



RAILROAD COMMISSION OF TEXAS

SURFACE MINING AND RECLAMATION DIVISION

June 14, 2022

Mr. Steve Feldgus
Deputy Assistant Secretary for Land and Minerals Management
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Ms. Glenda Owens
Deputy Director, Office of Surface Mining and Reclamation Enforcement
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Via: getinfo@osmre.gov

RE: Guidance on the Bipartisan Infrastructure Law Abandoned Mine Land Grant Implementation (BIL-AML)

Dear Mr. Feldgus and Ms. Owens:

The Department of the Interior is tasked with implementation of the most significant mine reclamation funding effort since the initiation of SMCRA in 1977. The BIL-AML funds provide an opportunity to improve environmental and public safety, expanding the funding already provided through reauthorization of the AML program and overseen by OSMRE – a program that has been consistent and effective for decades. Despite the opportunities these additional BIL-AML funds represent, there are a number of concerns related to implementation that should be addressed prior to finalization of the guidance document. Some items of concern are listed below:

1. Requiring contractors to affirm preference to hiring miners

Contractors are vetted and selected based on their ability to accomplish reclamation, complete the scope of work specific to each project location and lowest cost. The tracking of current and former employees of the coal industry is not part of local construction company processes and would severely limit the programs ability to find an adequate number of contractors to complete projects.

2. Aggregation of projects into larger statewide or regional contracts

The implementation of BIL-AML as a separate fund, distributed on a different funding and reporting schedule, with additional criteria to normal AML funding, with the same reclamation goal as normal AML funding creates inefficiencies and makes aggregation more difficult. The sheer size of Texas makes this impractical along with the differences of historical mining methods dictating remediation needs throughout various regions.

3. Adoption collective bargaining agreements, local hiring provisions (as applicable), project labor agreements, and community benefits agreements

It is prohibited by Texas Labor Code (§§101.052-.053) that any person be denied employment because of membership or non-membership in a labor union or other labor organization.

4. Incorporation of input from disadvantaged communities of color, low-income communities, and Tribal and Indigenous communities into the selection of projects to be funded

Selection of project sites are based on criticality of environmental hazard and public safety. The Texas AML program has decades of prioritization and input from all communities affected by potential adverse effects from mining activity prior to 1977, and community input is already solicited in the site selection, prioritization process, and public notice where appropriate.

5. Performance measures and reporting

a. AML reclamation environmental benefits and AMD remediation project benefits

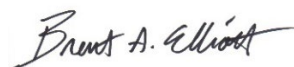
Rather than apply a list of items to measure and report, these should be examples of benefits that could be incorporated – if applicable. AML program guidelines are clear on what work can and cannot be performed on a reclamation project. It should be left to the States discretion to identify and describe the appropriate benefits in the project final report narrative.

b. Socio-economic benefits of BIL-AML projects

It may be very difficult to apply socio-economic and demographic data to achieve percentages and numbers of affected classes for a given project location due to the typical rural nature of mine locations across the State. These items in the guidance draft could be used as examples of types of information that could be included, if the appropriate data is available and applicable to a given project, but it shouldn't be a requirement as a measure for reporting – it's likely impossible for many projects across the nation with similar geographic scenarios.

We appreciate the opportunity to provide feedback on the BIL-AML guidance draft document. We believe the most efficient and effective way to implement this funding is to align it with the current AML funding, along the same funding and reporting schedule, allow States discretion to aggregate projects and employ organized labor where possible using the contractors and subcontractors that are available, and identify and describe benefits specific to each project and project location where applicable, strictly as guidance and not adherence to the examples provided.

Sincerely,



Brent A. Elliott, Ph.D., P.G., Director
Surface Mining and Reclamation Division