

FREQUENTLY ASKED QUESTIONS (FAQs)
REGARDING GRANTS VS. PAYMENTS FROM THE
ABANDONED MINE LAND ECONOMIC REVITALIZATION (AMLER) PROGRAM

Summary of Changes

Q1: Is OSM issuing AMLER payments instead of grants?

A: Yes. Beginning in Fiscal Year (FY) 2024, annual appropriation laws have required OSM to make AMLER “payments” to participating States and Tribes rather than traditional grants. Therefore, for projects funded via AMLER payments from FY 2024 to the present, States and Tribes are not required to submit a grant application and OSM will issue payments instead of distributing funds via the grants process.

Q2: Are there different requirements for AMLER grants vs payments?

While AMLER payments do not change the project eligibility criteria, States and Tribes assume broader programmatic responsibility for the AMLER Program. An overview of the differences between AMLER grants and payments can be found on the table entitled [AMLER Grants vs. Payments Comparison](#). OSM is available to provide technical assistance as needed or requested by States and Tribes on any aspect of their AMLER Program.

Q3: Do the Property Standards and Program Income requirements in 2 C.F.R. Part 200 Subpart D apply to projects funded with AMLER payments?

A: No, according to 2 C.F.R. § 200.101(b)(3), the property standards and program income regulations in 2 C.F.R. part 200 Subpart D do not apply to projects funded with AMLER payments. States and Tribes are responsible for ensuring compliance with all other applicable laws and regulations.

However, the property standards and program income regulations in 2 C.F.R. part 200 Subpart D **do still apply** to projects funded with FY 2016 - FY 2023 AMLER grant moneys.

Q4: Does the most current AMLER Guidance supersede all previous AMLER Guidance documents?

A: No, the most recent AMLER Guidance only applies to projects funded exclusively through AMLER direct payments from FY 2024 to the present.

Funding Mechanism

Q5: Must participating States or Tribes submit a grant application to OSM to receive an AMLER payment?

A: No, OSM will make a payment to each eligible State and Tribe within 90 days of

the enacting statute.

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 OSM to award these funds.

Q6: How will each eligible State and Tribe access the AMLER payments?

A: OSM will use the Department of the Interior's Financial & Business Management System (FBMS) and Treasury's Secure Payment System to process and directly deposit AMLER payments into each participating State's or Tribe's account using the information available in SAM.gov.

Q7: Can AMLER payments be leveraged with AMLER grant funds for phased portions of a project?

A: Yes. For example, a project using FY 2016 AMLER grant funding to develop infrastructure (electrical, water, and sewer lines) to prepare a site for future development can also use AMLER payment moneys to construct an industrial building (reporting for each phase will include the distinct metrics completed with the corresponding moneys – length of utility lines for FY 2016 and the size of the building and the number of jobs it will support when occupied for FY 2024). However, OSM continues to emphasize the need for adequate internal controls to ensure that these annual appropriations can be monitored and tracked separately.

Q8: Can AMLER payment or grant moneys be used to purchase real property?

A: Yes, both grant and payment moneys can be used to purchase real property; however, States and Tribes must ensure each project proposal clearly demonstrates that the acquisition of the real 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.

Q9: Can a State or Tribe retain or use interest on AMLER payments?

A: No. Any interest earned on AMLER payments must be remitted to OSM 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

Q10: Are projects funded with AMLER payment moneys subject to OSM'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 OSM's vetting or ATP processes. However, OSM is available to provide technical assistance as needed or requested by States and Tribes on any aspect of their AMLER Program.

Q11: How will OSM conduct program oversight of State and Tribal AMLER programs that receive AMLER payments?

A: OSM will use Single Audits and program specific audits to oversee the expenditure of AMLER payment moneys by State and Tribal programs.

Q12: Are projects funded with FY 2016 – FY 2023 AMLER moneys still subject to OSM's project vetting and ATP processes?

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

Applicable Environmental Statutes

Q13: What environmental statutes will apply to projects funded exclusively with AMLER payment moneys?

A: Generally, any environmental statute whose application is not contingent on a discretionary Federal action will continue to apply, including but 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.

Q14: Does the National Environmental Policy Act (NEPA) apply to a project funded exclusively with AMLER payment moneys?

A. No. NEPA is triggered only when there is a discretionary Federal action, so it does not apply to projects funded exclusively with AMLER payment moneys.

Q15: In the absence of a discretionary Federal action, what information will State and Tribal AMLER Programs need to meet the requirements of the Endangered Species Act?

A: Please refer to the [USFWS's Habitat Conservation Plan page](#).

Reporting

Q16: In the absence of a grant agreement, will States and Tribes be required to provide an annual AMLER report?

A: No. However, to assist OSM in preparing its annual AMLER Report and budget justification in support of the AMLER Program, States and Tribes may submit information about projects funded with AMLER payment moneys, including project descriptions, progress status updates on each project, economic and community benefits anticipated or accomplished, land and waters reclaimed, or any other relevant program related activities.