

ORPHAN OR ABANDONED WELL PLUGGING PROGRAM

Program Guidelines | January 2018



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Section I – Statement of Purpose

Act 13 of 2012 establishes the Marcellus Legacy Fund and allocates funds to the Commonwealth Financing Authority (the “Authority”) for funding orphan or abandoned well plugging projects. Pennsylvania has hundreds of thousands of oil and gas wells drilled since 1859. This program provides a mechanism to clean out and plug abandoned and orphaned wells that have the potential to cause health, safety or environmental concerns.

Section II – Eligibility

A. Eligible Applicants

Any of the following entities may apply for a grant under the Orphan or Abandoned Well Plugging Program (OAWP):

1. **Municipality** – Any county, city, borough, incorporated town, township or home rule municipality.
2. **Councils of Governments** – An entity organized by units of local government under an intergovernmental agreement, which provides cooperative planning, coordination and technical assistance to its member governments on issues of mutual concern that cross jurisdictional lines, and which does not act under the direction and control of any single member government.
3. **Authorized Organization** – An entity involved in research, restoration, rehabilitation, planning, acquisition, development, education or other activities, which furthers the protection, enhancement, conservation, preservation or enjoyment of this commonwealth's environmental, conservation, recreation or similar resources. The organization must be a tax-exempt institution under section 501(c) (3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c) (3)) and registered with the Bureau of Charitable Organizations or an educational institution involved in these authorized activities or a municipal authority.
4. **Institution of Higher Education** – An entity that is an accredited university, college, seminary college, community college or two-year college.
5. **Watershed Organization** – An entity recognized by the Department of Conservation and Natural Resources or the Department of Environmental Protection that was established to promote local watershed conservation efforts in an identified watershed.
6. **For Profit Businesses** – other than “producers” of natural gas as defined in Act 13.

B. Eligible Projects

Eligible projects include the cleaning out and plugging of abandoned and orphan oil and gas wells; stray gas mitigation systems; and well venting projects.

C. Eligible Use of Funds

Funds may be used by the applicant to pay for any of the following project costs:

1. Construction of a stray gas mitigation system (which typically includes a methane vent stack and/or ventilation system); replugging improperly plugged and abandoned pre-Act wells; cleaning out and plugging abandoned oil and gas wells. Construction contingencies are limited to 5% of actual construction costs.
2. Site preparation and site restoration costs.
3. Plugging rig mobilization and demobilization costs.
4. Installation of security measures, if needed.
5. Engineering/inspection costs. Maximum of 10% of the grant award.
6. Permit fees.
7. Costs to secure appropriate bonds and insurance.
8. Administrative costs of the applicant necessary to administer the grant. Administrative costs will include advertising, legal, and audit costs as well as documented staff expenses. Administrative costs shall not exceed 2% of the grant.

Ineligible costs include but are not limited to public relations, outreach, communications, lobbying, litigation, fees for securing other financing, interest on borrowed funds, application preparation fees and other costs incurred prior to the approval of grant funds.

Section III – Program Requirements

A. Applicant Cost Share Requirements

An eligible applicant shall provide easements and rights-of-way, and landowner commitments to allow project access, relocation of buildings and utilities, reclamation of access roads, erosion and sedimentation controls, revegetation at the project site and access.

B. Planning and Permit Requirements

All recipients of funding for construction projects where federal, state, or local planning or permit approvals are required, must state in the application that the project will secure the necessary planning and permit approvals for the project prior to beginning construction.

C. Other Requirements

1. Conflicts of Interest

An officer, director, or employee of an applicant who is a party to or who has a private interest in a project shall disclose the nature and extent of the interest to the governing body of the applicant and may not vote on any action of the applicant concerning the project, nor participate in the deliberations of the applicant concerning the project.

2. **Nondiscrimination**

No assistance shall be awarded to an applicant under this program unless the applicant certifies that the applicant shall not discriminate against any employee or against any person seeking employment by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act, which prohibits discrimination on the basis of race, color, religious creed, ancestry, age, sex, national origin, handicap or disability, or in violation of any applicable federal laws. All contracts for work to be paid with grant funds must contain the commonwealth's official nondiscrimination clause.

3. **Project Records**

The applicant must maintain full and accurate records, retained as Daily Activity Logs, with respect to the project and must ensure adequate control over related parties in the project. The Authority requires access to such records, as well as the ability to inspect all work, invoices, materials, and other relevant records at reasonable times and places in order to authorize daily activities and expenditures. Upon request of the Authority, the applicant must furnish all data, reports, contracts, documents, and other information relevant to the project.

4. **Pennsylvania Prevailing Wage Act**

All of the construction work associated with the project may be subject to the Pennsylvania Prevailing Wage Act, as determined by the Pennsylvania Department of Labor and Industry.

5. **Certification of Expenses**

The applicant shall sign a payment request form certifying that the expenses were incurred and were in accordance with the scope of work approved by the CFA. In lieu of a formal project audit and prior to final closeout of the grant agreement, the applicant shall be required to submit copies of all canceled checks verifying the expenditure of the Orphan or Abandoned Well Plugging Program proceeds. Bank statements may also be submitted if electronic payment of the expenditure occurred.

6. **Bidding Requirements**

Applicants must comply with all applicable federal, state, and local laws and regulations dealing with bidding and procurement.

7. **Guideline Provisions**

The Orphaned and Abandoned Well Plugging guideline provisions may be modified or waived by the Authority unless otherwise required by law.

D. Fees

The Commonwealth Financing Authority charges a \$100 non-refundable application fee for the Orphan and Abandoned Well Plugging applications. The application fee is due at the time of submission and should be made payable to the *Commonwealth Financing Authority*.

Section IV – Grants

1. Grants shall not exceed a total of \$250,000 for any project.
2. Commencement of work prior to receiving Authority approval will result in the project being ineligible for funding consideration.
3. To be eligible for reimbursement, project costs must be incurred within the time frame established by the grant agreement.

Section V – Application Procedures

1. To apply for funding, the applicant must submit the electronic on-line Department of Community and Economic Development Single Application for Assistance located at www.esa.dced.state.pa.us. Required supplemental information outlined in Appendix I of these guidelines must be attached electronically to the application as directed on the Addenda tab. For technical inquiries regarding the submission of the on-line application, contact the Customer Service Center at (800) 379-7448 or (717) 787-3405. Once submitted, please print three (3) copies of the application, including the required supplemental information, and mail to:

PA Department of Community and Economic Development
Office of Business Financing – CFA Programs Division
Orphan or Abandoned Well Plugging Program
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Please reference the application ID number on any documents sent with the signature page.

2. Applications will be accepted between February 1st and May 31st of each year. All applications and required supplemental information must be received by May 31st.

Section VI – Application Evaluation

All applications for financial assistance will be reviewed by the Authority in conjunction with the Department of Community and Economic Development and the Department of Environmental Protection to determine eligibility of the proposed project as well as the competitiveness of the proposal. Applications are evaluated on a competitive basis using the following criteria:

1. Historical information suggesting the need for the project.
2. The number of homes, individuals, businesses, and/or industrial sites that will benefit from the project.
3. The scope of work and cost-effectiveness of the project. Eligible projects must show that a problem exists within a municipality and that the costs can be economically justified when compared to the benefits a project provides in reduced environmental damages and promotion and maintenance of public health and safety.
4. Ability of the eligible applicant to complete the project with adherence to relevant Federal and State statutes and regulations, including Chapter 32, 58 Pa.C.S. §§ 3201–3274, (the “2012 Oil and Gas Act”) the Oil and Gas Plugging regulations as prescribed under 25 Pa. Code §§ 78.91–78.98, or other standards.
5. Whether the eligible applicant has secured any required planning and permit approvals for the project from the Department of Environmental Protection.
6. Project readiness showing engineering analysis and the necessary documentation to take the project into construction and post-construction phases.
7. The ability of the applicant to finance the project.

Section VII – Procedure for Accessing Funds

Following approval of an application by the Authority, a grant agreement and commitment letter will be issued by the Authority to the applicant explaining the terms and conditions of the grant. The grant agreement and commitment letter must be signed and returned to the Authority within 45 days of the date of the commitment letter or the offer may be withdrawn by the Authority.

The applicant shall obtain the services of a professional engineer or geologist licensed in Pennsylvania who will certify to the Authority during construction that the expenses were incurred and were in accordance with the plans approved by the Authority. The Authority will release funds to the applicant at not less than 30-day intervals.

Section VIII - Program Inquiries

Program inquiries should be directed to:

PA Department of Community and Economic Development
Office of Business Financing – CFA Programs Division
Orphan or Abandoned Well Plugging Program
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Telephone: (717) 787-6245
Fax (717) 772-3581
E-mail: ra-dcedsitedvpt@pa.gov

These guidelines can also be accessed online at dced.pa.gov

Appendix I – Supplemental Information

In addition to completing the Department of Community and Economic Development Single Application for Assistance, please include the following items when applying for a grant under this program:

- Exhibit 1** A project narrative including the following information: a map detailing where the well or wells are located; historical information suggesting the need for the project; the number of homes, individuals, businesses, and/or industrial sites that will benefit from the project; the scope of work and cost-effectiveness of the project. Eligible projects must show that a problem exists within a municipality and that the costs can be economically justified when compared to the benefits a project provides in reduced environmental damages and promotion and maintenance of public health and safety; the ability of the eligible applicant to complete the project with adherence to relevant Federal and State statutes and regulations, including Chapter 32, 58 Pa.C.S. §§ 3201–3274, (the “2012 Oil and Gas Act”) the Oil and Gas Plugging regulations as prescribed under 25 Pa. Code §§ 78.91–78.98, or other standards.
- Exhibit 2** A well data sheet that includes: API number (if known), well operator (if known), farm name, 7 1/2” U.S.G.S. topographic map location, directions to the well, well location, well casing strings as noted/measured at the surface, and well condition.
- Exhibit 3** A detailed construction cost estimate depicted as a Schedule of Unit Prices showing the breakdown of itemized quantities and prices, prepared by an engineer or other qualified professional.
- Exhibit 4** A set of construction drawings showing project details including but not limited to plans, profiles, payment section, structural details, erosion and sedimentation control plan, and miscellaneous details.
- Exhibit 5** List of all state, federal, and local planning and permit approvals that will be needed.
- Exhibit 6** Funding commitment letters from all other project funding sources if applicable (including equity commitments). Letters should include the term, rate, and collateral conditions and must be signed and dated.
- Exhibit 7** The most recent financial statements of the applicant. Financial statement should include balance sheets, income statements, and notes to financials.
- Exhibit 8** A statement as to the amount of grant funding requested.
- Exhibit 9** For public sector applicants, provide a resolution duly adopted by the applicant's governing board formally requesting the grant, designating an official to execute all documents, describing briefly the project scope, and identifying the grant amount.
- Exhibit 10** For all applicants, provide copies of notifications provided to county and municipal governing bodies advising them of the proposed project.
- Exhibit 11** A listing of all oil and gas well plugging experience.

Appendix II – Authorized Official Resolution

Be it RESOLVED, that the _____ (Name of Applicant) of _____ (Name of County) hereby request an Orphaned and Abandoned Well Plugging grant of \$ _____ from the Commonwealth Financing Authority of the Commonwealth of Pennsylvania to be used for _____.

Be it FURTHER RESOLVED, that the Applicant does hereby designate _____ (Name and Title) and _____ (Name and Title) as the official(s) to execute all documents and agreements between the _____ (Name of Applicant) and the Commonwealth Financing Authority to facilitate and assist in obtaining the requested grant.

I, _____, duly qualified Secretary of the _____ (Name of Applicant), _____ (Name of County) _____, PA, hereby certify that the forgoing is a true and correct copy of a Resolution duly adopted by a majority vote of the _____ (Governing Body) at a regular meeting held _____ (Date) and said Resolution has been recorded in the Minutes of the _____ (Applicant) and remains in effect as of this date.

IN WITNESS THEREOF, I affix my hand and attach the seal of the _____ (Applicant), this _____ day of _____, 20____.

Name of Applicant

County

Secretary