

EPA Environmental Justice (EJ) Webinar Series for Tribes and
Indigenous Peoples

EPA's Environmental Justice Program and Resources & Experiences of an Indigenous Environmental Organization

May 24, 2023

* Please note that this webinar will be recorded and posted on an EPA webpage for public access.

Presenters

- **Danny Gogal**, Tribal and Indigenous Peoples Program Manager, Office of Environmental Justice and External Civil Rights, U.S. EPA - Executive Order 14096 & EPA EJ Technical and Financial Assistance Programs
- **Michael Cloyd**, EJ Tribal and Indigenous Peoples Advisor, Region 9, U.S. EPA – EPA EJ Tribal/Indigenous Peoples Policy
- **Alan Bacock**, Tribal Program, Region 9, U.S. EPA – Region 9’s Tribal Program and Engagement with Tribes and Indigenous Peoples
- **Sherri Norris**, Executive Director, California Indian Environmental Alliance – Experiences working with tribal governments, federal agencies and tribal/indigenous communities
- **Ericka Farrell**, Office of Environmental Justice and External Civil Rights, U.S. EPA (Facilitator)

Environmental Justice and EPA's EJ Program

New EPA National Program Office, EJ Resources, and EJ Policies

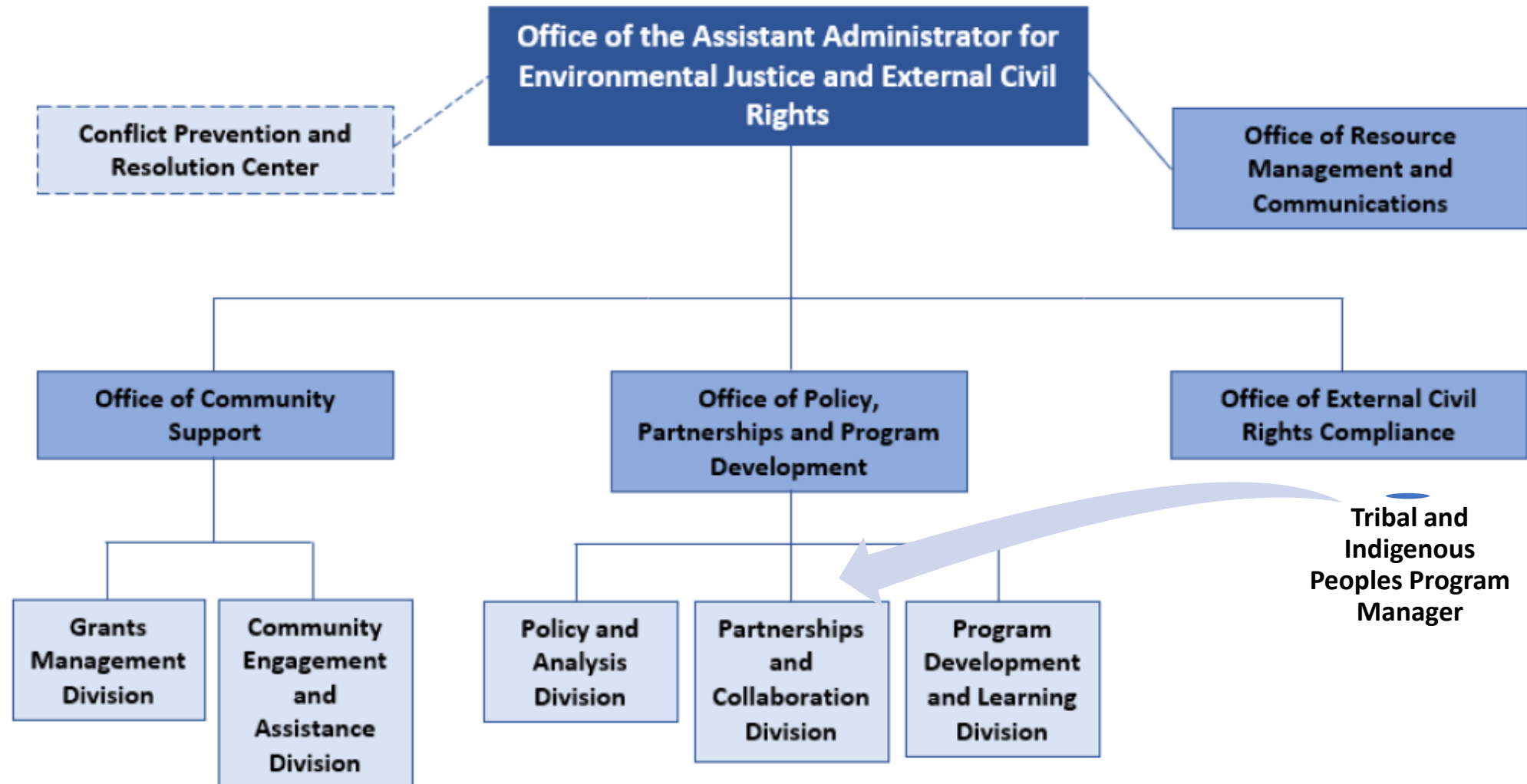
EJ Webinar for Tribes and Indigenous Peoples

Danny Gogal, EPA OEJECR & Michael Cloyd, EPA Region

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May 24, 2023

Office of Environmental Justice and External Civil Rights New National Program - Organizational Chart



Topics

Federal and EPA Policies Advancing EJ

- [Executive Order 14096](#) - Revitalizing Our Nation's Commitment to Environmental Justice for All
- [EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples](#)
 - EJ Webinar Series for Tribes and Indigenous Peoples

EPA EJ Financial and Technical Assistance Programs

- Environmental Justice Thriving Communities Grantmaking (TCGM) Program
 - TCGM Subawards
- Environmental Justice Change Cooperative Agreements
- Thriving Communities Technical Assistance Centers (TCTACs)

Executive Order 14096 – Reviving Commitment to EJ for All

- [EO 14096](#) Issued April 21, 2023, and builds upon EO 12898 (issued in 1994)
- Updates language & concepts
- Recognition of role of civil rights law
- Enhances accountability - Create performance metrics and other means of accountability
- Need for an All-of-Government Approach – expanded federal agencies involved
- Establishes a definition for “Environmental Justice”
 - “...the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, Tribal affiliation, or disability ... so that people are fully protected from disproportionate and adverse human health and environmental effects ..., including those related to climate change, the cumulative impacts of environmental and other burdens and the legacy of racism or other structural or systemic barriers....”

EO 14096 (Continued)

- Identify, analyze, and address disproportionate and adverse human health and environmental effects (including risks), including those related to climate change and cumulative impacts
- Evaluate relevant authorities and consider adopting mitigation
- Identify analyze and address historical and systemic barriers
- Tribal consultation
- National Environmental Policy Act (NEPA)
- Ensure Title VI compliance
- Create performance metrics and other means of accountability
- Dedicate staff, funding and other resources
- Provide training for agency staff

EO Definition for Environmental Justice

Environmental justice means the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, Tribal affiliation, or disability, in agency decision-making and other Federal activities that affect human health and the environment so that people: (i) are fully protected from disproportionate and adverse human health and environmental effects (including risks) and hazards, including those related to climate change, the cumulative impacts of environmental and other burdens, and the legacy of racism or other structural or systemic barriers; and (ii) have equitable access to a healthy, sustainable, and resilient environment in which to live, play, work, learn, grow, worship, and engage in cultural and subsistence practices.”

[Underlines added for emphasis]

EO & Communities with EJ Concerns

The EO notes, “communities with environmental justice concerns exist in all areas of the country, including urban and rural areas and areas within the boundaries of Tribal Nations and United States Territories.”

The EO elaborates that, “such communities are found in geographic locations that have a significant proportion of people who have low incomes or are otherwise adversely affected by persistent poverty or inequality...[and] are also found in places with a significant proportion of people of color, including individuals who are Black, Latino, Indigenous and Native American, Asian American, Native Hawaiian, and Pacific Islander.” [Underlines added for emphasis]

EO & Meaningful Engagement

Opportunities for meaningful engagement is one of the 15 requirements, which includes:

- Timely opportunities for the public to share info and concerns
- Fully considering public input
- Seeking out and encouraging involvement
- Offer/provide info in a manner that provides meaningful access to individuals who are Limited English Proficiency (LEP), have disabilities
- Providing Technical Assistance, Tools....

EPA Policy on Environmental Justice for
Working with Federally Recognized Tribes
and Indigenous Peoples



TRIBAL AND INDIGENOUS PEOPLES EJ POLICY

- Issued in 2014 - Provides consistency and clarity in EPA's work with both Federally Recognized Tribes and all other Indigenous Peoples
- Four Focus Areas for EJ Integration
 - EPA's Direct Implementation of Programs, Policies and Activities
 - Tribal Environmental Protection Programs
 - EPA's Engagement with Indigenous Peoples
 - Intergovernmental Coordination and Collaboration
- OEJECR leads Policy implementation, with Program and Regional offices staff advisors
 - EJ Tribal and Indigenous Peoples Advisors (EJ TIPAs)

Definition of Indigenous Peoples in EPA Tribal/Indigenous Peoples EJ Policy

Indigenous Peoples - the term “indigenous peoples” includes state-recognized tribes; indigenous and tribal community-based organizations; individual members of federally recognized tribes, including those living on a different reservation or living outside Indian country; individual members of state-recognized tribes; Native Hawaiians; Native Pacific Islanders; and individual Native Americans.

EJ Webinar Series for Tribes and Indigenous Peoples & Series for Pacific Islanders

Initiated in November 2020 – recordings and presentations available [here](#)

Developed for tribes and indigenous peoples to enhance EJ integration, build capacity, raise awareness of EPA and other federal programs and resources, and receive technical assistance to tribes and indigenous peoples on their priority environmental, public health, and other EJ concerns.

Examples of Topics Covered

- Wildfires & Air Quality
- Fish Programs
- National Environmental Policy Act (NEPA)
- Traditional Knowledge/Indigenous Knowledge
- Meaningful Public Involvement in Environmental Programs
- EPA Tribal/Indigenous Peoples EJ Policy
- EJ Financial Assistance Programs
- Searching and Effectively Applying for Federal Grants

Pacific Islander Webinar Topics – EPA Tribal/Indigenous EJ Policy, EJ Financial Resources, NEPA



Inflation Reduction Act (IRA) Environmental and Climate Justice Grants – August 2022

IRA, Sec. 60201 – Environmental and Climate Block Grants

- The Clean Air Act was amended to add: “SEC. 138. ENVIRONMENTAL AND CLIMATE JUSTICE BLOCK GRANTS.”
- Award grants for periods of up to 3 years to eligible entities to carry out activities
- \$2,800,000,000 to available until September 30, 2026, to award grants for the eligible activities to the eligible entities

Eligible Activities for EJ IRA Funding

ELIGIBLE ACTIVITIES — An eligible entity may use a grant awarded under this subsection for:

- A. Community-led air and other pollution monitoring, prevention, and remediation, and investments in low- and zero emission and resilient technologies and related infrastructure and workforce development that help reduce greenhouse gas emissions and other air pollutants;
- B. Mitigating climate and health risks from urban heat islands, extreme heat, wood heater emissions, and wildfire events;
- C. Climate resiliency and adaptation;
- D. Reducing indoor toxics and indoor air pollution; or
- E. Facilitating engagement of disadvantaged communities in State and Federal public processes, including facilitating such engagement in advisory groups, workshops, and rulemakings.

Eligible Entities to Receive IRA EJ Grants

ELIGIBLE ENTITIES

- A. a partnership between -
 - i. an Indian tribe, a local government, or an institution of higher education; and
 - ii. a community-based nonprofit organization;

- B. a community-based nonprofit organization;

- C. or a partnership of community-based nonprofit organizations.

EJ Thriving Communities Technical Assistance Centers (TCTACs)

- [17 selected](#) TCTACs will help advance EJ through technical assistance, training, and capacity-building to a wide range of entities including underserved communities, Pacific Islands organizations, federally recognized tribes, state recognized tribes, tribal/indigenous grassroots organizations, etc.
- The TCTACs will be operated by colleges/universities; large nonprofits; or intertribal consortia.
- Expected to be operational by in summer of 2023

TCTACs (Continued)

Examples of Technical Assistance Services Provided:

- Grant writing to strengthen applications for environmental and energy justice (EEJ) related funding
- Managing federal grants (e.g., accounting, policies, controls)
- Identifying funding sources to apply for (federal, local, private)
- Navigating government grant systems such as SAM.gov and Grants.gov
- Developing partnerships and coalitions addressing EJ issues
- Community engagement, meeting facilitation, and translation and interpretation services for limited English-speaking participants

TCTACs (Continued)

- Region 1 - University of Connecticut
- Region 2 - West Harlem Environmental Action, Inc. & Inter-American University of Puerto Rico-Metro Campus
- Region 3 - National Wildlife Federation
- Region 4 - Research Triangle Institute
- Region 5 - Blacks in Green & University of Minnesota Goal
- Region 4 & 6 - Deep South Center for EJ
- Region 6 - New Mexico State University
- Region 7 - Wichita State University
- Region 9 - University of Arizona & San Diego State University
- Region 10 - Willamette Partnership & University of Washington
- Three National TCTACs - Institute for Sustainable Communities, National Indian Health Board & International City/County Management Association

EJ Financial Programs Funded by IRA

[Environmental Justice Collaborative Problem-Solving Cooperative Agreements \(EJCPS\)](#)

Closed/Applications were due April 14, 2023)

- Eligibility: Community-Based Non-Profits
- To develop solutions that will significantly address environmental and/or public health issue(s) in communities disproportionately burdened by environmental harms and risks.
- Webinar: [Recording-February 2, 2023 EJCPS Webinar](#), Passcode: 46598050, [Slides from webinar \(pdf\)](#)

EJ Financial Programs Funded by IRA & Appropriations

[Environmental Justice Government-to-Government Cooperative Agreements](#) (EJG2G)
Closed/[Applications were due April 14, 2023](#))

- Eligibility: Federally Recognized Tribal, State, and Local governments in partnership with Community-Based Non-Profits, and U.S. Territorial, Free Associated State, and State Recognized Tribal Governments.
- Two tracks for, or available, to Tribes: 2nd Track with \$20 million & 4th Track \$10 million
- To support and/or create model government activities that lead to measurable environmental or public health results in communities disproportionately burdened by environmental harms and risks.
- Webinar: [Recording-February 7, 2023 Webinar](#), Passcode: 50270566, [Slides from Webinar \(pdf\)](#)

EJ Financial Programs Funded by IRA (Continued)

Environmental Justice Thriving Communities Grantmaking (EJ TCGM)

- \$550 million total funding
- Funding: Approximately \$50 million per award (\$16.5 per year, for 3 years) -
Applications: due **June 30, 2023**
- Eligibility: Federally Recognized Tribal government, or institution of higher education (e.g. Tribal Colleges and Universities) in partnership with a Community-Based Non-Profit (CBO), or a partnership of CBOs.
- New, innovative program to fund up to 11 entities to serve as Grantmakers, using efficient, simplified processes for organizations historically challenged to receive funding for community-based projects to reduce pollution through **subawards**.
- Webinar Assistance Call - View [Recording \(Passcode: 38640870\)](#), [Webinar Slides \(pdf\)](#)

EJ Financial Programs Funded by IRA (Continued)

Subawards - Environmental Justice Thriving Communities Grantmaker Program TCGM

- a new, innovative program to fund Grantmakers, who are to create and use efficient, simplified processes for organizations historically challenged to apply for and receive funding - as subawards

The subawards under the Grantmaker program will be available for **three distinct phases:**

- Phase I = Assessment projects for up to \$150,000 for a one-year project period
- Phase II = Planning projects for up to \$250,000 for a one/two-year project period,
and
- Phase III = Project Development projects for up to \$350,000 for a two-year project period

Environmental Justice Change Cooperative Agreements

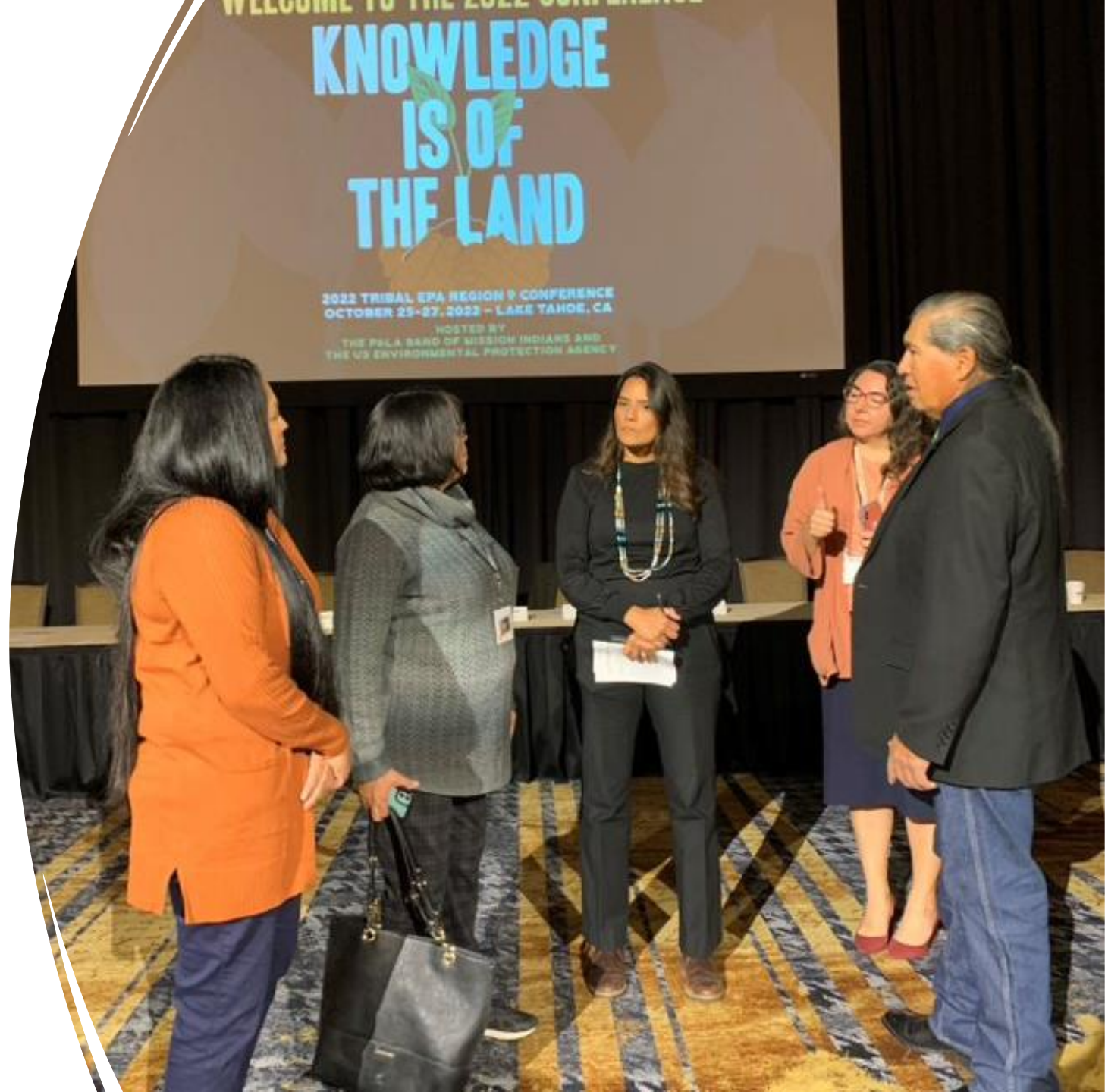
- Funding: Approximately \$2 Billion total for the program
- Grant award amounts likely to be about \$10 to \$20 million each
- Notice of Funding Opportunity (NOFO)/Request for Applications (RFA) expected to be issued by late-summer 2023
- Eligibility: 1) community-based non-profit organizations (CBOs); 2) federally recognized tribes, local governments, or institutions of higher education in partnership with a CBO; and (3) CBO partnerships.
- EPA is considering the input received through a Request for Information, which ended April 10, 2023, and other sources of input, to create the NOFO/RFA.

Definition for Community-Based Non-Profits (CBOs)

- **Community-Based Non-Profits** – *[definition used for the EJ CPS and EJ G2G programs, which will likely be used or be similar for future grant programs]*
“community-based nonprofit organization” (CBO) is a public or private nonprofit organization that supports and/or represents a community and/or certain populations within a community through engagement, education, and other related services provided to individual community residents and community stakeholders. A “community” can be characterized by a particular geographic area and/or by the relationships among members with similar interests and can be characterized as part of a broader national or regional community where organizations can be focused on the needs of urban, rural, and/or tribal areas, farmworkers, displaced workers, children with high levels of lead, people with asthma, subsistence fishers, and other similar groups.

EPA Region 9 Work with Tribes and Indigenous Peoples

- Seeking protection of human health and the environment
- Recognizing the differences in partnerships
- Providing opportunities for consultation, coordination and collaboration



EJ Resources & Supporting Indigenous Community-Based Organizations

Sherri Norris, Executive Director

California Indian Environmental Alliance (CIEA)

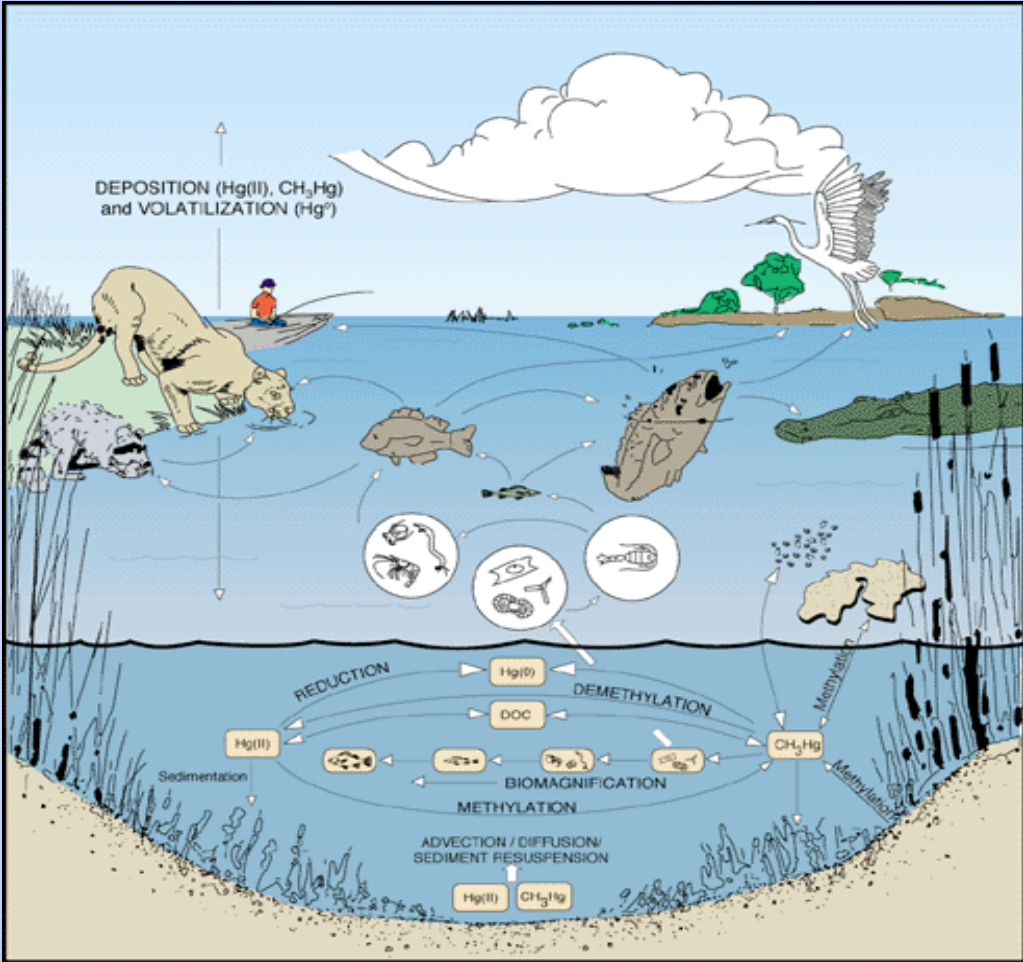
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Mercury in the Food Chain

74% of CA lakes & reservoirs advisories likely

Of those 21% of CA lakes may contain at least one fish specie unfit for pregnant women or small children



27% of US streams impaired by US EPA standards

Large predatory fish have most mercury

(Davis et al. 2009, updated 2010 & Scudder et al. 2009)

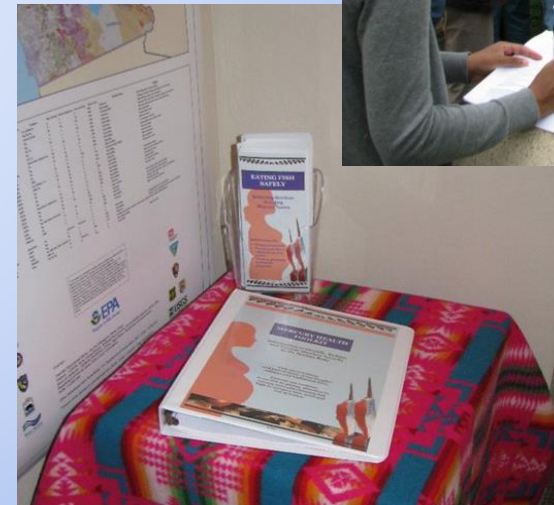
In 2003 CIEA staff and Northern California Tribes came together to address mercury left over from the California Gold Rush in California waters and fish.

CIEA founded in 2006 to address toxins in fish and increase water quality standards to support continued fish consumption.

Goal: Increase Tribal access to culturally significant places, and across the Tribes' traditional territories to restore balance and "resources" (traditional foods, medicines and cultural materials).

CIEA Program Development

- "Eating Fish Safely" Medical Trainings
Health Care Providers (CME) & Communities
- Risk Reduction v. Exposure Reduction – Water Quality
Standards, Advisories, Restoration & Cleanup
- Global Mercury Treaty Development
- Environmental protection
- Food and Cultural Resource Security





CIEA's Mission

'protect and restore California Peoples' cultural traditions, ancestral territories, means of subsistence, and environmental health.'

Guiding Principles

- Indigenous Peoples - right to eat traditional foods and set environmental cleanup standards that support cultural continuance
- Respectful of the integral connection between California Indian cultures, traditional knowledge and the environment.
- Health of future generations is inseparable from the wellbeing of California's lands, water, and sky.
- Do not discriminate based on federal or state recognition status
- Do not compete with Tribes for funding, include Tribal partners in project budgets
- CIEA works in collaboration with Tribes on a project by project basis (not a membership organization)

Benefits of Collaboration with Tribes

- Tribal knowledge: evolution, reciprocity within traditional territories: rebalance including fire, water, species benefit, abundance and diversity
- Funding Diversification: Leverage federal funding
- Co-management & Land back Opportunities – Traditional species restoration and Access
- Tribal leadership in restoration and climate leadership
- Collaboration with Non-Profits can help alleviate barriers to funding, until the agency can arrange changes in payment structure
- Direct funding to Tribes may be preferable, however some Tribes have a large indirect project sponsor overhead.

Reach all local Tribes potentially affected by a project, regardless of recognition status.

Do not wait for “Consultation” or CEQA requirement: Build relationships ahead of time.

Challenges

- Jurisdiction (100 separate reservations or Rancherias in CA, individual Indian trust allotments), state, federal, local agencies, divisions or regions do not align with Tribes
- Tribal status varies: federal, state or unrecognized status
- Capacity: Tribes and Tribal lands historically underfunded and high workload
- Not all Tribes are on the NAHC list
- Urban & rural challenges



Barriers to Tribes Receiving State and Federal Funding

- Experiences with federal and state funding mechanisms
- Limited Waiver of Sovereign Immunity
- Data Sovereignty, Deliverables & Culturally Sensitive Information
- Contractor procurement – bids etc.
- Fiscal
 - Matching fund requirements
 - Reimbursement-based
 - Long lead times for payment
 - % withholding
 - Project monitoring requirements without funding
 - Limits to funding uses
 - Prevailing Wage / Equal Employment Opportunity Act & Tribal Employment Rights Organizations. Solution: Prioritize experience working within Tribal communities
 - Reporting requirements



Examples of Collaborative Structures

“Eating Fish Safely” – CIEA

Partnership with OEHHA Servicing Indian Health Care Centers, and Women, Infant & Children clinics

- * California Environmental Protection Agency
- * Bay Area Water Quality Agency

California Tribal Climate Collaborative – Dry Creek Rancheria

Sub-grantee / partnerships with Tribes and CIEA (non-profit)

- * Bureau of Indian Affairs
- * US Geological Survey (through University of Arizona)

Tribal Beneficial Use Strategic Planning Caucus – CIEA

Reimbursement for participation

- * California Environmental Protection Agency
- * Seventh Generation Fund

North Coast Resource Partnership – Humboldt County, CIEA is a sub-grantee that provides services to Tribes through technical assistance, facilitation of Tribal Representative Nomination and Voting, project development and selection by County and Tribal Representatives

- * Department of Water Resources
- * Cal Fire
- * State Water Quality Control Board

Tribal Marine Stewardship Network – CIEA, Tribal and one Environmental Nonprofit, Sub-grantees / partnership with Tribes – Lead by Tribes

- * Ocean Protection Council

General Support or Relevant Project Funding - CIEA
Support for non-agency project reimbursables

- * Private Foundations

Contract Considerations

- Subcontracts reflective of provisions in original Grant Agreement
- No Waiver of Sovereign Immunity: Example:
“By entering into this Agreement, [Tribe] does not waive its sovereign immunity from suit and nothing herein shall be construed as a waiver of any such immunity, including without limitation the immunity of its Councils, Departments, entities, officials, officers, managers or employees acting in their official capacities
- Insurance Requirements: General Liability & Workers Comp
- Reporting Requirements: Narrative, deliverables and fiscal with backup.
Template(s)? Subcontractors may need to revise internal tracking, accounting structure
- Fiscal considerations and arrangements VERY clearly defined
- Ownership and sharing of Proprietary Property and Culturally Sensitive Information protected from grantor entity and contractors, including data base developers and/or publishers etc.

Proprietary and Culturally Sensitive Information

“In connection with activities performed under this Agreement and pursuant to the Grant Agreement, the parties acknowledge that *Subgrantee* may reference, identify, or generate information and/or documentation that is proprietary and/or confidential Tribal information and/or documentation. **The information provided belongs to the *Originating Tribal Subgrantee* and it is within the discretion of the *Tribe* to determine whether and in what manner to share it with CIEA and/or the agency.**

Given the provisions in the Grant Agreement regarding the rights of the State to materials produced in the performance of the Grant Agreement, the *Subgrantee* and the other Tribal Subgrantees are authorized and encouraged to **exercise care in providing Tribal propriety and/or confidential information and/or documentation to CIEA, to ensure only non-proprietary and non-confidential data, information and documentation is included in the materials provided as deliverables publicly or to the agency.**

Financial Considerations

- Review grant guidelines, acceptance letter and appendices
- Employee or principle investigator replacement reporting or approval?
- What if pay rate structure changes?
- Play close attention to procurement policies of funding sources.
Contractors may require competitive bid unless eligible from single source and competition determined inadequate
- Reimbursement-based, or upfront grant – Payment schedule
- Reporting requirements know and prepare upfront
- Time for fiscal processing: Example request for payment, # of weeks after approval of narrative, fiscal and deliverables, etc.
- What can and cannot be reimbursed? Honorariums agenized?
- Only use grant for intended purposes – these are Public or donated Funds
- Clear accounting requirements – define Generally Accepted Accounting Principles (GAAP)

Generally Acceptable Financial Principles

Follow **GAAP** with the expectation that Agency, federal EPA or California state controller could audit (hold backup for all transactions for 7 years)

- “Principle of Prudence” where responsible parties need to confirm that reporting of financial data is factual, reasonable and not speculative.
- Records of Subgrantees can be accessed at any time with reasonable notice
- **All expenditures must have Source Documents (all receipts) gathered. Proper documentation includes all backup:**
 - Payroll Reports from payroll companies that includes the names of each relevant employees, total hours worked for each, rate of pay, net pay, fringe benefits and taxes, and total of gross (sum of net and benefits and taxes).
 - Travel Expenses can be provided in one or two ways
 1. Travel Mileage: Travel date(s) start and end location addresses, total miles x current year’s travel rate. Can provide copy of online mapping tool with mileage
 2. For rental vehicles: Instead provide information on which staff member rented the vehicle, the receipt for the rented vehicle and receipts for gas used.

Additional Accounting Considerations

- Internally, Subgrantees should gather 1099s for any contractors or community members who receive payment in amount of \$600 or more
- Provide IRS determination letter and acknowledgement of all donations over \$600 to each individual donor
- List out all donors and amount received for tax filing
- Do not spend directly from donations accounts such as Paypal without reporting this to the IRS

Best Practices when Working with Tribes

Know Historical Context

- Understand Tribal history specific to land you are working on -Colonization in California included systematic genocide of Tribal families and Tribes (ie. Mission System, Gold Rush, Boarding Schools and continued intentional cultural erasure). Tribes are still here and their members are survivors.
- Land Acquisition Patterns in CA Rancheria Act of 1958: termination of 41 - land was privatized. Some restored and others are still working on restoration. Jurisdiction challenge.
- Historical and continued extirpation of Tribal knowledge and management. Part of the healing of CA Tribes and CA landscapes includes Tribal co-management, reciprocal stewardship encompassing small actions and those over large areas of traditional territory.
- Ask the Tribe to share the context they want you to know
- Pay attention to cadence, do not cut off Tribal speakers, especially elders. Leave spaces in conversational flow – step back and step forward applies.
- Be aware of paternalistic language and sentiments

Communication

- Elevate importance Tribal knowledge, recognize Tribes exercise actions
- Tribes each speak on their own behalf.
Be aware there may be shared traditional use areas.
- Communication and Coordination Early and Often (federally recognized Tribes are often required to write their workplans one year in advance).
- know which Tribes are most interested in a topic – Base to start from
- Recognize Tribal leadership in the meeting, if possible know who is there in advance and ask how they prefer to be addressed.
- Many Tribal Representatives must bring back decisions to Council before they can provide conclusions and recommendations – this takes time. Councils may meet quarterly, monthly, bi-monthly or weekly depending on the Tribe.
- Fund Tribal participation – agenized?

General Guidelines when working with Tribes

- Recognize that Tribes have a unique status. Tribes are Governments not stakeholders
- Outreach to all local Tribes potentially affected by project, regardless of recognition status. Include Tribes in source and receiving water and footprint area of project
- Do not wait for “Consultation” or CEQA/NEPA requirements. Build relationships ahead of time with Tribe(s) of your area
- Gather and use contact information for Tribal Council, administrative staff, Tribal Historic Preservation Officers, Environmental or Department of Natural Resources Staff and others as the Tribe recommends
- Outreach to Tribal Organizations –
We may be convening a group on the topic or can bring those already invested



- Leave space for Tribe-to-Tribe conversations (e.g., convene a Tribal-only caucus if requested).
- Allow Tribes to review what is written of them or their words, confirm interpretation of note-taker.
- Support Tribal interpretation of Data
- Do not share culturally sensitive information, or expect Tribal participants to provide this to you. Culture poachers and theft are still issues.
- Avoid cultural appropriation.
- Always ask before photographing or recording
- Ask Tribe(s) from project if they would like to host the meeting near the location of project to provide contexts
- Ask if Tribe from meeting location if they would like to offer an opening benediction, prayer, welcome or statement. Do they have preferred land acknowledgement language?

Questions and Answers & Evaluation

- Please type your questions in the chat room or raise your hand to ask a question.
- Please take a couple minutes to complete the evaluation for this webinar to help us improve this webinar series: <https://forms.gle/PVyxVc9w354cob7U6>
- To receive updates on EJ tools and resources from across the federal government, sign up for EPA's Environmental Justice Listserv by sending a blank email to: join-epa-ej@lists.epa.gov

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