GUIDANCE FOR PROJECT ELIGIBILITY UNDER THE ABANDONED MINE LAND ECONOMIC REVITALIZATION PROGRAM FOR FISCAL YEAR 2023

I. OVERVIEW

Pursuant to the Consolidated Appropriations Act, 2023 (Pub. L. No. 117-328), the Department of the Interior's (DOI) Office of Surface Mining Reclamation and Enforcement (OSMRE) has made $135 million in Fiscal Year (FY) 2023 Abandoned Mine Land Economic Revitalization (AMLER) Program funding available for grants to States and federally recognized Indian Tribes with approved reclamation plans under section 405 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) to accelerate the remediation of abandoned mine land (AML) sites with economic and community development end uses. Of the $135 million available, $88,042,000 will be distributed to the three Appalachian States with the greatest amount of unfunded Priority 1 and Priority 2 AML problems based on OSMRE's AML inventory data as of September 30, 2022, while $35,218,000 will be distributed to the three Appalachian States with the subsequent greatest amount of unfunded Priority 1 and Priority 2 AML problems. Accordingly, $88,042,000 will be distributed in equal amounts among Kentucky, Pennsylvania, and West Virginia ($29.347 million each), while $35,218,000 will be distributed in equal amounts among Alabama, Ohio, and Virginia ($11.739 million each). In addition, each of the three Tribes with approved AML reclamation programs, the Hopi Tribe, Crow Tribe, and Navajo Nation, will receive an equal portion of $11.74 million ($3.913 million each).

State/Tribal AML Programs, in consultation with State, Tribal, and local economic/community development authorities, must develop eligible projects that demonstrate a nexus between AML land and water reclamation, and economic and community development. The AMLER Program is an opportunity for local communities and States/Tribes to return impacted areas to productive reuse, which should be defined by the State/Tribe in cooperation with local communities, to achieve the economic and community development goals identified for the community and/or region.

The purpose of this guidance document is to provide State/Tribal AML Programs with general criteria by which potential projects will be evaluated for eligibility and successful selection. This guidance is intended to ensure that projects meet the economic and community development nexus criteria, as the current AML program does not require such criteria. As such, the AMLER Program offers a non-traditional approach to the reclamation of impacted pre-SMCRA coal-mined lands. A uniform approach is not expected in every State/Tribe; however, this guidance is intended to assist States/Tribes in their selection of projects.

State/Tribal AML Programs are encouraged to collaborate with their respective State/Tribal and local economic development authorities and local communities to identify potential projects and apply funds from the AMLER Program to projects that will offer the greatest benefits for communities. The AMLER Program offers States, Tribes, and local communities flexibility in deciding which projects offer the greatest opportunities within their communities.

II. ELIGIBLE PROJECTS

Sites eligible under the AMLER Program:

- Unreclaimed Priority 1, Priority 2, or Priority 3 sites (i.e., AML lands and polluted waters) listed in e-AMLIS.
- Previously reclaimed AML lands and polluted waters.
- Land adjacent to unreclaimed or previously reclaimed AML lands and polluted waters as justified by the State, Tribe, and/or the communities impacted by historic coal production.

Please note: Currently permitted Title V mine sites are not eligible to receive AMLER funds. Formerly permitted mine sites reclaimed after August 3, 1977, that are adjacent to, or connected with, an eligible AMLER project may be included in AMLER funding. Consistent with 30 C.F.R. § 874.16, any person or entity that is in violation of SMCRA is not eligible for AMLER funding.

III. ECONOMIC AND COMMUNITY DEVELOPMENT NEXUS

The economic and community development nexus can be demonstrated by States/Tribes in different ways depending on whether the proposed project is intended to: (1) incorporate economic and community development related activities as part of the project itself (Category A projects), or (2) primarily involve reclamation activities that create the conditions for future economic and community development that occurs post-reclamation (Category B projects).

When selecting projects, States/Tribes are encouraged to consider the following:

“Category A” Projects (Reclamation with Development):

A Category A project includes both an eligible project as defined in Section II and economic and community development activities associated with the eligible project, and the project is likely to result in positive, measurable economic and community development outcomes.

To provide accountability, State/Tribal AML Programs will be required to report economic benefits and performance measures associated with awarded projects (see Section XI). The Consolidated Appropriations Act, 2023, does not specify criteria or metrics by which projects are evaluated and OSMRE recognizes that the metrics for productive reuse will vary based on the type of project selected; however, State/Tribal AML Programs should, to the extent possible, differentiate between post-project measures of future economic development in the medium- to long-term, and short-term measures associated with economic development activities (e.g., infrastructure construction) that are included in the project itself. The following are examples of measures a State/Tribe may wish to report:

- Jobs created (beyond those jobs necessary to conduct reclamation);
- Businesses created or served;
- Infrastructure created (impact could be measured by the linear feet, acreage, square feet, or other unit of measure for the expected amount of water, sewer, utility, or other form of infrastructure installed, constructed, or repaired);
- Increased, enhanced, or restored infrastructure system capacity;
- Communities served;
- Households served;
- Reclamation achieved (e.g., acres reclaimed, waters improved, improved revegetation, methane reduced, etc.);
- New or existing workers or students served; and
- Number of visitors (overnight and daytime).

“Category B” Projects (Reclamation for Potential Development):

A Category B project is reasonably likely to create favorable conditions for the economic development of the project site or promote the general welfare through economic and community development of the area where the project is conducted.

Such “favorable conditions” may be demonstrated by any of the following:

- Documentation of the role of the project in the area's economic development strategy or other economic and community development planning process;
- Documentation of the planned economic and community use of the project site after the primary reclamation activities are completed. Examples include contracts, agreements in principle, or other evidence that, once reclaimed, the site is reasonably anticipated to be used for one or more industrial, commercial, residential, agricultural, or recreational purposes; or
- Documentation of community support for the project. Examples include letters from non-profit organizations, businesses, and local governments, as well as documentation of community outreach efforts (such as notices of public meetings), and public comment periods.

It is recommended that the documentation and outcomes noted above are submitted during the vetting process (described more fully below). The documentation and outcomes noted above will be required when seeking an Authorization to Proceed (ATP).

Project description examples are provided below:

Example of Acceptable Category A Project: The Big Sky Outdoor Recreation Trail project will consist of two sections of trail infrastructure development: 1) reclamation and construction on abandoned mine lands to create 10 miles of trails within the Big Sky Outdoor Recreation Trail Network, using AMLER funding; and 2) construction of trail facilities and five miles of feeder trails on adjacent properties that will connect to the Big Sky Outdoor Recreation Trail Network, leveraging private funding. The project application demonstrates support for the trail system from local residents and community groups. The project is also consistent with a Comprehensive Economic Development Strategy developed by the region and focuses on tourism and recreation as an economic growth opportunity. By investing in the infrastructure for both local and visiting outdoor enthusiasts, the region will attract visitors and develop local businesses around the emerging cluster of outdoor recreation outfitters and manufacturers, restaurants, hospitality businesses, and other related businesses.

Example of Acceptable Category B Project: This project will reclaim 10 acres of abandoned mine land, which will later be used to build a community center with internet access, job placement, and vocational training facilities. The need for the community center was identified in a documented community planning process and approved by local government officials. Support for the community center from local community groups and residents is documented, and potential funding sources for construction of the community center are identified in the application. Appropriate project partners, such as job/career training center partner and an internet company to provide service to the facility have been identified.

Examples of Unacceptable Projects: 1) The project is not located on or adjacent to an unreclaimed or previously reclaimed AML site; 2) the project does not sufficiently demonstrate a nexus to economic and community development; or 3) the performance measure for economic and community development is being categorized as future industrial development but it is not associated with a local economic or community development planning process and/or does not have the support of local government officials or impacted community members.

IV. USE OF FUNDS AND LEVERAGING OTHER FUNDING SOURCES

AMLER grant recipients must comply with all applicable Federal grant award requirements, including but not limited to, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. part 200) and the Financial Assistance Interior Regulation (FAIR) (2 C.F.R. part 1402). States, Tribes, and local communities have the flexibility to use AMLER funds for both the reclamation of impacted lands and waters and brick and mortar needs related to the end-use development project. The AMLER Program offers maximum flexibility in this regard, letting States, Tribes, and local communities balance the needs of an individual project with the ability to fund other priority AMLER projects.

Where additional resources may help expand a project's scope or outcome, States, Tribes, and local communities are encouraged to identify and leverage other public and private funding sources to be used in conjunction with AMLER Program funding. In particular, States and Tribes are encouraged to review opportunities for leveraging funds and other resources made available by other Federal offices, such as the Appalachian Regional Commission (ARC)~~,~~ and the Economic Development Administration (EDA).~~, and the Interagency Working Group on Coal and Power Plant Communities and Economic Revitalization (IWG).~~[1] While matching funds are not required to be eligible for AMLER grants, OSMRE recommends that State and Tribal programs encourage applicants to leverage other public and private resources or to provide in-kind contributions, to demonstrate project viability and broader stakeholder buy-in. ~~The IWG has established a "clearinghouse" for Federal programs that offer financial support to coal-impacted communities.~~ A non-exhaustive list of examples of funding combinations includes:

- AMLER $ + Private $
  Additional funds could demonstrate economic and community development with a nexus to an AML site.

- AMLER $ + AML $
  Monies will need to be tracked separately. OSMRE's existing account structure can accommodate this tracking.

- AMLER $ + Infrastructure Investment and Jobs Act (IIJA~~Bipartisan Infrastructure Law (BIL~~; Pub. L. No. 117-58) AML $[2]
  Monies will need to be tracked separately. OSMRE's existing account structure can accommodate this tracking.

- AMLER $ + ARC $
  Combining, coordinating, or matching AMLER funds with ARC funds could demonstrate economic and community development with a nexus to an AML site. AMLER funds or other AML funds can be used as matching funds for projects funded by ARC.

- AMLER $ + EDA $
  Combining, coordinating, or matching AMLER funds with EDA funds could demonstrate economic and community development with a nexus to an AML site.

- AMLER $ + USDA $
  Opportunities for combining, coordinating, or matching AMLER funds with USDA rural development funds in certain areas may also be available.

V. DEVELOPING AMLER PROJECTS

Each State/Tribal AML Program is responsible for developing eligible AMLER projects. Each AMLER project proposal should include a description of how, when, where, and for what reclamation, economic

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[1] Information about Federal funding opportunities and additional funding and other resources (e.g., technical assistance) can be found at: eda.gov/coal and~~,~~ arc.gov~~, and energycommunities.gov.~~

[2] The ~~BIL~~ IIJA authorized and appropriated $11.293 billion for deposit into the Abandoned Mine Reclamation Fund (AML Fund), of which $10.873 billion will be distributed as grants to eligible States and Tribes on an equal annual basis (approximately $725 million a year) over a 15-year period beginning in FY 2022.

development, or community development purposes AMLER funds will be used. States/Tribes should provide summary level information about the project's purpose, cost, partnerships and/or leveraged funds (if applicable), and the expected economic benefits that lead to the project's selection. The State/Tribe should also include information about any intended subrecipient of funds. Eligible grant subrecipients are typically limited to State, Tribal, and local governments, economic development organizations, local communities, and non-government organizations. These subrecipients are considered subgrantees and may subcontract project-related activities as appropriate after an ATP has been issued for the specific project. As noted in Section II, any person or entity that is in violation of SMCRA, at the time of contract award, is not eligible for AMLER funding.

Once State/Tribal AML Programs, working with their local economic development authorities and local communities, conceptually develop their AMLER project proposals, the proposals must be submitted to the servicing OSMRE Field Office. OSMRE will work with State/Tribal AML Programs to conduct a review of the proposed projects on a rolling basis. OSMRE's review and approval process occurs in two phases.

First, OSMRE will vet project proposals to identify at the early stage any concerns about the project or its eligibility. OSMRE will advise the State/Tribe of any concerns with the project or will provide confirmation that the project does not raise any concerns at this early stage. OSMRE will, as practicable, provide an initial assessment within 60 days either confirming there are no concerns, identifying specific concerns, or stating that more review is needed by the agency to determine whether there are concerns. Once the proposed project has been vetted, and if it receives OSMRE's preliminary approval, the State/Tribe should then proceed to develop the detailed project design, technical analysis, legal and regulatory requirements necessary, so that the project can advance to the next phase.

The second and final phase involves the environmental review, e-AMLIS update, and OSMRE's issuance of an ATP. Please note that each AMLER project with preliminary approval requires the issuance of an ATP.

VI. PUBLIC ENGAGEMENT

~~The Justice40 Initiative, established by President Biden in Executive Order 14008, established the goal that disadvantaged communities[3] receive 40 percent of the overall benefits of certain Federal investments. The primary resource to identify disadvantaged communities is the Climate and Economic Justice Screening Tool (CEJST) which was developed by the Council on Environmental Quality (CEQ) (screeningtool.geoplatform.gov)[4].~~
~~The AMLER Program, as a Justice40 Covered Program, promotes the goals of the Justice40 Initiative. To this end, and to ensure that people are given a voice in economic and community redevelopment opportunities being funded by the AMLER Program, State/Tribal AML Programs are encouraged to~~

~~[3] "Disadvantaged Community" – a community may be considered disadvantaged based on a combination of: low income, high and/or persistent poverty; high unemployment and underemployment; racial and ethnic residential segregation, particularly where the segregation stems from discrimination by government entities; linguistic isolation; high housing cost burden and substandard housing; distressed neighborhoods; high transportation cost burden and/or low transportation access; disproportionate environmental stressor burden and high cumulative impacts; limited water and sanitation access and affordability; disproportionate impacts from climate change; high energy cost burden and low energy access; jobs lost through the energy transition; access to healthcare; and geographic areas within Tribal jurisdictions. A community may also be considered a disadvantaged community if it is included in the Climate and Economic Justice Screening Tool. Definition adapted from OMB and CEQ Interim Implementation Guidance for the Justice40 Initiative (M-21-28) dated July 20, 2021.~~

~~[4] Addendum to the Interim Implementation Guidance for the Justice40 Initiative, M-21-28, on using the Climate and Economic Justice Screening Tool (CEJST) (M-23-09) dated January 27, 2023, provides supplemental guidance to Federal agencies on using the CJEST tool; version 1 was released on November 22, 2022.~~

~~incorporate input from disadvantaged communities, communities of color[5], low-income communities[6], and Tribal and Indigenous communities[7] into prioritization criteria and the method for selecting projects to be funded.~~ State/Tribal AML Programs are ~~also~~ encouraged to use best practices for public engagement in the solicitation, selection, development, and reporting of AMLER projects. Such practices include:

- Hosting public meetings with in-person and virtual attendance options to provide information to and receive input from the public, such as soliciting project ideas and proposals and providing information about the AMLER Program and how to apply for funding;
- Maintaining a dedicated AMLER webpage with agency contact information for members of the public who have questions or need additional information, as well as information regarding funded AMLER projects;
- Using both print and social media for all public communications; and
- Partnering with organizations that facilitate public outreach and communication, including State, Tribal, and local economic development programs.

~~Tools to identify disadvantaged communities are available from the Council on Environmental Quality (CEQ) - screeningtool.geoplatform.gov and the Environmental Protection Agency (EPA) - ejscreen.epa.gov/mapper.~~ Documentation of public outreach must be submitted when seeking an ATP.

VII. PROJECT BENEFITS, EXPECTED OUTCOMES OR PERFORMANCE MEASURES

States and Tribes are urged to demonstrate the success of their AMLER projects by tracking and reporting on as many economic and environmental measures as practical. States/Tribes can identify, track, and define the success of projects in many ways. However, State/Tribal AML Programs will be required to report economic benefits and performance measures associated with awarded projects (see Section XI). Examples of significant measures of success are provided below:

- Jobs created (beyond those jobs necessary to conduct reclamation);
- Businesses created or served;
- Infrastructure created (impact could be measured by the linear feet, acreage, square feet, or other unit of measure for the expected amount of water, sewer, utility, or other form of infrastructure installed, constructed, or repaired);
- Revenues increased (export or domestic sales);
- Patients served;
- Participants served;
- Organizations served;

~~[5] "Communities of color" are those communities with a higher than national average percent of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial. A block group is an area defined by the Census Bureau that usually has in the range of 600-3,000 people living in it. This definition is adopted from USEPA's EJSCREEN definitions at: https://www.epa.gov/ejscreen/overview-demographic-indicators-ejscreen#demoindex~~

~~[6] "Low-income communities" are those communities that in the last 12 months had a median household income less than twice the poverty level. This definition is similar to USEPA's EJSCREEN definition at https://www.epa.gov/ejscreen/ejscreen-map-descriptions#category-demographics~~

~~[7] "Tribal and Indigenous communities" are communities whose members make up a Federally recognized Indian Tribe, a State-recognized Indian Tribe, an Alaska Native community or organization, a Native Hawaiian organization, or any other community of indigenous people located in a State, including indigenous persons residing in urban communities.~~

- Increased, enhanced, or restored infrastructure system capacity (includes energy capacity, broadband accessibility);
- Communities served;
- Households served;
- Reclamation achieved (e.g., acres reclaimed, waters improved, improved revegetation, methane reduced, etc.)
- Housing units constructed or rehabilitated;
- New or existing workers or students served;
- Number of visitors (overnight and daytime); and
- Quantifiable recreational opportunities created

VIII. COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

OSMRE has determined that the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 *et seq*. applies to all AMLER projects funded under Public Law No. 117-328. Refer to DOI NEPA regulations ~~issued by CEQ are~~ found at 43 C.F.R. Part 46 and the DOI Departmental Manual (DM) Part 516 for Department-wide policies and procedures pertaining to NEPA. ~~Title 40, parts 1500-1508 of the Code of Federal Regulations (40 C.F.R. parts 1500-1508).~~

In accordance with NEPA regulations, AMLER project approval is a major "Federal action" that must undergo NEPA analysis because AMLER projects are "Federally assisted activities" that allocate Federal funds whose use must be "approved" by "other regulatory decisions." ~~*See* OSMRE REG-1, Handbook on Procedures for Implementing the National Environmental Policy Act (NEPA Handbook) (Revised 2019).~~ The Consolidated Appropriations Act, 2023, authorizes OSMRE to allocate funding to Alabama, Kentucky, Ohio, Pennsylvania, Virginia, West Virginia, the Crow Tribe, the Hopi Tribe, and the Navajo Nation for eligible projects that involve AML reclamation and related economic and community development activities.

Pursuant to NEPA, there are three types of environmental review that may be required for a proposed Federal action:

1) Categorical Exclusion (CE); or
2) Environmental Assessment (EA), which may result in a Finding of No Significant Impact (FONSI); or
3) Environmental Impact Statement (EIS) and a Record of Decision (ROD).

The Department's NEPA regulations make clear that, in the absence of an applicable CE, an EA or EIS must be prepared for the proposed major Federal action. According to 43 C.F.R. § 46.205(a):

> *If a proposed action does not meet the criteria for any of the listed Departmental categorical exclusions or any of the individual bureau categorical exclusions, then the proposed action must be analyzed in an environmental assessment or environmental impact statement.*

Based on OSMRE's experience, an EA will likely be required for most AMLER projects. The three types of NEPA analyses are defined below.

Categorical Exclusion

A categorical exclusion is a "category of actions that [DOI] has determined . . . normally do not have a significant effect on the human environment" and therefore do not require the preparation of either an

EA or an EIS unless an extraordinary circumstance is identified.[8] ~~40 C.F.R. § 1508.1~~. OSMRE's list of ~~has received approval from CEQ for a~~ CEs~~,~~ ~~which~~ is contained in the DOI Departmental Manual (DM), Chapter 13 [516 DM 13.5 (33)], and applies to AML reclamation projects that meet specific criteria.

Environmental Assessment

If a CE does not apply to a proposed major Federal action and if the agency does not know whether the proposed action will significantly affect the quality of the human environment, then an EA must be prepared. The EA determines whether a Federal action has the potential to cause significant environmental effects. If no significant environmental effect is found, the decision document will result in a FONSI and the project may continue. However, if a significant effect is found, then the project must go through the more rigorous EIS process.

Environmental Impact Statement

If the proposed major Federal action will significantly affect the quality of the human environment, NEPA requires the preparation of an EIS to assess, among other things, the potential environmental impacts of the proposal and alternatives to the proposed action. See 42 U.S.C. § 4332;~~ 40 C.F.R. part 1502~~. Once an agency reaches a final decision on the action it wishes to take (i.e., the proposed action or an alternative), it creates a ROD, which is the conclusion of the EIS process.~~ 40 C.F.R. § 1505.2~~.

~~Project participants are strongly encouraged to look closely at the three types of NEPA analyses outlined above and refer to OSMRE's NEPA Handbook to better understand the type of NEPA review most likely to apply to their proposed projects and, if necessary or appropriate, adjust their projects accordingly.~~

IX. BUILD AMERICA, BUY AMERICA ACT

The Build America, Buy America (BABA) Act requires the head of each Federal agency to ensure that "none of the funds made available for a Federal financial assistance program for infrastructure . . . may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States." Pub. L. No. 117-58, § 70914. The BABA Act allows the head of each Federal agency to waive its requirements under certain circumstances. *Id.* A general applicability waiver was approved for DOI on July 13, 2022; however, that waiver expired on January 12, 2023. Consequently, BABA Act terms and conditions must now be included in all subawards and all contracts or purchase orders for work or products unless another active BABA waiver applies. For current DOI BABA Act waivers, please refer to the list at: https://www.doi.gov/grants/BuyAmerica/GeneralApplicabilityWaivers. Additional general information about complying with the BABA Act is available from the DOI Office of Grants Management at: doi.gov/grants/buyamerica.

X. PURCHASE OF REAL PROPERTY [See Protecting the Federal Interest in Real Property FAQs for the most current guidance]

The following guidance on real property applies to all AMLER projects, including the current fiscal year (FY 2023) and all previous years of the AMLER Program (FY 2016 – FY 2022). The requirements for the acquisition, use, management, and disposal of real property acquired under an AMLER grant are established under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. part 200), the Financial Assistance Interior Regulation (FAIR) (2 C.F.R. part 1402), and the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970

[8] ~~Extraordinary circumstances are described in the Departmental NEPA regulations at 43 C.F.R. § 46.215.~~

(Public Law No. 91-646) (49 C.F.R. part 24). Other applicable provisions include sections 407 and 409 of SMCRA (30 U.S.C. §§ 1237 & 1239) and OSMRE regulations at 30 C.F.R. part 879.

Real property means land or an interest in land, such as an easement. Real property may include land improvements, structures, and appurtenances thereto, but excludes moveable machinery and equipment. OSMRE recognizes that on rare occasions it may be necessary to acquire land using AMLER funds to facilitate the accelerated economic development of an AMLER project. State/Tribal AML Programs should clearly demonstrate in the proposal that acquisition of the property is necessary to achieve the goals of the AMLER project.

Whenever a State/Tribal Program is seeking approval to use AMLER funds to purchase an interest in real property, the SF-429-B, *Request to Acquire, Improve, or Furnish,* must be submitted to OSMRE. All aspects of the purchase must be in compliance with applicable laws and regulations relating to real estate purchases.

When such purchases occur, while OSMRE does not typically become the owner of the land, OSMRE does retain an interest. At a minimum, that interest is to ensure that State/Tribal AML Program maintains the land in accordance with the purpose and conditions set out in the financial assistance award. When the land is no longer needed or utilized for that purpose, in accordance with 2 C.F.R. part 200, the State/Tribal AML Program must dispose of or revert title to the land in accordance with disposition instructions provided by OSMRE.

Designation as Recipient/Subrecipient

The State/Tribal AML Program that receives an AMLER grant that funds the purchase of real property will always be designated the recipient. Any other State/Tribal Agency, local government, institution of higher education, or non-profit organization that holds title to real property purchased using AMLER funds will be designated a sub-recipient. It is incumbent upon the State/Tribal AML Program, as the recipient, to provide the sub-recipient with all relevant terms and conditions of the AMLER grant.

Fair Market Value & Appraisals

The Federal contribution from the AMLER funds to the purchase price of the property must not exceed the appraised fair market value. Real property that will be purchased with funds from financial assistance actions must be appraised in accordance with the *Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA; the “Yellow Book”)* by an independent real property appraiser licensed or certified by the State in which the property is located. A property appraisal by a State-certified appraiser must be prepared for the acquisition of the subject property. The appraiser should be certified for all general property appraisals (49 C.F.R. § 24.103; 2 C.F.R. § 1402.329).

Deed of Transfer

The deed of transfer must specify that the property will be used for the purposes of the AMLER project. If the non-Federal entity dissolves or is unable to continue managing the property as intended, the property must be transferred (with the original deed restrictions) to another non-Federal entity with the same goals. The new non-Federal entity must continue to operate and maintain the property as appropriate. The deed of transfer must also specify that if the property is no longer needed for the purposes stated in the deed, the owner will notify and consult with State/Tribal AML Program and OSMRE for appropriate disposition instructions.

Tracking Data on Real Property

OSMRE requires that the State/Tribal AML Program submit a report annually on the status of real property acquired using AMLER funds for the period of time in which the Federal government retains an interest. If the interest in the land will be held for less than 15 years, reports must be submitted annually. If the interest in the land will be held for 15 years or more, then the recipient must submit reports annually for the first three years and then every five years thereafter (2 C.F.R. § 200.330).

XI. REPORTING REQUIREMENTS

The following guidance on reporting requirements applies to all AMLER projects, including the current fiscal year (FY 2023) and all previous years of the AMLER Program (FY 2016 – FY 2022). OSMRE is obligated to report to Congress and the public on the use of AMLER funds, as well as the benefits derived from their use. To this end, OSMRE will compile an Annual AMLER Program Report that will evaluate the economic impact of the Program and the status of AMLER projects within each State and Tribe. To assist OSMRE in preparing this report, each State/Tribal AML Program must provide detailed program narratives as part of its annual grant report, which must include a status update of each approved AMLER project for corresponding grants disbursed to date. In addition to the annual grant and performance reporting, State/Tribal AML Programs are required to submit the following information:

- A list of AMLER projects that received AMLER grants for each funding year.
- A summary of the process used by each State/Tribe to solicit, develop, and select projects.
- Current status of each AMLER project, including:
  - AMLER funding amount requested vs. actual amount received;
  - All other funding source(s) leveraged (e.g., in-kind services, private contribution, AML grants, etc.);
  - Total amount expended on the project to date and the amount expected to be spent;
  - Project partners;
  - Economic benefits/performance measures accomplished to date;
  - Environmental benefits/performance measures accomplished to date;
  - Expected benefits/outstanding performance measures to be accomplished and timelines for completion; and
  - The status of any real property purchased for AMLER approved activities.

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<u>If you have any questions or need additional assistance, please contact your servicing OSMRE Field Office</u>