

FREQUENTLY ASKED QUESTIONS (FAQs) - FISCAL YEAR (FY) 2024
ABANDONED MINE LAND ECONOMIC REVITALIZATION (AMLER)
PROGRAM

Summary of Changes to the FY 2024 AMLER Program

Q1: What are the differences in the AMLER Program from Fiscal Year (FY) 2023 to FY 2024?

A: The Consolidated Appropriations Act, 2024, requires OSMRE to make “payments” to participating States and Tribes no later than 90 days after the statute’s enactment. As OSMRE will be issuing payments instead of distributing the funds via the grants process, States and Tribes will not be required to submit a grant application. In addition, because the FY 2024 AMLER payments must be made within 90 days, States and Tribes will not be required to obtain an Authorization to Proceed. While the project eligibility criteria remains the same as previous years, States and Tribes will now assume broader programmatic responsibility for the FY 2024 AMLER Program. An overview of the differences between FY 2023 and FY 2024 can be found on the Table entitled *Changes to AMLER FY 2024 AMLER Program*. OSMRE is available to provide technical assistance as needed or requested by States and Tribes on any aspect of their AMLER Program.

Q2: Do the Property Standards and Program Income requirements in 2 C.F.R. Part 200 Subpart D apply to projects funded with FY 2024 AMLER monies?

A: No, according to 2 C.F.R. § 200.101(b), the property standards and program income regulations in 2 C.F.R. Part 200 Subpart D do not apply to projects funded with FY 2024 AMLER monies. States and Tribes are responsible for ensuring compliance with all other applicable laws and regulations.

Q3: Does the FY 2024 AMLER Guidance supersede the FY 2023 AMLER Guidance?

A: The FY 2024 AMLER Guidance only applies to projects funded solely by FY 2024 AMLER payments. The FY 2023 AMLER Guidance still applies to projects funded with FY 2016 – FY 2023 AMLER funds.

Funding Mechanism

Q4: Must participating States or Tribes submit a grant application to OSMRE to receive FY 2024 AMLER funds?

A: No, OSMRE will make a payment to each eligible State and Tribe on or about June 3, 2024.

Note: If a State or Tribe has not yet requested FY 2016 – FY 2023 AMLER funds, a grant application must be submitted through GrantSolutions for OSMRE to award these funds.

Q5: How will each eligible State and Tribe access the FY 2024 AMLER funds?

A: OSMRE will use the Department of the Interior's Financial & Business Management System (FBMS) and Treasury payment schedule to process and directly deposit FY 2024 AMLER funds into each participating State's or Tribe's account using the information available in SAM.gov.

Q6: Can FY 2024 AMLER funds be leveraged with FY 2016 – FY 2023 AMLER funds for phased portions of a project?

A: Yes. While FY 2024 AMLER funds will be transferred via payment instead of as a grant, the project eligibility criteria will effectively be the same as previous years. For example, a project using FY 2016 AMLER funding to develop infrastructure (electrical, water, and sewer lines) to prepare a site for future development (distinct metrics for the amount of infrastructure added) can also use FY 2024 AMLER funds to construct an industrial building (distinct metrics for the size of the building and the number of jobs it will support when occupied). However, we continue to emphasize the need for adequate internal controls to ensure that these annual appropriations can be monitored and tracked separately.

Q7: Can FY 2024 AMLER monies be used to purchase real property?

A: Yes; however, States and Tribes must ensure that the acquisition and improvement of the real property is necessary to achieve the goals of the AMLER Program. States and Tribes should ensure that each project proposal clearly demonstrates that the acquisition of the property is necessary to achieve the goals of the AMLER Program. All aspects of the purchase must comply with all applicable laws and regulations relating to real estate purchases.

Q8: Can a State or Tribe retain or use interest on FY 2024 AMLER monies?

A: No. Any interest earned on FY 2024 AMLER payments must be remitted to OSMRE for inclusion in the Abandoned Mine Reclamation Fund (AML Fund). See U.S. General Accounting Office (GAO), GAO-06-382SP, *Principles of Federal Appropriations Law 10-79* (2006) (GAO Red Book); see also 1 Comp. Gen. 652 (1922).

Program Oversight

Q9: Are projects funded by the FY 2024 AMLER Program subject to OSMRE's project vetting (preliminary approval) and authorization to proceed (ATP) processes?

A: No. States and Tribes are responsible for the solicitation and selection of AMLER projects and are not required to submit applications through OSMRE's vetting or ATP processes. However, OSMRE is available to provide technical assistance as needed or requested by States and Tribes on any aspect of their AMLER Program.

Q10: How will OSMRE conduct program oversight of State and Tribal AMLER programs?

A: OSMRE will use Single Audits and program specific audits to oversee State and Tribal FY 2024 AMLER programs.

Q11: Are projects funded with FY 2016 – FY 2023 AMLER monies still subject to OSMRE’s project vetting and ATP processes?

A: Yes. The requirements for projects funded with FY 2016 – FY 2023 AMLER monies have not changed. States and Tribes are responsible for the solicitation and selection of AMLER projects and are then required to submit applications through OSMRE’s vetting and ATP processes.

Applicable Environmental Statutes

Q12: What environmental statutes will apply to States and Tribes when using funds exclusively from the FY 2024 AMLER Program?

A: Generally, any environmental statute that does not require a discretionary Federal action will continue to apply. This includes, but is not limited to, the Endangered Species Act (ESA). However, because there is no longer a discretionary Federal action, the Federal consultation requirement under section 7 of the ESA will not apply.. If a State, Tribe, or project applicant needs an incidental take permit, it will need to engage with the U.S. Fish and Wildlife Service (USFWS) under section 10 of the ESA.

Each participating State or Tribe should consult with their legal counsel to ensure full compliance with all applicable environmental statutes and regulations.

Q13: Does the National Environmental Policy Act (NEPA) apply to a project funded exclusively from the FY 2024 AMLER Program?

A. No. NEPA is triggered when there is a discretionary Federal action, so it does not apply for projects funded exclusively from the FY 2024 AMLER Program.

Q14: What information will State and Tribal FY 2024 AMLER programs need to meet the requirements of the Endangered Species Act?

A: Please refer to the [USFWS’s Habitat Conservation Plan page](#) and [USFWS Guidance on assessing the need for an incidental take permit \(ESA section 10\)](#).

Reporting

Q15: Will States and Tribes be required to provide an annual report for the FY 2024 AMLER Program.

A: In order to assist OSMRE in preparing its annual AMLER Report and budget justification in support of the AMLER program, OSMRE encourages States and Tribes to provide a detailed annual program narrative on their FY24 AMLER Program, including fund expenditures, status updates on each approved AMLER project funded with FY 2024 AMLER monies, and other program related activities (e.g., property purchased, performance measures, etc.).

Please provide these annual reports to your servicing OSMRE Field Office by September 30th of each year.