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REGION 9 TRIBAL OPERATIONS COMMITTEE

Budget Presentation and Request for FY23

EPA's Region 9 includes 148 federally recognized Tribes within three states: California, Nevada, and Arizona. The United States Environmental Protection Agency (USEPA) and EPA Region 9 must work with Tribes to ensure the nation's environmental statutes and programs are administered either through direct implementation by EPA or through programs administered by Tribes. As co-regulators Tribes work with federal, state, and local agencies to assess, monitor, and manage environmental programs.

In 1984 the USEPA implemented the EPA Policy for the Administration of Environmental Programs on Indian Reservations; also known as the 1984 Indian Policy. This formal policy established how the EPA would interact with Tribal Governments and consider Tribal interests in carrying out the EPA's programs to protect human health and the environment.

It is important to honor each Tribe's unique characteristics and to ensure that each Tribes' environmental program priorities are supported. The RTOC Budget Workgroup values every Tribe's culture, structure, land base, population, jurisdictional framework, environmental needs, and priorities. Because of the diversity of Tribes in Region 9, there are no generalizations that can be made nor will be made in this document. It is of the utmost importance that all those who participate in this dialogue understand that the needs and priorities of the Tribal communities in Region 9 vary greatly and therefore the USEPA must work on a government-to-government basis with Tribes for the most benefit and effective outcomes for environmental programs to be reached.

Funding Issues

- For many programs funding has remained flat or has gone down in recent years. Many Tribes are using General Assistance Program (GAP) funds to address air, water, and solid waste programs. For example, this lack of funding for air program needs and issues has led Tribes to resort to using GAP funding (this does not work for a Tribe who wants to do Air Monitoring). This has been especially inefficient for Tribes in nonattainment areas where Tribes are lumped in with the surrounding county and cannot fund an air program to show that the air that surrounds them is good or that they are being transported bad air.
- The inequities of environmental programs and lack of funding causes disparities that can only be equated to environmental injustice. However, when a Tribe attempts to get an environmental justice grant it is one of the most difficult grants to get.
- Over and over the Budget Workgroup was told that the funding levels for grants were inadequate and have been for many years. For example, the CWA 106 Program funding levels have not been increased and recipients are told not to apply for more. The same holds true for the CWA 319 Program.

Funding Priorities

- All programs need to provide sufficient funding for protecting human health and the environment. Failure to adequately fund Tribal programs requires immediate and substantial increases in all federal environmental programs. To institute equitable funding principles, ensure both environmental justice and climate change readiness, including pandemic response for Tribes in Region 9 the program funding will be central as the single most important corrective measure that can be taken.
- Immediate need to adequately fund programs and set aside Tribal program funding. Due to the already limited, flatlined funding which individual Tribes receive from the USEPA many Tribes struggle with the ability to attract and retain key staff. Providing increased funding could double the number of Tribal jobs in some of the most rural and economically disadvantaged communities.
- Adequate funding and flexibility for environmental programming is needed to support the President's priorities that include equitable funding, climate change adaptation and environmental justice. EPA must demonstrate its commitment to protecting Tribal environments by establishing equitable and appropriate Tribal funding allocations and by engaging proactively in government-to-government consultation.

FY23 TRIBAL BUDGET REQUEST

General Assistance Program	\$36.4 million
Clean Water Act Section 106	\$21.4 million
Clean Water Act Section 319	\$9.7 million
Clean Water Section 104(b)(3)	\$4.8 million
Clean Air Act Sections 103 and 105	\$9.5 million
Clean Air Act Radon/Indoor Air	\$1.6 million
Drinking Water Infrastructure Tribal Set Aside	\$24 million
Clean Water Act State Revolving Fund Tribal Set Aside	\$20.9 million
Source Water Assessment/ Protection	\$2.5 million
Federal Insecticide, Fungicide and Rodenticide Act Office of Pesticides Program	\$1.5 million
Federal Insecticide, Fungicide and Rodenticide Act Office of Enforcement and Compliance Assurance	\$2.4 million
Solid Waste Implementation	\$12.5 million
CERCLA Brownfields 128a	\$4.2 million
Underground Storage Tanks	\$1.0 million
Leaking Underground Storage Tanks	\$1.5 million
Tribal Multimedia Implementation	\$3.4million
Total Funding Request (By Millions)	\$159

INDIAN ENVIRONMENTAL GENERAL ASSISTANCE PROGRAM

The Indian Environmental General Assistance Program (GAP) is Essential to Protect Human Health and the Environment in and Around Indian Country

Background

Nearly all Tribes in Region 9 operate their own environmental programs to manage and regulate the reservation environment in coordination with federal agencies, while generally excluding the regulatory authority of state and local governments over Tribal lands and natural resources. Each Tribe prioritizes environmental issues and needs and the implementing measures to protect human health and the environment. These efforts protect Tribal community members, as well as the lands, air, and water resources, including wildlife and habitats upon which Tribal communities rely for subsistence and cultural practices. Environmental protections within reservation boundaries protect and benefit off-reservation resources and communities.

Benefits of GAP

The Tribal Environmental General Assistance Program (GAP) administered by USEPA is the primary source of funding available that supports capacity development to establish and operate Tribal environmental programs. In addition to funding all aspects of core Tribal environmental programs (including such basics as staff, office space, equipment, supplies, policy development, partnerships, and a variety of administrative responsibilities) the GAP statute also explicitly authorizes the use of GAP funds to implement Tribal solid and hazardous waste programs, although currently it seems as though there is little or no funding. GAP also serves as a source of supplemental funding for some Tribes to operate their water, air, and other media-specific programs. This is because, historically funding is inadequate or unavailable. Consequently, there are high demands on this source of funding.

Despite the economic success of a few Tribes, the majority of Tribal communities lack independent sources of income. As nearly one-third of Tribal homes remain at or below the poverty level (the highest of any ethnic group in the U.S.), Tribal community residents are generally unable to bear the cost of Tribal environmental program operations through rate structures or other means.

As a result, GAP remains an essential source of funding to protect human health and the environment in and around Indian country. According to Region 9 sources, currently 127 Tribes of 148 federally recognized Tribes within Region 9 are using GAP funds for environmental program capacity development. Any reductions to the GAP funding would cause devastating issues for those Tribal programs.

GAP Program Priorities and Needs

Although additional funding is sorely needed, at a minimum the GAP must be held harmless from any STAG program reductions. In Region 9, the identified need of funding is \$36.4 million for FY23.

Justification: The current funding for Region 9 is approximately \$16,482. This amount is lagging and has not been increasing even though the United States continues to have a robust economy and should be increasing Region 9 GAP Programs. There are included amounts determined as an *equitable funding increase measure*, an amount to support *environmental justice measure* for the off-reservation environmental threats, Climate Response measure (including pandemic response and emergency response).

16,482,000	Estimated FY 2022 (without Priorities funding)	
2,158,000	Priority - Equity	
6,216,000	Priority - COVID-19 Relief	(\$42,000 each 148 Tribes)
2,664,000	Priority - Environmental Justice	(\$18,000 each 148 Tribes)
<u>8,880,000</u>	Climate Response	(\$60,000 each 148 Tribes)
\$ 36,400,000	TOTAL GAP FUNDING – Region 9	

For the past few years, the 2013 GAP Guidance has been under revision by the American Indian Environmental Office (AIEO). Though we are aware that the Guidance was developed as a recommendation of the Office of Inspector General to clarify the program allowable costs and to ensure better reporting, the Region 9 Tribal Caucus requests:

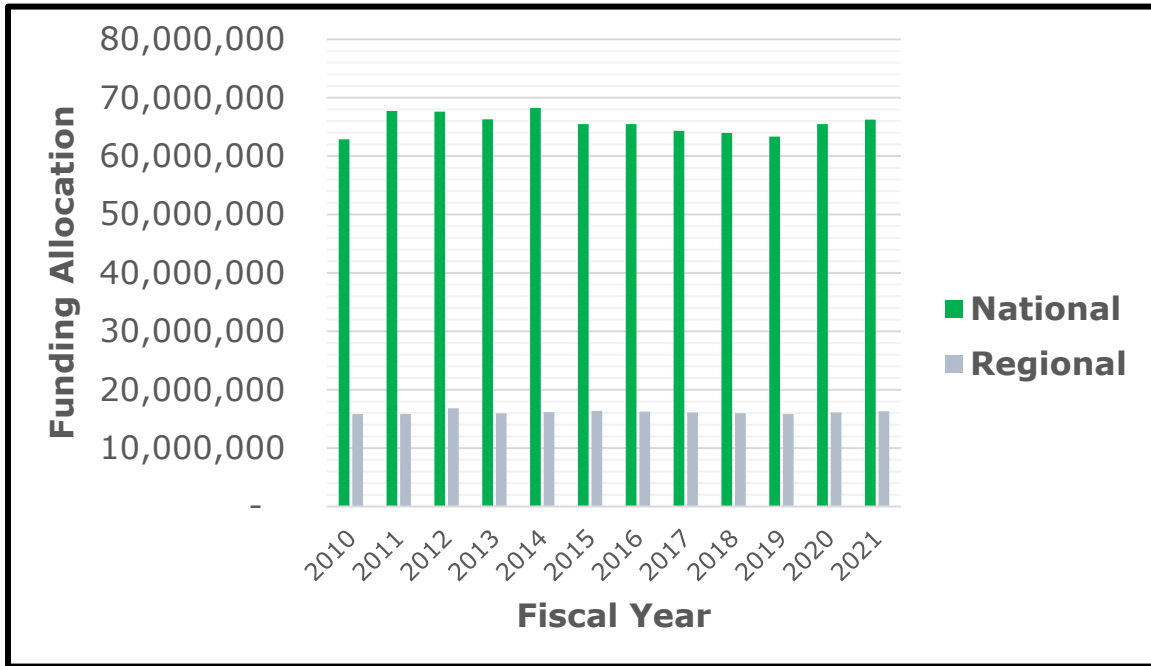
- a. That this continual revision process by AIEO be halted immediately.
- b. To ensure maximum flexibility in the use of GAP funds and that a minimum of administrative burdens on Tribal recipients occurs, the 2013 GAP Guidance should be revised, and a committee established that **includes** Regional Tribal representatives be put in place to identify reasonable revisions to the guidance which will maximize the efficiency and effectiveness of the GAP program.
- c. Moving forward a timeline for completion of the revisions of the document will be developed by the committee within the first three months with the length of the revisions and completion from draft to final document to last no longer than one year.
- d. Specifics such as Tribal specific indicators will be considered and discussed as part of the final document.

Clean Air Act, all Water Programs, Solid Waste and Pesticide funding must also be increased to address equitable funding, COVID-19, environmental justice, and climate response funding and to support new Tribal media-specific programs. GAP capacity building must be flexible to fund the priority measures and to Community Emergency Response activities that serve the Reservation communities.

GAP needs to take a more expanded look at community support tasks that could include drinking water systems operations and maintenance. There has been some recent flexibility with wildfire tasks under GAP, however for the most part most emergency response is regulated as EPCRA and CERCLA issues. Chemical response should not be considered the only emergency that is funded through GAP. A more inclusive approach that is flexible enough to serve each Tribe’s priorities is critical given that emergency response has manifested in the past several years. Smoke from wildfires, drought, flooding, pests, emerging contaminants and the like require program flexibilities to respond in a timely manner to the existential environmental threat that is climate change.

The Budget Workgroup requests that the GAP workgroup begin to work on these priorities to solve the needs by adding this list to their agenda so that Tribes and EPA can address these areas as soon as possible.

General Assistance Program 2010 – 2021



This chart provided by Region 9 demonstrates the flat funding for the GAP program and though solid waste actions were specifically authorized for funding nearly 5 years ago – no funding increase was actualized.

TRIBAL WATER QUALITY PROGRAMS

Tribal Water Quality Programs are critical to ensure that Tribal waters are protected for domestic water supply, subsistence, and cultural uses.

Background

Tribal water quality programs are essential to ensure a comprehensive protection of the nation's water in keeping with USEPA's statutory responsibility. Thirteen percent of the nation's watersheds are located in Indian Country and most of the nation's remaining pristine water and habitats are under Tribal jurisdiction. In Region 9, Tribes are utilizing funding to monitor water quality, implementing activities to improve water quality, and developing water quality standards and other enforcement tools for the protection of water and to implement projects which respond to the impacts of changed environmental threats.

Tribal Water Program Priorities and Needs

- Increase funding for each Water Program to achieve equitable program and project funding to support drinking water, water quality monitoring, water quality standards development and appropriate water quality regulatory programs.
- Increase funding for DWITSA and modify selection criteria that disregard and discount firefighting needs for Indian communities.
- Fund Reservation Public Water System Operation and Maintenance for disadvantaged communities
- Fund watershed and wetlands assessment and planning projects to reach programmatic equity and to achieve necessary water resource protections.

Tribal water programs require adequate funding to support adequate staffing, conduct data collection, develop standards, and take appropriate actions against violators. There is also a need for funding continuity to enable realistic planning for future program activities and to maintain staffing levels. Barriers to effective Tribal water programs include the ongoing disparity between Tribal and state programs support, lack of adequate funding, lack of continuity in program funding and lack of funding/support for Tribal enforcement programs (implementation funding).

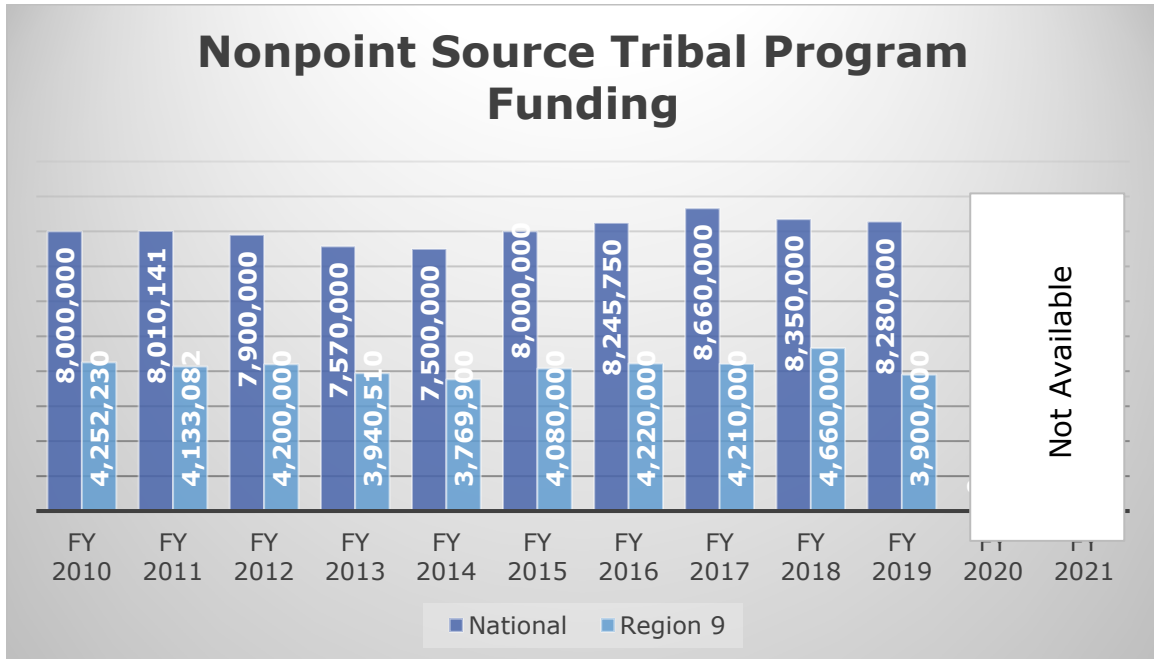
The number of Tribes in Region 9 with Clean Water Act (CWA) 106 (monitoring) programs 112 individual Tribes. Two Tribal Consortia also receive CWA 106 funding support. Nationally 281 Tribes receive CWA 106 water monitoring program funding. For CWA § 319 (Nonpoint source) funding provides support for 105 Tribes in Region 9 and where nationally there are 208 Tribes receiving Nonpoint source funds. However, funding for CWA 319 Tribal programs has remained mostly static since 2001. This means that water resources protection funding has not increased along with the number of Tribes requiring water protection, and Tribes without other resources are forced to reduce their activities which impairs their ability to develop and implement effective programs and provide protections for waterways. For many Tribes in Region 9, most of

the waterways largest threat of pollution comes from nonpoint sources.

During the preparation of this document, the Budget Workgroup heard repeatedly how the CWA 106 and CWA 319 funding was insufficient. Tribal funding allocations for these programs has not changed in over 20 years. It is so bad that USEPA Project Officers tell Tribal Program Managers not to apply for more than the baseline amounts because they will not get any more than that baseline amount and they will be wasting their time if they do so. Section 319 base funding is limited to \$30,000 for tribes with 1,000 square miles of land or less. Very few Tribes receive more than \$30,000. This funding limitation has restricted Tribes’ abilities to overcome planning requirements to be eligible to apply for Section 319 competitive funding. The Region 9 Tribal Caucus requests that the Tribal National Allocation percentage for Section 319 be increased so that base funding can be increased without reducing the competitive funding available to Tribes.

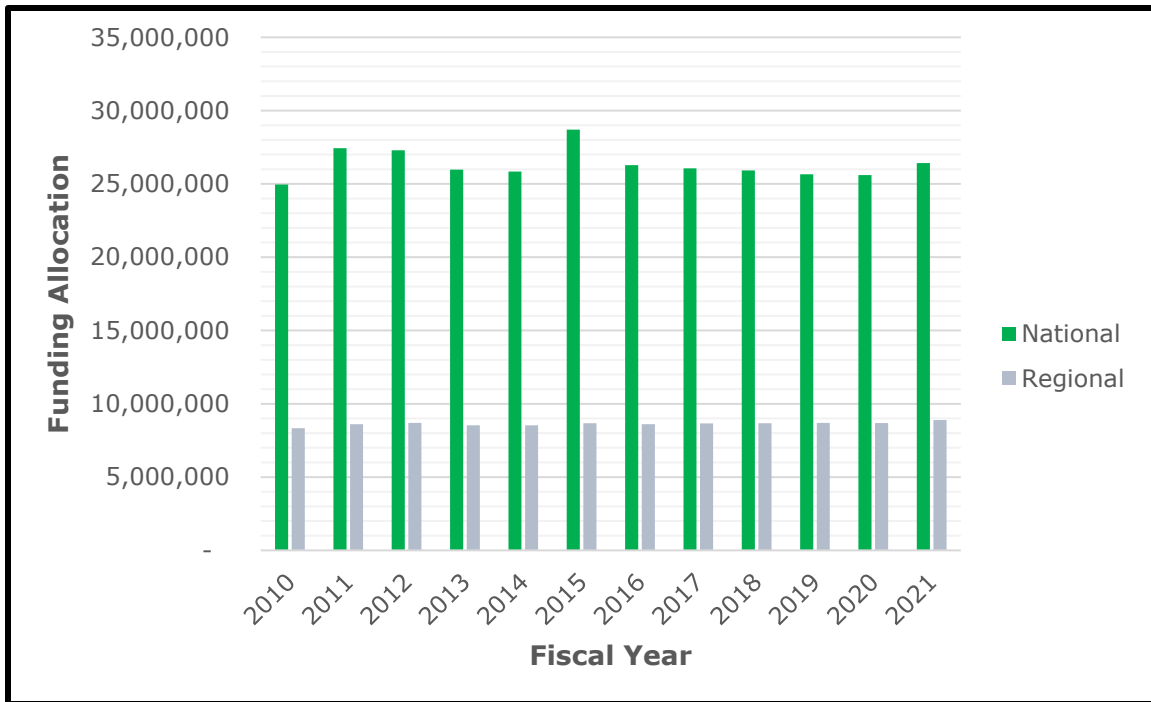
Additional increases are proposed for CWA 106 funding. Another grant that needs to increase funding is the CWA 104 Wetlands/ Watersheds programs. This is imperative now because recent regulatory changes have created many more challenges that will need to be addressed and the challenges to protect water resources have significantly increased. Importantly, Biden’s priority pronouncements do support substantial increases in each of the Water Resources Programs.

Nonpoint Source CWA § 319 2010 – 2021 Funding



4,817,120	Estimated FY 2022 (without Priorities funding)
480,380	Priority – Equity Measure Increase
1,102,500	Priority - COVID-19 Relief (10,500 x 105 Tribes)
300,000	Priority - Environmental Justice (2857 x 105 Tribes)
<u>3,000,000</u>	Climate Response (60,000 each 105 Tribes)
\$ 9,700,000	TOTAL REQUEST NONPOINT SOURCE PROGRAM FUNDING – Region 9

Clean Water Act 106 2010 – 2021

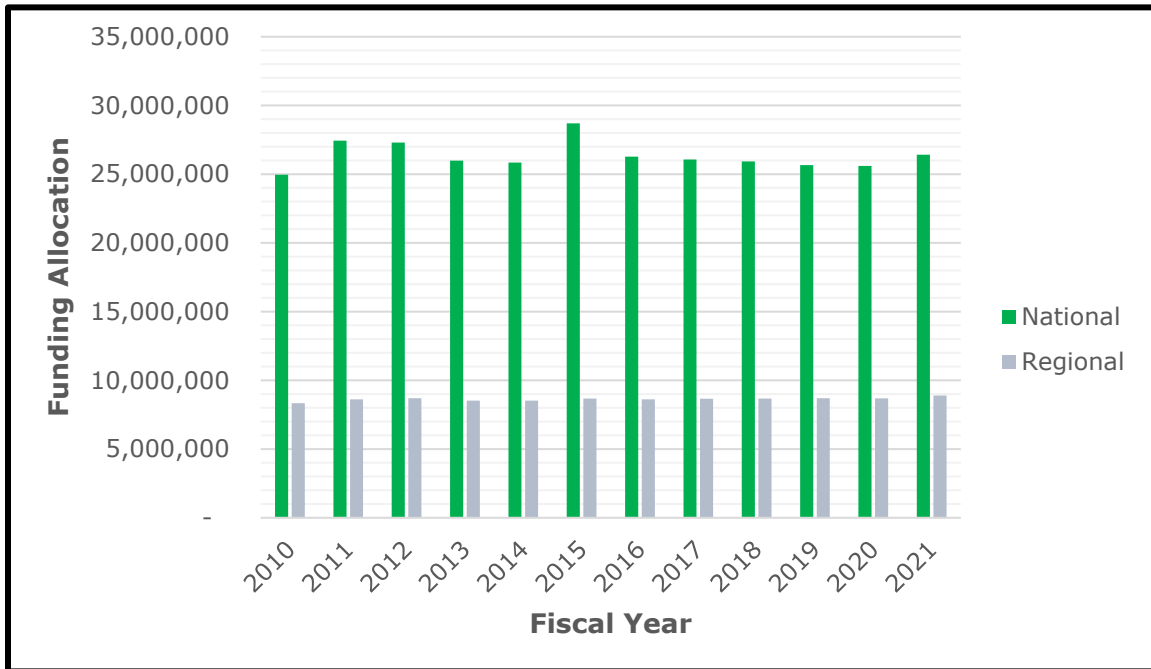


It is important that EPA apply the President’s priorities throughout the funding programs and these considerations are included throughout the Budget request. Water monitoring and water quality standards development have new imperatives due to regulatory changes that undermine the intent of protecting human health and the environment that are now facing irreparable harms. Water resource protections are critical to affect actions that stop contamination of waters. The CWA 106 funding is an integral and important piece.

9,190,381	Estimated FY 2022 (without Priorities funding)
2,224,773	Priority – Equity Measure Increase
3,494,750	Priority - COVID-19 Relief
499,250	Priority - Environmental Justice
<u>5,991,000</u>	Climate Response
\$ 21,400,000	TOTAL REQUEST CWA § 106 PROGRAM FUNDING – Region 9

Wetlands Programs are also critically important to try and address challenges of new rules being applied to Waters of the US or WOTUS. In addition to the other water programs, the studies to support water quality standards development and demonstration wetlands projects are few but should be expanded to additional Tribes for conducting studies on their water resources.

Clean Water Act 104(b)3 Wetlands 2010 – 2021



The Region 9 funding request applies separate priority measures to substantially increase the funding for this program too.

1,599,133	Estimated FY 2022 (without Priorities funding)
860,464	Priority – Equity Measure Increase
819,141	Priority - COVID-19 Relief
117,020	Priority - Environmental Justice
<u>1,404,242</u>	Climate Response
\$ 4,800,000	TOTAL REQUEST WETLANDS PROGRAM FUNDING – Region 9

Region 9 Tribes’ share of the National Tribal Program funding is a much-reduced share compared with Nonpoint Source and CWA § 106 funds. Though Region 9 has far more Indian Reservations than the others, the share of the funding is roughly 10%. Consequently, Region 9 is not recommending that the National Tribal funding level be raised to \$214,000,000, rather than the total National funding be increased to the share of Region 9’s funding at an amount between 33 and 52% of the total national program.

WATER INFRASTRUCTURE STATE REVOLVING FUND

Lack of access to safe drinking water and basic sanitation continues to pose critical health risks to Tribal populations.

Background

A significant disparity continues to exist between Tribal and non-Indian communities: Over 6% (and in some communities up to 25%) of Tribal homes reported by the Indian Health Service at the end of 2016 still lack access to safe drinking water and basic sanitation, compared to the non-Indian national average of approximately 0.5%; yet only a small fraction of the federal funding that supports drinking water and wastewater infrastructure is dedicated to Tribal community projects.

In 2002, the United States committed to reduce by 50%, by 2015, the Tribal population lacking access to safe drinking water and basic sanitation, under the United Nations Millennium Development Goals. And since that time, some progress has been made. Working with Tribal representatives, the multi-agency Federal Infrastructure Task Force developed a series of recommendations to address both infrastructure and ongoing operation and maintenance needs in Tribal communities, several of which have been implemented. Numerous Tribal projects were also funded under the American Recovery and Reinvestment Act of 2009. But there is more work to be done to meet the Congressional goal of ensuring that all Tribal homes are given access to safe drinking water and basic sanitation as soon as possible.

The program was established in the 1987 Clean Water Act amendments to provide funding for wastewater infrastructure to federally recognized Tribal governments. Funds are for planning, design and construction of wastewater collection and treatment systems and administered by EPA in cooperation with the Indian Health Service (IHS). EPA reports there are 33 Tribes with active infrastructure projects under the Drinking Water Tribal Set Aside (DWITSA) program and 44 Tribes in Region 9 that have active infrastructure projects under the Clean Water Indian Set Aside program (CWISA).

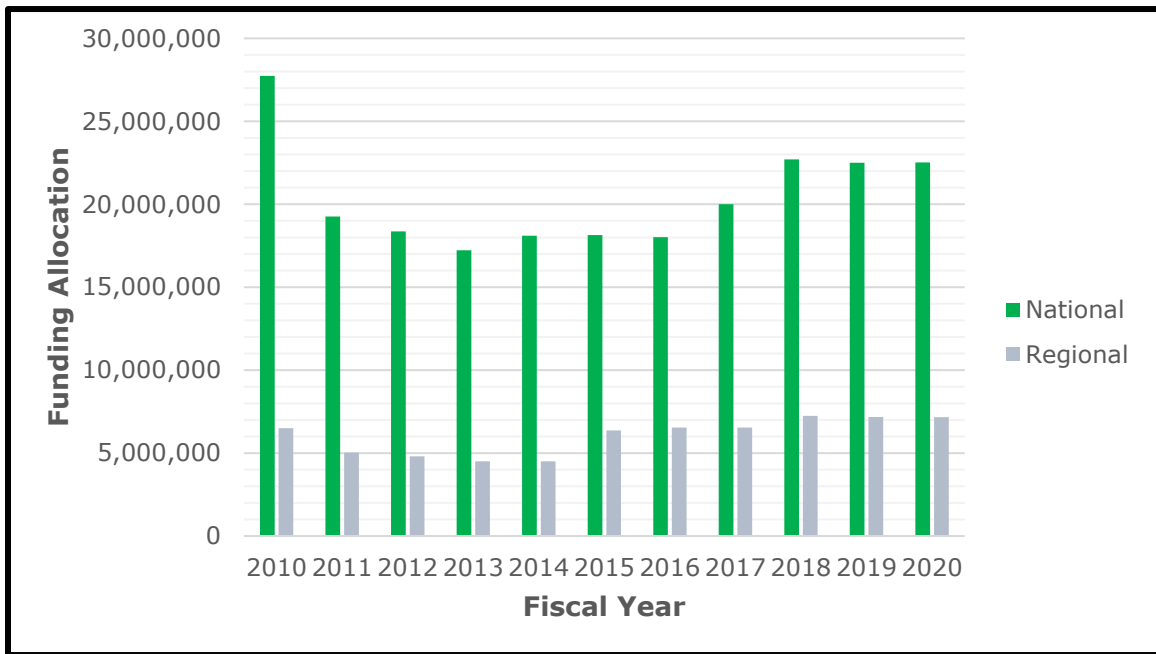
Tribal Water Infrastructure Priorities and Needs

According to an Indian Health Service study, as of 2006 it would have taken an additional \$53 million annually over then-current funding to address the most significant drinking water and wastewater treatment needs in Indian country by 2018. Given that, with a few exceptions, the funding for Tribal drinking water and wastewater infrastructure under all federal agency programs has remained relatively stagnant from 2006 to the present, significant additional funding is required to address this critical human health issue.

It is important to note that the various infrastructure funding programs administered by USEPA, IHS, USDA and HUD are not duplicative; rather, each serves different purposes and prioritizes for funding different issues, communities, and project sizes. For instance, the Tribal Set-Aside fund under the Clean Water Act and Safe Drinking Water Act State Revolving Funds are not authorized to be used for new construction; and Indian Health Service funds are allocated based on a priority system that may prevent small communities or those that are not densely clustered from ever receiving funding.

As a result, it is imperative that all of these programs be adequately funded, and that the agencies continue to work together with Tribes through the Infrastructure Task Force to influence decisions on the most efficient use of limited resources and to address related issues, such as the need to support Tribal operation and maintenance capacity to protect the federal investment in Tribal infrastructure.

Drinking Water Infrastructure Tribal Set-Aside (DWITSA) 2010 – 2021

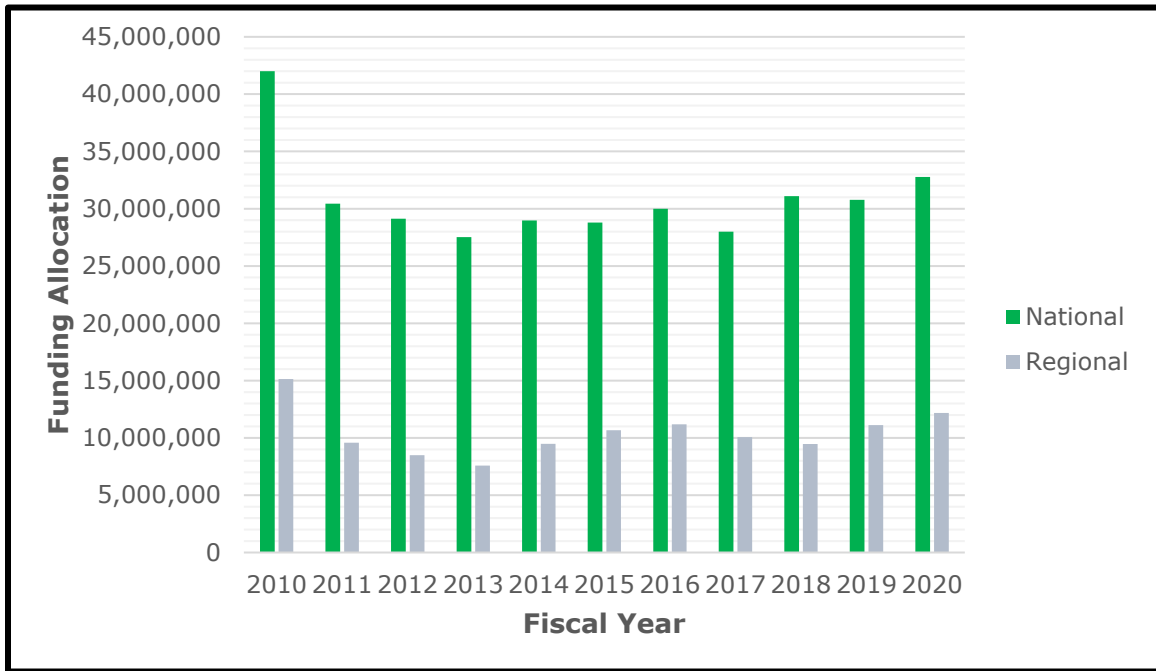


This request is a significant increase over the amounts historically allocated to Tribes in Region 9 with the equity priority based on the \$54,000,000 figure developed by the IHS in 2006.

In addition, the necessity for Drinking Water Operations and Maintenance (O&M) funding, it is important that funding for assisting residents reliant on individual or non-PWS water systems. In rural settings individual residential wells are commonplace. Those residents are extremely vulnerable to power outages and particularly to ‘public safety’ outages which may cause water shortages for many days even without the corresponding emergency – usually for wildfire mitigation purposes. In California, these outages have become regular occurrences which last anywhere between a few hours to four days.

6,960,000	Estimated FY 2022 (without Priorities funding)
10,000,000	Priority – Equity Measure Increase
2,464,000	Priority - COVID-19 Relief
352,000	Priority - Environmental Justice
<u>4,224,000</u>	Climate Response
\$ 24,000,000	TOTAL REQUEST DWITSA PROGRAM FUNDING – Region 9

Clean Water Infrastructure Tribal Set-Aside (CWISA) 2010 – 2021



CWISA funding is another critical program that provides the money for planning and constructing wastewater projects from small individual septics to the replacement of sewer mains. The funding for this program is most nearly the at a level that is adequate for the purposes it is intended.

11,795,000	Estimated FY 2022 (without Priorities funding)
7,240,556	Priority – Equity Measure Increase
<u>1,864,444</u>	Priority - COVID-19 Relief
\$ 20,900,000	TOTAL REQUEST CWISA PROGRAM FUNDING – Region 9

TRIBAL AIR QUALITY PROGRAMS

Tribal Air Quality Programs assist in guiding federal air quality policies and participate in data-sharing programs that have led to a better understanding of regional air sheds which help to save lives.

Background

Tribal communities are more vulnerable to air pollution impacts, and experience higher than average rates of diabetes, heart disease, and childhood asthma than the general population. In addition, Tribal communities are at higher risk of exposure to mercury and other air toxics due to traditional life ways, particularly subsistence practices. Conducting air quality assessments, including emissions inventory development, and monitoring and managing air quality, are necessary to protect the health and safety of reservation communities. Both ambient and indoor air pollution pose serious threats to human health and have been linked to an array of concerning health effects such as asthma, congestive heart failure, diabetes, and decreased cognitive function.

Tribal Air Program Priorities and Needs

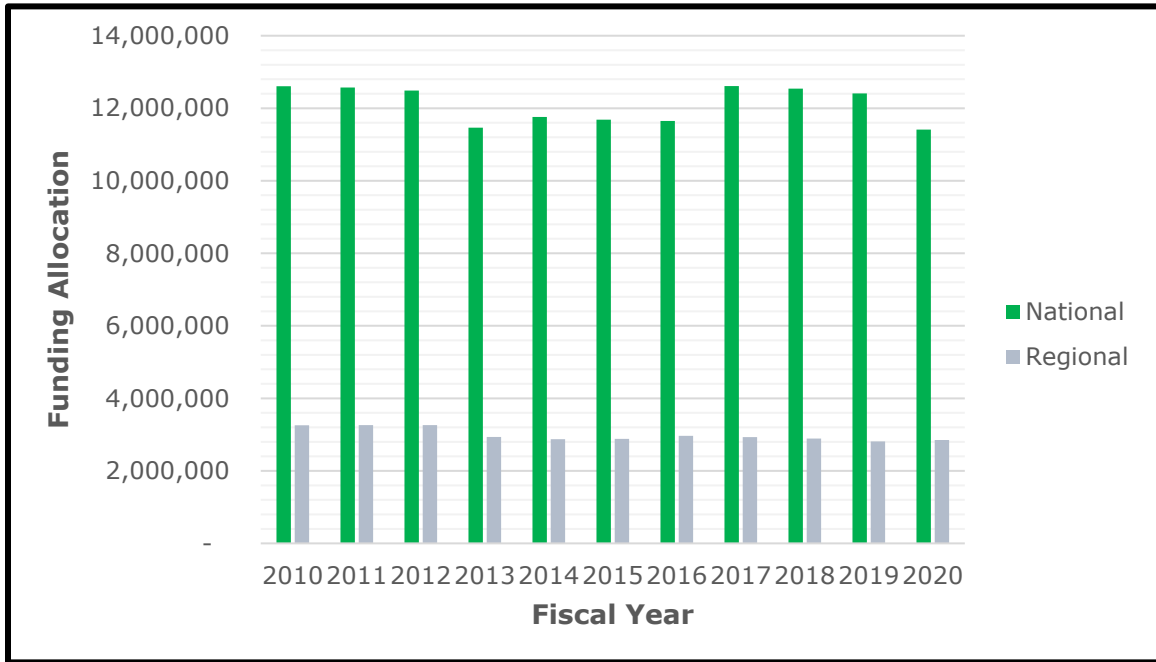
In Region 9 there are currently 68 Tribes that are located in areas that are designated as nonattainment for at least one criteria pollutant. Since designations are by pollutant, an area can be designated as nonattainment for more than one pollutant. If you count all the overlap, then there are 68 Tribes in Region 9 that are located in 100 overlapping nonattainment areas for different criteria pollutants.

For FY21 the budget funding will be for 28 Tribal Air Grants; 21 are under CAA 103 and 7 are under CAA 105. It has been noted that over the past years there has been a demand for air funding which could not be fulfilled for Tribes. This line item in EPA's budget has remained mostly flat for many years, forcing Tribes to seek funding through GAP to do baseline air program tasks such as emissions inventories and education and outreach. Continuing to push more tasks into GAP because there is not enough funding within a specific media is causing GAP to weaken and lose the focus for which it was originally created. If media specific grants become so lean and everything is pushed into GAP, then GAP will not be able to function as it was originally intended. There is also the issue of implementation for which GAP cannot be used and for which air program funding was intended. There is a need to provide more funding for Tribes to develop the needed monitoring infrastructure to assist additional Tribes in implementing air quality monitoring programs.

Tribes need funding continuity to provide adequate staffing, equipment, and training to sustain an effective air quality program. The flat lined budget for Region 9 Tribes with new sources of contamination has resulted in Tribes not having adequate resources available for addressing Particulate Matter emitting from exposed playas, such as the Salton Sea, other non-attainment conditions, ozone standards and indoor air issues. In addition to providing adequate funding for existing Tribal Air Programs, there also needs to have funds available to support the establishment of new air programs for Tribes.

Tribal communities continue to be exposed in disparate levels to indoor air pollution from several indoor air pollutants, such as radon, mold and lead. Tribes need to be able to test for these pollutants and take steps to remove them where they exist. Lead is particularly important as it was federally mandated to be removed from all homes by 2012.

Clean Air Act 2010 – 2021



3,195,621	Estimated FY 2022 (without Priorities funding)
1,101,616	Priority – Equity Measure Increase
1,820,967	Priority - COVID-19 Relief
260,138	Priority - Environmental Justice
<u>3,121,658</u>	Climate Response
\$ 9,500,000	TOTAL REQUEST CAA 103 & 105 PROGRAM FUNDING – Region 9

TRIBAL CLIMATE CHANGE

Native communities are expected to experience more difficulties associated with access to freshwater, agricultural practices, and declines in medicinal and cultural plants and animals. Drought, wildfire, invasive species, pests, and changes in species' geographic ranges will increase threats to native forests and ecosystems.

Background

Climate change has become evident as a universal norm. It is an existential threat that is influencing economic and political decisions more than ever. Environmental protections are dependent on data driven predictions that require planning, mitigation, and responses. Climate response is a necessity for all communities and even the best preparations will not prevent environmental harms that occur when intense and widespread wildfire occurs, or when unprecedented flooding damages infrastructure and causes sedimentation that fills waterways, and mudslides or when drought kills or weakens hundreds of years old trees that create the fuel for even more wildfire. Habitat losses, important plant and land resources that have been devastated along with the wildlife displacement will take centuries to regenerate.

According to the EPA the area of the Southwest, which includes Region 9 is the hottest and driest region in the nation. We are experiencing temperatures that increased by almost 2 degrees F in the last century, with the 2001-2010 decade being the warmest since records began 110 years ago. The length of the frost-free season has increased by 19 days in recent decades. Average annual temperatures are projected to rise an additional 3.5 to 9.5 degrees F by the end of this century, with the greatest temperature increases expected in the summer and fall. Drought conditions are already common with periods expected to become more frequent, intense, and longer, which will affect all water sources. Combined with population growth, climate change will exacerbate existing stresses in health and the environment.

<https://19january2017snapshot.epa.gov/climate-impacts/climate-impacts-southwest .html>

Climate Change funding is assigned as one of the President's priorities such that an all of government approach is being assembled with all resources linked in a common thread of addressing climate threats. This is the basis for including climate response in every environmental program. The Clean Air Act (CAA) and the General Assistance Program (GAP) which have been funding Climate Change projects such as Vulnerability Assessments, Climate Change Mitigation Plans, etc. for the past 20 years. For FY23 the Region 9 Tribal Operations Committee requests \$26.2 million to fund this needed allocation and included in Tribal environmental program funding. Spread throughout the funding programs, the climate funding request is intended to be an all-program strategy so that Tribes in Region 9 have the best opportunities to employ strategies and institute priority actions.

Previously, global warming and climate change was viewed as a whim by some; not everyone believed that climate change was occurring and not everyone could see its effects. Today, we are seeing and feeling the effects and this circumstance has materialized in every aspect of our lives. It is imperative that there is funding available to access to address climate change issues.

Tribal Climate Change Priorities and Needs

Climate response reaches to every aspect of environmental protection and conservation of Tribal natural and cultural resources so that prioritization becomes the exigency of the moment. Experts are saying that 2021 is shaping up to be another catastrophic fire year because the drought conditions set up a low moisture content in the plants, shrubs, and trees. Ecological devastation across Region 9 is demonstrated in a variety of different climate change impacts including sea level changes, degradation to water quality, increased wildfires, drought, mega storms, mudslides, biological disasters and on and on. Program funding for climate change activities must include supporting capacity to collect baseline data and perform ongoing monitoring of Tribal air and water quality, habitats, wildlife and plant resources; resources to fully study current and anticipated future community effects of climate change, and to develop Tribal specific plans to minimize, mitigate impacts of climate change; funding to implement Tribally developed adaptation and mitigation plans; and funding to address other priorities of Tribes.

Tribes are already facing many challenges that will be increased by climate change. Wildfires, drought, flooding, high temperatures, which can lead to losses to agricultural crops and livestock, loss of infrastructure and access to health and community services and food insecurity. With heat and drought come a loss of drinking water sources. Traditional ecological knowledge sources disappear when medicinal and cultural plants and animals are devastated by drought, wildfire, flooding, and heat. Invasive species and pests have become more prevalent with climate change.

As climate change begins to worsen the impacts will limit Tribe's ability to respond and create vulnerabilities. As of April 21, 2021, the Governor of California has proclaimed a regional drought emergency for the Russian River in two counties.

While EPA has allowed climate change tasks in the GAP and Clean Air Act grants, neither has offered suitable funding or the time for appropriate planning for climate change assessments, vulnerability planning and/or studies. Many Tribes in Region 9 are dependent on EPA funding to help tackle the challenges posed by climate changes. Climate responses are widely varied, and funding should be included in all program areas. This is a critical need because some Tribes have been unable to develop and implement the array of environmental programs. The needs are broad, and the threats are imminent.

SOLID WASTE IMPLEMENTATION PROGRAM BACKGROUND

The Solid Waste Program works directly with tribal governments to address solid waste issues, such as cleanup of open dumps, development of integrated solid waste management programs, including composting and recycling, curbside collection, and transfer station development.

Background

Many Reservation community members lack accessible solid waste disposal and recycling facilities. Many Tribes lack financial capacity to pay pick-up or disposal fees, and community members often lack understanding of the negative health impacts of illegal dumping. Compounding these barriers, outsiders engage in “midnight dumping” on un-monitored Reservation lands.

Approximately 108 Tribes conducted Solid Waste activities in FY20 with EPA funding support. A handful of Tribes are known to conduct solid waste activities without EPA funding support.

A major impediment to achieving effective solid waste management on reservation lands includes the lack of access to local and regional infrastructure.

Waste Implementation Program Priorities and Needs

Major increases in funding for Tribes will support:

- Physical infrastructure to accommodate community waste streams (i.e., pick-up/curbside collection programs, transfer stations, recycling centers, vehicles to collect and transport materials, bins for trash and recycling collection at homes or businesses, heavy equipment such as balers, tube grinders, in-vessel composters for efficient management, etc.).
- Capacity-building for tribal utilities to operate and maintain waste management infrastructure.
- Post-clean up needs including signage, barriers, securing and monitoring sites so further dumping does not occur. Training on waste characteristics to enable understanding of the impacts and proper handling of different types of waste (such as waste characterization/audit how-to, enforcement program development, transfer statement management, recycling program development, etc.).
- Effective outreach to educate Tribal governing bodies and community members about the importance of sanitary waste disposal and the negative health and environmental impacts of open dumping.

- Increase Tribes' capacity to monitor, regulate and prosecute illegal dumping practices through Tribal solid waste codes/ordinances, Tribal police and/or Tribal court systems.
- Funding is needed for illegal cannabis grow cleanups.

EPA needs to provide sufficient funding for Tribal Waste programs to ensure protections for human health and the environment for environmentally sound waste management practices, promoting resource conservation, recycling, and clean ups. This requires a substantial increase in funding, so Tribes' Solid Waste Programs work isn't reliant on GAP to complete program tasks in piecemeal approaches.

Importantly, the federal government, as a whole, and EPA in particular needs to begin the campaign to focus on source reduction and materials reuse. Meeting the goals to address climate impacts cannot go forward without this important measure.

Solid waste management is critical to controlling COVID-19 and is critical to developing appropriate emergency response for environmental threats that include wildfire, drought, flooding, and post-disaster vector controls. Solid waste management planning is a fundamental environmental protection measure and EPA should provide the funds needed to support Tribal Programs. The lack of funding for this important activity compounds the impacts on reservation communities and an equitable share of funding should begin to correct this unfunded obligation. A minimal amount of \$30,000 for each will support the development of solid waste management planning and support or replace the solid waste activities that are ongoing through other funding.

REGION 9 TRIBAL WASTE MANAGEMENT PROGRAM FY 2023 FUNDING REQUEST: \$4,440,000

PESTICIDES TRIBAL PROGRAM

EPA also establishes cooperative agreements and provides funding to some tribes to offer pesticide education, training, technical assistance, compliance and enforcement, and to develop and implement pesticide programs under tribal law.

Background

The primary goal of the National Pesticide Tribal Program is to help protect human health and the environment by ensuring pesticides and alternatives are available in Indian Country and can be used according to label directions without causing unreasonable risks. An additional goal is to consider the unique exposures and cultural practices that pertain to Tribes.

Unique challenges exist for Indian Country when dealing with pesticide use and risk:

- Rural locations, greater risk for agricultural exposure to pesticides
- Risk assessment and risk management through pesticide registration
- Lack of access to funding, training, and technical assistance
- Lack of consultation
- Lack of input on policy
- Limited staff, time, funding, and equipment
- Limited data on pesticide use

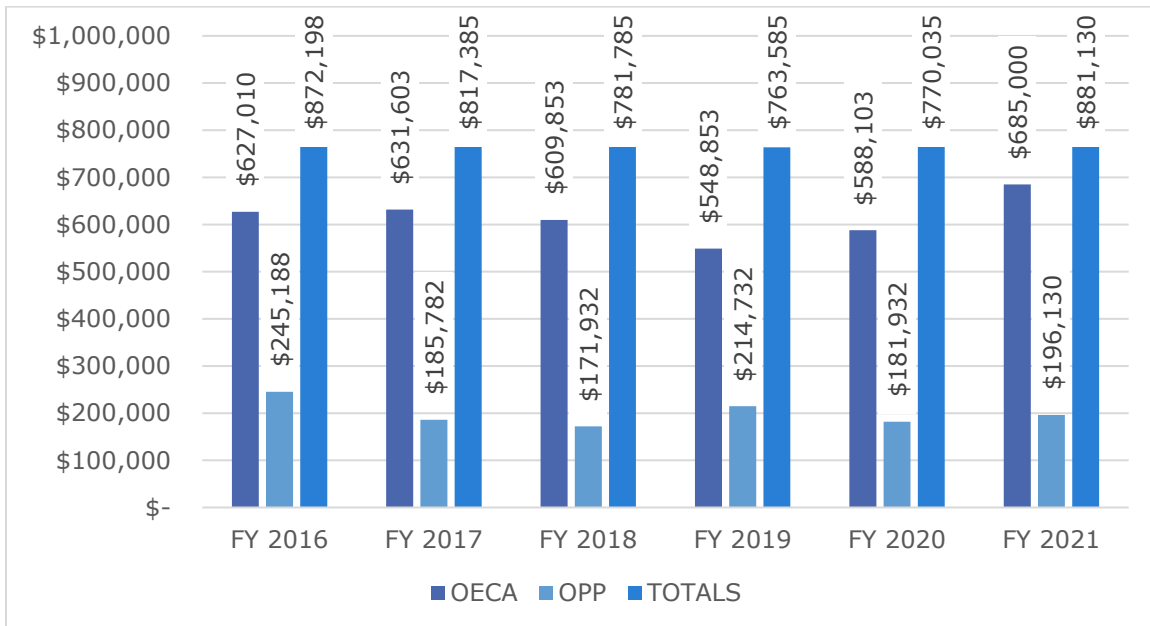
Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) the partnership group Tribal Pesticide Program Council was created in 2000. The TPPC was founded, based on tribal needs, views, and goals, to provide Tribes with a voice in national pesticide policy and issues.

Pesticides Tribal Program Priorities and Needs

Funding for assessing the needs and implementation of pesticide enforcement programs is a critical concern for many tribes. Of 148 Tribes in Region 9 only 8 tribes and 1 Tribal Organization receive Pesticide Program funds. Pesticide and related funding come from GAP or other agencies, such as BIA under the Invasive Weeds Program. Without the requisite funding, Tribes may lack a clear understanding about the pesticides in and near their communities, and the adverse impacts that such pesticides may be having on Tribal members and the environment. However, with funding, Tribes can become proactive in helping to mitigate and prevent adverse health and environmental impacts. It is important to provide adequate funding for Tribes and pesticide-related activities and programs.

Program levels for Region 9 under OECA's Enforcement Cooperative Agreement Program and Office of Pesticide Programs (OPP) have fluctuated greatly since FY16. In FY16, allocated funding to Tribes in Region 9 was \$627,010 in OECA and \$245,188 in OPP. In FY 2021, allocated funding was \$807,023 in OECA and \$188,472 in OPP totaling \$881,130.

TRIBAL FIFRA COOPERATIVE AGREEMENT FUNDING TOTALS FOR FY 2016-2021



The average EPA funding in FY16 was \$96,910 for the 9 Tribes/Organizations. Funding has fluctuated over the years, but in FY21 the Tribal funding for Region 9 increased. However, the funding is still inadequate and does not provide the opportunity for other Tribes to build new Pesticide Programs. Both states and Tribes share in the effort of addressing pesticide-related issues and many other such issues which have cross-border contamination impacts, such as agricultural runoff and spray drift. There is a real disparity between what funding that states and Tribes receive to support their pesticide-related activities and programs, with states receiving the vast majority of funding. As noted earlier, a formula is used to determine funding to states, but for Tribes, an allocation is sent to the Regions and funding it is determined by the EPA Regions. In each Region, allocation to a Tribe is based on a negotiation with the Pesticide Programs Office.

An increase in funding to Tribes could help support several new and more robust current efforts such as:

- Creating more guidance for pesticide programs and for other pesticide-related activities including pesticide sampling, equipment, and laboratory fees.
- Establishing and enhancing the sustainability of pesticide programs.
- Increasing Tribal-specific training on FIFRA (which training is provided to some degree by such organizations as the Inter-Tribal Council of Arizona), conducting inspections, and addressing Tribal issues and challenges.
- Developing new technologies that will enable Tribes and their pesticide staff to address pesticide-related issues more effectively and efficiently.

In order to establish adequate and reliable pesticide program funding, Region 9 requests an infusion of an 80% increase funding to support 9 additional Tribes seeking to employ strategies to protect health and environment and to education their communities on pesticide handling, storage and proper uses. Increasing funding to support additional Tribes' Pesticide Programs is both reasonable and beneficial for the Region's environmental protection goals. This is especially effective when the programs benefit surface and ground water resources.

Total Funding Request Tribal Pesticides Program: \$1,586,034

ENVIRONMENTAL JUSTICE

Environmental justice is the fair treatment and meaningful involvement with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

Background

“Whether by conscious design or institutional neglect, communities of color in urban ghettos, in rural 'poverty pockets,' or on economically impoverished Native-American reservations face some of the worst environmental devastation in the nation.” Dr. Robert Bullard

Historically, environmental justice grants have been difficult for Tribes to access and have had many strings attached. These types of issues do not fit the description of the grant or the purpose for which it was developed.

Environmental Justice Priorities and Needs

Environmental Justice activities that serve the needs of Tribal governments have been difficult to fashion because the program is intended for non-profit, non-governmental organizations. However, environmental justice needs to be considered in all actions that impact environmental resources and can serve Tribal government purposes where Tribes are able to utilize the funding to impact and affect off-reservation projects and off-reservation agency actions. Such funding could support technical assistance, staff time to review and analyze environmental studies, and water resources impacts. These and other related activities are purposeful and support the goal of meaningful involvement in off-reservation and extra-jurisdictional activity.

Region 9 request for Environmental Justice and Environmental Justice Program funding is in the form of support – with the infusion of EJ funds – for all the other programs that are implemented. In this form, EJ will support the activity of Tribal programs and the fair treatment of Tribal government in support of each Tribe’s self-determined environmental priorities. The EJ funding moniker is outlined in all of the primary funding programs that support Tribal environmental programs. Region 9 Tribal Caucus considers the amounts a fair share of the \$10 million dollars that has been designated for this purpose. Such a distribution eliminates improvident staff resources of both EPA and the Tribes. And it allows the wrongful practices of the past to become assimilated into contemporary EJ usage.

The GAO Report: EPA Grants to Tribes Additional Actions Needed to Effectively Address Tribal Environmental Concerns (October 2020) Appendix II: EPA Grant Awards to Federally Recognized Tribes and Other Tribal Entities, Fiscal Years 2014 through 2019 includes the EJ Small Grant Program that provided funds to Tribes in the amount of *\$230,000 for the previous six years*. That funding amounted to \$38,333 per year for Tribes an amount hardly enough to support a part-time employee. The GAO Report did not indicate how much funding was available each of those years.

For the Tribes in Region 9, EJ funding is most useful if the monies are aggregated within other programs and minimal administrative effort is applied. Environmental justice for Tribal

government is not a one-shot effort, it is an ongoing responsibility that becomes exhaustive, draining staff time and resources on already strained officials and budgets. The amount request is equal to a little less than \$5,000 per year for six years for 140 Tribes in Region 9.

TOTAL REGION 9 ENVIRONMENTAL JUSTICE REQUEST FY 2023: \$ 4,192,408