal funds pursuant to Section 401(a) of the Code in which fifty percent (50%) is returned to the Navajo Nation.
- 10) “Navajo Abandoned Mine Land Reclamation Code (the Code)” means the Navajo Nation statutes that established the Navajo AML Reclamation Program.
- 11) “Navajo AML Reclamation Program (the Program)” means the Navajo Nation Program authorized to administer the AML Fund, consistent with the Code and the Plan.
- 12) “Navajo Reclamation Plan (the Plan)” means the Navajo Nation rules that allow the Program to implement work activities in compliance with the Code, Surface Mining Control and Reclamation Act of 1977 and 30 CFR Part 875.
- 13) “Office of Surface Mining Reclamation and Enforcement (OSMRE)” means the office within the U.S. Department of the Interior authorized by U.S. Congress to administer the provisions of Surface Mining Control and Reclamation Act of 1977 (SMCRA) and provide funding and oversight to the Program.

- 14) "Other Funding Sources" means other funding sources included as leverage or contribution to the Public Facility Project overall construction cost such as, but not limited to, NTUA, BIA and CIP.
- 15) "Partners" means an entity that is assisting or in partnership with the funded projects, e.g. NTUA, I.H.S., BIA, etc.
- 16) "Project Review Committee (PRC)" means Five-Member Project Review Committee selected by the Program consisting of members technical and qualified individuals from the Program, Division of Natural Resources, Division of Community Development, and other Navajo Nation Departments, tasked with Public Facility Projects proposal review and selection.
- 17) "Professional Services" means a specialized service requiring assured competence in diverse principles and fields in Architectural/Engineering, Construction Management, and Environmental Clearances.
- 18) "Technical Assistance" means assistance utilizing Navajo AML in-house expertise such as surveying, NEPA review, grant writing, contract management, technical reviews, etc.
- 19) "Public Facility Projects (PFP)" means those projects funded pursuant to these procedures and criteria.
- 20) "Resources Committee of the Navajo Nation Council" means the oversight committee established by the Navajo Nation Council to oversee the activities of the Division of Natural Resources, its departments and programs. The Resources Committee is the standing committee with oversight authority over the Navajo AML Reclamation Program.

Section 3. PFP Selection Process

Deadline for Submitting Proposals

The deadline for the receipt of PFP Proposals will be announced in the Request For Proposals (RFP) that will be advertised in local/area newspapers.

- 1) Applicants should submit the signed original and five (5) complete copies of the PFP Proposal to the Program Office or the Program Field Office.
- 2) Upon receipt of the completed proposal packages, the Program will review the proposal package for completeness, insuring all required documents are current and submitted. (**See Section 4. Elements of a Proposal**)

Ranking of Proposals

The evaluation and ranking of proposals will be completed within sixty (60) days after the deadline date. The Program will conduct an internal review and forward recommendations to the Department Director for submission to the Project Review Committee (PRC). The PRC will make the final review and selection based upon an established ranking system. The Program will

process the PFP proposals through the 164 Review Process for approval by the Resources Committee of the Navajo Nation Council and the President of the Navajo Nation.

Selection of PFP and Awarding of Funds

The projects selected and approved by the Resources Committee of the Navajo Nation Council shall be forwarded to the Office of Surface Mining Reclamation and Enforcement (OSMRE). Upon compliance with NEPA, OSMRE will issue a Finding of No Significant Impact (FONSI) and Authorization to Proceed with construction for each project.

A Memorandum of Agreement will be developed for the chapter/entity selected for funding. This will ensure that Proposal Goals and Objectives are met and that the project is completed on schedule.

The chapter/entity selected will be required to coordinate with the Navajo AML and appropriate entities in the project management.

Section 4. Considerations Before Writing a PFP Proposal

Funding Availability

The funding limit is \$300,000 per project. Proposals, which are modest in scope and shown to be supported by other funding sources, will enhance their chance of being funded. The following is a partial list of potential partners:

- 1) The Navajo Nation Capital Improvement Office
- 2) The Navajo Nation Community Development Block Grant
- 3) Arizona Legislature
- 4) New Mexico Legislature
- 5) Utah Legislature
- 6) County and City Government
- 7) I.H.S.-Office of Environmental Health & Engineering
- 8) NTUA
- 9) Other appropriate utility companies
- 10) BIA
- 11) Private contributors
- 12) NECA
- 13) Bonds issued by the Navajo Nation
- 14) Navajo Nation General Funds
- 15) Chapters

Duplication of funding by multiple federal/state/other agencies will not be allowed on the same project's scope of work and costs. The applicant will provide information on funding sources as specified on **Form 2**.

The disbursement of AML Grant Funds will be on an agreed reimbursement process prior to commencement of construction with the lead agency.

Compliance with Proposed Activities

The Program will coordinate the monitoring of PFP Projects for compliance to assure that funds are being applied to meet Proposal goals and objectives. Through the act of submitting a PFP Proposal, each applicant agrees, if funded, to provide quarterly activity and accomplishment reports which may be used as a basis for evaluating future PFP Proposals. Funds could immediately cease if there is no progress within the first year of funding.

Applicants who spend PFP Project funds inappropriately or ineffectively are subject to funding freeze, auditing and prosecution in accordance to the Tribal and Federal Laws. Generally, additional funding in future years will not be supported nor recommended until the milestones which were scheduled in previously funded proposals have been meet.

Three-Year (3) Projects

The Navajo AML PFP need to be completed within three years (3) of the grant award from OSMRE. Projects that require more than three years will require reapplication at the end of the grant period. **Receipt of funds does not guarantee that additional funds will be available in future years.**

Section 5. Elements of a PFP Proposal

Mandatory Elements

A complete PFP Proposal **must contain** each of the following six (6) elements:

- 1) Proposal Cover Sheet (Form 1)
- 2) Qualification Narrative
- 3) A Project Description/Information
- 4) Budget Information
- 5) Compliance with the National Environmental Policy Act of 1969(NEPA)
- 6) Maintenance/Operation Plan and Insurance Coverage

Each proposal will be examined for these elements. PFP proposals, which do not contain one of the mandatory elements will be considered an incomplete proposal and will not be considered for review/selection.

Element 1: Proposal Cover Sheet

Self-explanatory.

Element 2: Qualification Narrative

To qualify for funding, the applicant will submit a PFP proposal that specifically sets forth pursuant to subsection Part O (5) of the Plan as follows:

- 1) The need or urgency for the activity or the construction of the public facility;
- 2) The expected impact the project will have on the coal or mineral mining industry impacts of the Navajo Nation;
- 3) The availability of funding from other sources and, if other funding is provided, its percentage of the total costs involved and written verification;
- 4) Documentation from other Local, Tribal, State and Federal agencies with oversight responsibilities for such utilities or facilities regarding available funding resources they have available and why the project is not being fully funded by their agency;
- 5) The impact to the Navajo Nation, the public and the coal/minerals industry if the activity or facility is not funded;
- 6) The reason why this project should be selected over a priority project relating to the protection of the public health and safety or the environment from the damages caused by past mining activities;
- 7) An analysis and review of the procedures used by the applicant to notify and involve the public in the funding request and a copy of all comments received. Applicants will provide evidence of recent public participation by providing copies of chapter resolutions, minutes of public meetings and hearings, public announcement, community support letters, etc. Include information such as testimonials, excerpts from meeting minutes, legal notices, pictures, news clippings, etc. that indicate the project need and public support for the funding requested;
- 8) The project shall meet the requirements of the procedures/criteria for PFP used by the Program.

Element 3: Project Description/Information

Prepare a short summary of the proposal and include the following:

- 1) Describe the proposed project such as the scope of work, project goals/objectives, issues to be addressed, planned activities, proposed project schedule and plan of actions. A Gant chart or similar depicting milestones and relative times to completion are suitable.
- 2) Describe how the proposed work will be accomplished and state reasons for taking this approach. Describe any unusual features of the proposal such as designs/technological innovations and reductions in cost or time. Discuss the criteria and methods to be used to evaluate the results and success of the project.
- 3) Identify the benefits of the project to the community including direct benefits, socioeconomic benefits and any indirect benefits. For example, describe how the project will improve the environment or quality of life. Specifically, describe those benefits which will alleviate threats to public health and safety and property.

- 4) State the number of people in the chapter/community that will benefit by the project. Provide pertinent information such as number of chapter registered voters, number of students, etc.
- 5) Identify who will be responsible for the project/construction management and leadership, including a short statement of their qualifications. Include documentation to substantiate the lead agency for the proposed project.
- 6) Provide other project information and relevant data for project funding such as feasibility studies, project design/specifications, land withdrawal or right-of-way documents, if these documents are available, etc.
- 7) A map of the project location, survey plat and project location on a 7.5 minute USGS topographical map.

Element 4: Budget Information

A detailed budget estimate and budget justification are required describing how the funds will be used to carry out the proposed project and to achieve the overall PFP goals/objectives. The budget must be reasonable and justifiable pursuant to the project scope and plans. The Navajo Nation budget forms can be used and obtained at the Navajo Nation Office of Management and Budget.

Element 5: NEPA Compliance

Prior to submission, documentation regarding the National Environmental Policy Act of 1969 (NEPA) compliance work including: cultural resource clearances, biological evaluations and NEPA documents must be completed and **meet the requirements of OSMRE**. Four (4) copies of each Report will be provided to the Program who will forward copies to OSMRE and the responsible Federal, State, Tribal offices and chapter(s). **NEPA compliance information can be obtain from Navajo AML.**

Element 6: Maintenance/Operation Plan and Insurance Coverage

The applicant will submit a detailed plan outlining the future maintenance plan of operation, security and safeguard of any constructed PFP. In addition, the applicant must identify source of funds for these items. No funding will be granted for continued or future maintenance and operation costs, including upgrade schedules. For example, if an applicant submits a proposal for a project that requires periodic maintenance/operation; only the construction portion will be evaluated for funding.

Section 6. Evaluation Criteria for Navajo AML Public Facility Project Grant

The Program expects to receive more PFP Proposals than can be funded in any fiscal year. In order to distribute the funds in an equitable manner, proposals will be ranked based on the following criteria.

<u>FACTORS</u>	<u>POINTS</u>
1. Need and Urgency of the Project	0-15
2. Soundness of Proposal	0-45
3. Public Participation	0-15
4. Availability of Leverage Funds and Budget	0-15
5. Maintenance/Operation Plan	0-10

Factor 1. Need and Urgency of the Project (15 points maximum) including:

- Priority One (P1): Projects to Mitigate Threats of Public Health and Safety (15 points)
- Priority Two (P2): Projects Related to Basic Service and Infrastructure (10 points)
- Priority Three (P3): Secondary/Optional Services (5 points)

Factor 2. Soundness of Proposal (45 points maximum) including:

- Qualification Narrative: Element 2 (15 points)
- Project Description/Information: Element 3 (15 points)
- NEPA Compliance: Element 5 (15 points)

Factor 3. Public Participation (15 points maximum) including:

- Procedures used to notify and involve the public in this funding request.
- Current chapter resolution authorizing the proposed project.
- Copies of all comments received (public meeting/hearing minutes, legal notices, public announcements, etc.)

Factor 4. Availability of Leverage Funds and Budget (15 points maximum) including:

- Chapter funding support (in-kind and otherwise).
- Funding from other sources and how they may compliment AML funds.
- Documentation of commitment of Federal, State and Tribal funding programs.
- Budget Information: Element 4; Practicality and completeness of budget including description of budget items.

Factor 5. Maintenance/Operation Plan (10 points maximum) including:

- Identification of maintenance plan of operation, security, safeguard of any constructed PFP.
- Identification of source funds for maintenance and operation.

**NAVAJO AML RECLAMATION PROGRAM
PROPOSAL COVER SHEET
Public Facility Projects**

Applicant: _____ Date: _____

Address: _____

Contact Person: _____

e-mail Address: _____

Phone Number: _____ Facsimile Number: _____

Project Name and Description: _____

Funding Source	Amount Requested	Percentage Requested
<input type="checkbox"/> AML Fund	_____	_____
<input type="checkbox"/> Indian Health Services	_____	_____
<input type="checkbox"/> Navajo Tribal Utility Authority	_____	_____
<input type="checkbox"/> Other Federal Agency	_____	_____
<input type="checkbox"/> State	_____	_____
<input type="checkbox"/> County	_____	_____
Applicant's Local Match	_____	_____
*Applicant's Other Tribal Match	_____	_____
TOTAL:	_____	_____

*List other Match Sources individually and provide requested amount and status for each source:

Funding Source	Amount	Status: Approved or Pending
_____	_____	_____
_____	_____	_____
_____	_____	_____

NAVAJO AML RECLAMATION PROGRAM
Completeness Review of Nomination for Public Facility Projects

Applicant:		
Date Submitted:		
Date of Most Recent Review:		
Type of Facility		
Eligible as:	Yes	No
Related to Coal Mining		
Related to Non Coal Mining		
Community Impact		
Health and Safety		
Basic Service		
Secondary		
AML Funding Requested:		
Local Contribution to Funding		
Other Sources of Funding:		
Completeness (Note: If application contains these essential items):	Yes	No
Introduction/Need		
Description/Justification of Proposed Actions		
Project Schedule		
Deliverable Products		
Proposed Budget		
Attachments	Yes	No
NEPA Documents		
Biological Evaluation		
Archaeological Report		
Environmental Assessment		
FONSI		
Comments on project application strengths/weaknesses:		
Additional information needed for Funding Preference:		

FOR OFFICIAL USE ONLY

Reviewer

Date

**NAVAJO AML RECLAMATION PROGRAM
PUBLIC FACILITY PROJECTS - EVALUATION CRITERIA**

Name of Applicant: _____

Type of Project: _____

TYPE OF IMPACT:

Directly impacted by past/present coal

Directly impacted by past/present non-coal

Indirectly impacted by past and present coal and non-coal

FACTORS	SCORE
<p>1. Need and Urgency of the Project (15 max) - Element 2 (Items 1-8)</p> <p>a. <u>Priority One: Projects mitigate threats to public health and safety</u> (15 pts)</p> <ul style="list-style-type: none"> • Projects dealing with imminent threats to human life by addressing existing conditions that have caused or could cause substantial physical harm to persons, property and/or the immediate environment. <p>b. <u>Priority Two: Projects related to basic service and infrastructure</u> (10 pts)</p> <ul style="list-style-type: none"> • Projects that provide the basic human necessities to improve the quality of life <p>c. <u>Priority Three: Secondary/Optional Services</u> (5 pts)</p> <ul style="list-style-type: none"> • Community service projects such as recreational and cultural facilities, mining-related research facilities, projects for open-space benefits or those that address economic development. 	_____
<p>2. Soundness of Proposal (45 max) - Element 2 (Items 1,2,5,6); Element 4 & 5</p> <p>a. How well the proposal address the need/urgency identified in the Qualification Narrative Element 2; Items 1,2,4,5,6,8 (0-15 pts)</p> <p>b. Project description, scope of work, project designs/specifications, issues to be addressed, Goals / objectives, project schedule, plan of actions, reasons for approach, documentation of each lead agency. Element 3; Items 1-7. (0-15 pts)</p> <p>c. NEPA Compliance: Environmental Assessment, Biological/Archeological Clearances HPD/NHPO/NNFW/USFW Concurrence, wetlands survey, etc. Element 5. (0-15 pts)</p>	_____ _____ _____
<p>3. Public Participation (15 max) - Element 2 (Item 7)</p> <p>a. Procedures used to notify and involve the public (0-5 pts)</p> <p>b. Chapter resolution authorizing the proposed project (0-5 pts)</p> <p>c. Copies of all public participation documents (meeting minutes, hearings, etc) (0-5 pts)</p>	_____ _____ _____
<p>4. Availability of Leverage Funds (15 max) - PFP Cover Sheet, Element 2 (Item 3,4); Element 4</p> <p>a. Chapter funding support including in-kind and others (0-5 pts)</p> <p>b. Identification, commitment and percentage from other funding sources. (0-5 pts)</p> <p>c. Practicality and completeness of budget including description of line items. (0-5 pts)</p>	_____ _____ _____
<p>5. Maintenance / Operation Plan (10 max) - Element # 6</p> <p>a. Narrative of future operation & maintenance plan including security and insurance (0-5 pts)</p> <p>b. Identification of source of funds for maintenance and operation (0-5 pts)</p>	_____ _____
TOTAL SCORE	_____

COMMENTS:

Name

Date