



Office of the Secretary
PO Box 47890, Olympia WA, 98504-7890
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November 30, 2023

Dear Honorable Tribal Leaders and Tribal Partners:

SUBJECT: Consultation – Consultation Closure on Environmental Justice Capacity Grant

Please be advised, consultation for the development of the Healthy Environment for All (HEAL) Act Capacity grant program held on September 27 and October 27, 2023, has closed. Consultation in response to the passage of the [Healthy Environment for All \(HEAL\) Act](#), including [RCW 70A.02.100](#), required the Washington State Department of Health to offer [RCW 43.376 Government-to-Government Relationship with Indian tribes](#) on the significant agency actions. The development of this new grant program is a significant agency action under [RCW 70A.02.010](#).

As a result of the consultation, and preceding listening session and roundtable discussions, we have committed to:

- Creating a clear, simple, and flexible grant process that respects Tribal sovereignty and incorporates learnings from DOH and other state agency contracting efforts with Tribes.
- Holding a short initial application period for priority review and allowing rolling application submissions.
- Allowing reallocation of unspent funds.
- Allowing self-determination in application and scopes of work, while also providing templates to support the uniqueness of each Tribe and reduce administrative burdens on Tribes.
- Allowing both reimbursement and prepayment-based funding options for Tribes.
- Limiting the collection of Tribal data and protecting data to the extent allowable by law.
- Creating ongoing, frequent, and meaningful opportunities for collaboration as this and the other environmental justice focused grant programs are developed.

At consultation and the following comment period, we heard a preference to prioritize funding to Federally Recognized Indian Tribes with HEAL Act impacts to rights and interests in their Tribal lands ([RCW 70A.02.010](#)). We were advised to prioritize the full 50% of the funding reserved in the proviso for Tribes. Understanding that Tribal organizations will be eligible for the remaining funding as they serve overburdened communities, and that Tribes may contract with Tribal organizations for this work.

Consultation – Consultation Closure on Environmental Justice Capacity Grant
November 30, 2023

We are following this advice and will develop and announce the grant application for these funds within the next month. Fifty percent of the available funds for capacity grants totals \$11,700,000 which translates to \$403,450 per Tribe.

The funds will support Tribes in providing guidance and input to [covered agencies](#) implementing the HEAL Act, the [Environmental Justice Council](#), and the Department of Health on updates to the [Environmental Health Disparities Map](#).

As advised through collaboration and consultation we will have a short initial application period for priority review and then review applications on a rolling basis. We will reallocate unspent funds to Tribes that request additional funding. Tribal organizations will be eligible for any unspent funds, not to exceed 15% of the funds reserved for Tribes and Tribal organizations. The period of performance for all awards will end by June 30, 2025.

The Washington State Department of Health looks forward to continued collaboration on this important issue.

If you should have any questions, please contact Candice Wilson, our agency's Tribal Policy Director, at 360-819-7626 or candice.wilson@doh.wa.gov.

Best,



Umair A. Shah, MD, MPH
Secretary of Health

Enclosures: Consultation Presentation and Summary 9/27/23, Consultation Presentation and Summary 10/27/23

cc: The Honorable Misty Napeahi, Tulalip Tribes
Lacy Fehrenbach, Chief of Prevention, Safety and Health, Department of Health
Kristopher Holiday, Chief of Strategic Partnerships, Department of Health
Lauren Jenks, Assistant Secretary of Environmental Public Health, Department of Health
Laura Johnson, Office Director, Environmental Public Health Sciences, Dept of Health
Elizabeth Perez, Chief of Public Affairs and Equity, Department of Health
Kristin Peterson, Chief of Policy, Planning & Evaluation, Department of Health
Sierra Rotakhina, Manager, Environmental Justice Council
Jessica Todorovich, Chief of Staff, Department of Health
Candice Wilson – Quatz'tenaut (Lummi), Tribal Policy Director, Department of Health



DOH Environmental Justice Grants

Tribal Consultation

September 27, 2023

Meeting held on Zoom

Participants:

- Tribal Leaders
 - Joshua Bagley, Vice Chair, Suquamish
- Tribal representatives and delegates
- Tribal staff
 - Tia Skerback, Lower Elwha Klallam Tribe
 - Charlene Abrahamson, Family Services Director, Squaxin Island Tribe
 - Tyler Eastman, Environmental Attorney, Tulalip Tribes
 - Haley Kennard, Natural Resources Policy Analyst, Makah Tribe
 - Ryan Erhart, Environmental Division Manager, Makah Tribe
 - Sara Sullivan, Health Policy Director, Swinomish Indian Tribal Community
 - Andrew Shogren, Tribal Health Planner, Jamestown S'Klallam Tribe
 - AJ Dotzauer, State Lobbyist and Analyst, Tulalip Tribes
 - Amber D. Lewis, State Contract Lobbyist, Suquamish Tribe
 - Peggen Frank and Mara Machulsky, State Lobby Team for Hoh, Stillaguamish, Squaxin, and Nez Perce
 - Stephen Kutz, Health Clinic Director, Suquamish Tribe
 - Sheri Olney-Ray, Energy Specialist in Fisheries, Yakama Nation
 - Jennifer LaPointe, General Manager, Swinomish Tribe
- Tribal Organizations
 - Stephanie Sijohn, EA/Special Projects, AICC
 - Akemi Boyd, Grant Writer, Chief Seattle Club
 - Faith Turk, Environmental Health Director, AIHC
 - Jen Olson, Tribal Public Health Consultant, AIHC
 - Veronica Smith, NWPAlHB
 - Nicole Smith, Sr Biostatistician and Informaticist, NWPAlHB
 - Shawn Blackshear, Acting Env Public Health Director, NWPAlHB
 - Barbara Juarez, Executive Director, NWIHB
 - Jessica McKee, Tribal FPHS Coordinator, AIHC
- Agency Staff
 - Candice Wilson, Tribal Policy Director, DOH
 - Lacy Fehrenbach, Chief of Prevention and Health, DOH
 - Laura Johnson, Director, Office of Environmental Public Health Sciences, DOH
 - Erika Baker, Office Deputy Director, DOH
 - Leah Wood, Equity Social Justice Strategist, DOH
 - Pah-Tu Pitt, Equity Social Justice Strategist, DOH
 - Erika Baker, Office Deputy Director, DOH



- Sierra Rotakhina, Manager, Environmental Justice Council
- Macie Parker, Governmental Public Health System Specialist, DOH
- Tony Castaneda, Exec Comms and Engagement, DOH
- Rowena Pineda, DOH

AGENDA WITH NOTES:

Candice opened with a welcome and acknowledgement

The Honorable Joshua Bagley, Vice Chairman of the Squamish Tribe, opened us in a good way.

- I. Issue for Consultation
 - Rowena provided a summary of the issue for consultation
- II. DOH proposed action
 - Rowena summarized the overall feedback we have heard and plan to incorporate into all of the grant programs
 - Laura summarized specific feedback we plan to incorporate into the HEAL Capacity Act Grants
- III. HEAL Capacity Grant Background
 - Laura summarized the intent of the HEAL Capacity Grants, how they came to be, and the need for further discussion of eligibility and allocations based on Roundtable 2

Q&A

Q: Is DOH putting in Decision Packages (DPs) for more funding?

A: The Office where these grants reside has put a request to the agency to determine if this would be possible. We would like this to be an ongoing program.

Q: Are there restrictions for paying for construction costs? Are there specific parameters to the grants?

A: Construction type projects wouldn't be eligible for these funds. It's for the human capacity to engage with agencies for this work.

Q: When do funds need to be expended by?

A: Funds need to be expended by June 30, 2025, or it goes away. We are hoping to get a continuation of the funds. The 18 months assumption is based on an estimate and a timeline that we will be able to get funding out the door by December 2023.

Q: What is the proposed amount per Tribe?

A: This will be a non-competitive process and we are estimating \$225,000 per Tribe.

Q: What kind of reporting will be expected? Like Foundational Public Health Services (FPHS)?

A: Reporting structure is TBD - heard interest in tribes determining what that looks like. If prepaying, DOH would need to have quarterly reports to understand how spend down is going. If reimbursing, then DOH can work with tribes on deliverables and reporting.

Q: Does the \$225,000 include indirect costs?

A: Yes, indirect costs are allowable.



Q: 10% indirect that we get on other state grants or our indirect rate?

A: Using same indirect rate that you're using with other state grants would be allowable but will be confirmed with fiscal folks.

Q: What is the mechanism for distribution of funds? Will it be similar to the Health Care Authority's (HCA) Indian Nations Agreement?

A: Talked with agencies about this process. Given the time frame and that these are one-time funds, it is not realistic to take the consolidated contract approach. However, if funds become ongoing, consolidated contracts is something we can work towards and there is interest in doing that. DOH will be able to do prepayment but not able to do consolidated contract for these grant funds, as it will take time to set that process up.

IV. HEAL Act Capacity Grants – Eligibility and Funding Allocations

- Laura presented possible options for tribal and tribal organization eligibility and possible funding allocations based on the initial agency assumptions and we heard from the Tribal Listening Session and Tribal Roundtable 1 and 2.

Tribal Eligibility:

Option 1: 29 federally recognized Tribes

Option 2: 29 federally recognized Tribes + 4 Tribes with WA U&A

- Funding limited to participating in WA state
- Tribes with U&A include: Coeur d'Alene Tribe, Nez Perce Tribe, Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of Warm Springs Reservation of Oregon

DISCUSSION:

- Wondering about Coeur d'Alene tribe, where is that coming from? U&A described as treaty right but this tribe has never come up. Interested in how they're being brought into this context.
 - Came up through conversations with EJC staff and could be a place where we have misinterpreted things. DOH values of consultation, and can look into this.*
 - U&A is not always designated in treaties. Tribes work to designate their own U&A areas. Treaties didn't say anything about U&A areas and somewhere that tribes bump into each other in court. U&A in WA are already established so we could go by existing. Who is keeper of that document? Where can DOH find this? Fisheries or natural resources department may have this information.
 - Additional tribes were added due to additional accord. Tribes talked about didn't include CDA tribe.

Tribal Organization Eligibility:

Option 1: Reserve full 50% for Tribes

Option 2: 50% to Tribes plus select Tribal Organizations determined at Consultation



Option 3: 50% to Tribes plus WA-based Tribal Organizations

Option 4: 50% to Tribes plus any Tribal Organization with interest and intersection with environmental justice/HEAL Act activities serving populations in WA

DISCUSSION:

- Who will be receiving the \$225,000?
 - There would be enough funds to distribute \$225K for everyone in any option of eligibility.
 - Not against giving tribal orgs some of the funds, but it shouldn't be split 50/50.
- If more goes to tribal organizations will that decrease the \$225K going to each Tribe?
 - The \$225K is the floor/base amount with option to have additional funding.
- If tribes/orgs don't engage, is this structured to have fund reinvested back into tribes?
 - Correct.
- What is the definition of tribal organization?
 - Don't have a specific definition, which is where options and your advice come in. We can name select orgs, limit to WA, etc. Need to ensure connection with the HEAL Act, and can't spend on activities that aren't related to HEAL.
- What is the total number of WA tribal organizations that could be eligible?
 - Don't have total number of tribal organizations. \$11.7M is minimum dollar amount as this is 50% of the full amount expected to be granted, but there is some flexibility to go above that dollar amount.
 - Tribes and tribal orgs would also be eligible for community grant program application; different process yet TBD.
- Some tribes have their own organization also. Consultation and collaboration procedure needs to be updated for DOH.
 - Needs to have a clear list that include organizations serving Urban Indians.
- Only one tribal leader is on today and there are tribal orgs on. Not sure this should be considered a consultation. For tribal org option 2, who is determining that? Tribal leaders with DOH? Leaders sending letters on behalf of tribes on consideration and meeting to discuss? How do you anticipate doing this?
 - Responsibility of delegates to bring information back to Tribal leaders. They will have 10 days to provide feedback.
 - It would be helpful if Tribal leaders could list out organizations that they prefer.

Funding Allocations:

Option 1: Majority of funds allocated equally to each eligible Tribe and remaining funds allocated equally among eligible Tribal Organizations.

Option 2: Equal funding to each eligible Tribe.

Option 3: Equal funding allocation to each eligible Tribe and Tribal Organization.

Option 4: Base funding \$225,000 (estimate of funding needed for 1 FTE, 18 months) + additional requests based on need.

DISCUSSION:



- For Funding allocation, Option 2 under funding should be option 1. Feel like this is a loaded question of what DOH is hoping to hear back.
 - Ordering was most restricted to least and an attempt to write what we heard at the Listening Session and Roundtable 1 and 2 into options.
 - Option 1 for funding allocations was listed first because it is a specific recommendation we heard from a tribe following Roundtable 2.
 - Goal is to provide options and hear what the priorities are.
- Need to hear from Tribal leaders, not delegates or representatives.

V. Decisions of Today

- Amber D. Lewis noted the Suquamish Tribe is not rendering a decision today; will ask for own consultation to talk more openly about this process. Reserve the right to come back.
- Peggen Frank noted that this did not line up to consultation and would be in communication with 6 Tribes that she works for.
- Ryan Erhart, Makah Natural Resources director, stated that it is not considering this as Tribal Consultation. Not speaking for leadership but reserve the right to provide comment at a later point. Will try to meet the 10-day timeline.
- Tia Skerback with the Lower Elwha Klallam Tribe would like to have an opportunity to have a Tribal Council Member be involved in the consultation, so would need one more consultation to include them. Requested to have a summary of the next steps in an email.

VI. Next Steps

- Pending comments received over the next 10 days, DOH will either make a decision, or will schedule consultation #2.**
 - Will decision be made by consensus or majority?
 - Suggestion that at the end of 10 days, if there is not enough input, then call a second consultation. The Tribes who are represented can go back and help leaders craft something.

Stephen Kutz closed us in a good way.

Adjourned at 5:10pm

* Department of Health invited the [Federally Recognized Indian Tribes in Washington State | GOIA](#) to the Listening Session, Roundtable 1 and 2, and Consultation on this issue due to the potential for impacts to tribal resources and traditional territories named in the [consultation requirements](#) in the Climate Commitment Act, which is the source of funding for these new grant programs.

** DOH is scheduling a second Tribal Consultation on October 27th.



Environmental Justice Grants Tribal Consultation



October 27, 2023

AGENDA

Welcome and Introductions/Dr. Shah & Candice

Commitment to Government to Government/Lacy

Issue for Consultation/Laura

Background/Rowena

Recommendations for Funding Prioritization and Allocation/Laura

Questions/Comments/Lacy & All

Next Steps and Closing/Lacy & Candice



Government-to-Government Commitment

Washington State Department of Health | 3

EJ GRANTS CONSULTATION TIMELINE



Issue for Consultation

- The development of the HEAL Act Capacity grant program.



HEAL Capacity

- \$26,355,000
- One-time funding
- Capacity to engage in Healthy Environment for All Act:
 - Agencies' implementation
 - Env Justice Council
 - Env Health Disparities map
- At least 50% to Tribes and Tribal Orgs
- Funding may be used to hire or contract staff



Workplace Safety

- \$10,000,000
- Ongoing funding
- Improve workplace health and safety for workers burdened by the intersection of their work and climate impacts, can include purchasing equipment



Community Budget

- \$38,600,000
- One-time funding
- Community-recommended decarbonization* and climate resiliency projects in five communities

*reducing greenhouse gas emissions

Healthy Environment for All Act – Intent

- The purpose of the law is to reduce environmental and health disparities in Washington, center environmental justice in Washington state government, and improve the health of all Washington state residents, by:
 - Implementing Environmental Justice Task Force Recommendations
 - Reducing exposures to environmental hazards within Indian country due to off-reservation activities within the state
 - Improving state practices to reduce contamination of traditional foods
 - Administering programs to remedy the effects of past disparate treatment

In order for all communities in Washington state to be healthy and thriving, state government should aim to concentrate government actions to benefit communities that currently have the greatest environmental and health burdens. (RCW [70A.02.005](#))

Healthy Environment for All Act - Overview

Environmental Justice Council

Community Forum

Guidance to Governor, Legislature, and Agencies

Agency Accountability

Washington Tracking Network

Tribal Consultation

Maintain and update Environmental Health Disparities Map

Healthy Environment for All Act Covered Agencies

Tribal Consultation

Community Engagement

Strategic Planning

Environmental Justice Assessments

Budgeting and Funding

Metrics and Reporting

Transformation of Agency Culture, Policy, and Practice



Healthy Environment for All and Climate Commitment Act – Tribal Consultation Requirements

Healthy Environment for All Act (RCW [70A.02.100](#))

- Requires consultation on Significant Agency Actions that affect Federally Recognized Indian Tribes' rights and interests in their tribal lands
 - "Tribal lands" has the same meaning as "Indian country" as provided in 18 U.S.C. Sec. 1151, and also includes sacred sites, traditional cultural properties, burial grounds, and other Tribal sites protected by federal or state law.
 - Development of a new grant program is a Significant Agency Action.

Climate Commitment Act (RCW [70A.65.305](#))

- Requires consultation with any affected Federally Recognized Tribe on all funding decisions and funding programs that may impact Tribal resources, including Tribal cultural resources, archaeological sites, sacred sites, fisheries, or other rights and interests in Tribal lands and lands within which a Tribe or Tribes possess rights reserved or protected by federal treaty, statute, or executive order.
 - These new grant programs are funded through the Climate Commitment Act.

Context of New Grant Programs

2021:

- [Chapter 70A.02 RCW](#), or the Healthy Environment for All (HEAL) Act directs the Department of Health to staff an [Environmental Justice Council](#). Council includes four tribal representatives:
 - Hon. Jarred-Michael Erickson – Member from tribal community, Eastern Washington
 - Vacant - Member from tribal community, Western Washington
 - Hon. Misty Napeahi (delegate: AJ Dotzauer) - Member from tribal community (added through CCA)
 - Vacant - Member from tribal community (added through CCA)
- [Chapter 70A.65 RCW](#), or the Climate Commitment Act (CCA) caps and reduces greenhouse gas emissions.
 - At least 35% of funds invested in projects that benefit overburdened communities, and a minimum of 10% go to projects with Tribal support

Context of New Grant Programs – Continued

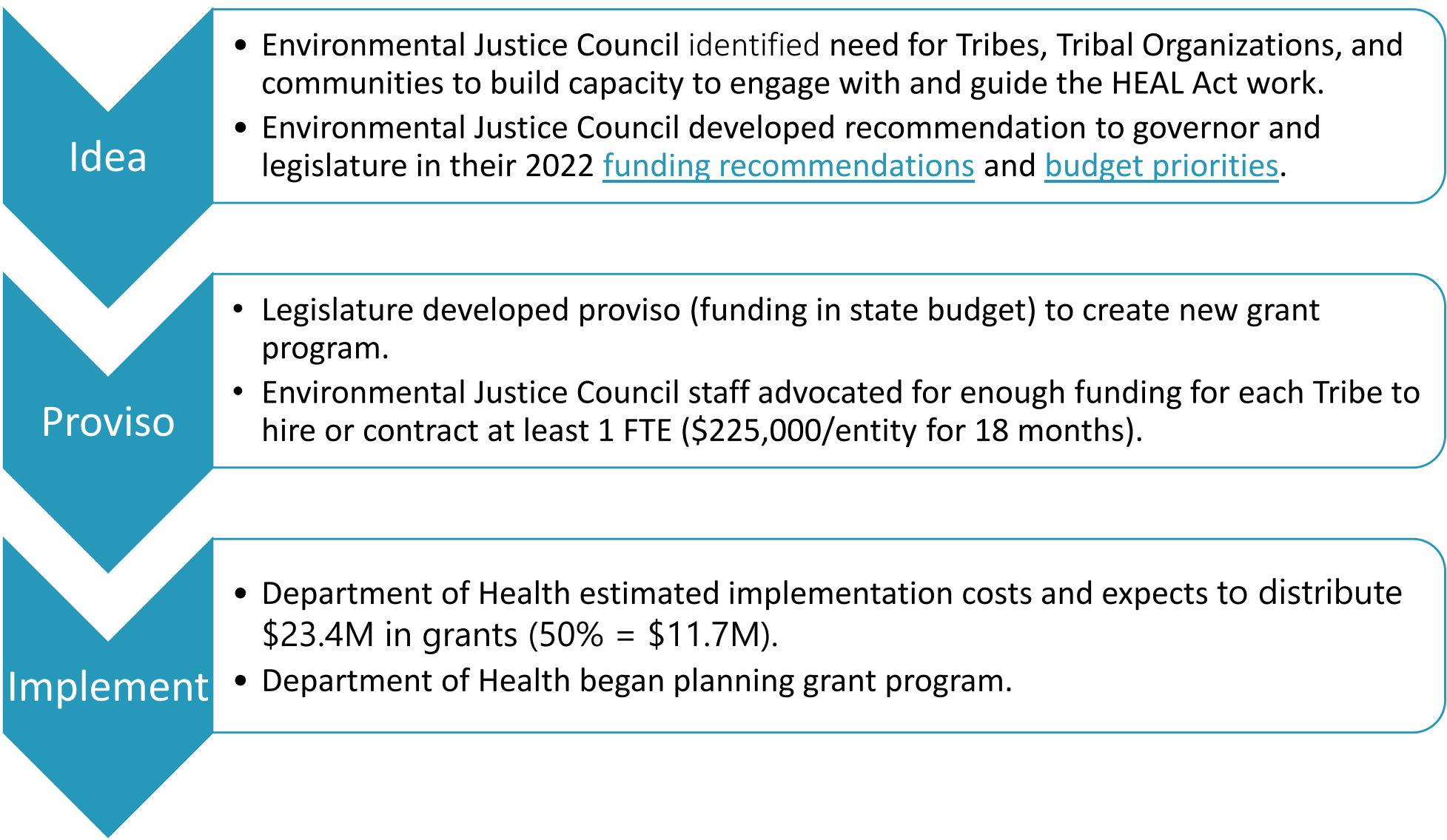
2022:

- Environmental Justice Council convenes, develops by-laws and processes, and provides advise to agencies.

2023:

- Environmental Justice Council adopts Climate Commitment Act [funding recommendations](#) and [budget priorities](#).
- Consultation on the [Environmental Health Disparities map](#), ongoing improvements based on tribal concerns, and hiring Tribal Relations Equity and Social Justice Strategist
 - Environmental Health Disparities map is an interactive mapping tool that provides insights into prioritizing public investments and decisions

Healthy Environment for All Act Capacity Grant - Background



Healthy Environment for All Act Capacity Grant - Background

Proviso Summary

- One-time funding, ends June 30, 2025
- Provide funding to provide guidance and input to:
 - Agencies' implementation of Healthy Environment for All Act work
 - Environmental Justice Council
 - Environmental Health Disparities map
- At least 50% to Tribes and Tribal Organizations
- Funding may be used to hire or contract staff

Healthy Environment for All Act - Overview

Environmental Justice Council

Community Forum

Guidance to Governor, Legislature, and Agencies

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Healthy Environment for All Capacity Grants – Examples of How Funding Can be Used

Example Task	Example Deliverable
Participate on a first foods, climate health indicators, water focused technical workgroup to inform Environmental Health Disparities Map development.	<p>Create/update Tribal Climate health indicators; may include review or updates to data sharing protocols.</p> <p>Documentation of technical workgroup meetings, such as meeting minutes or summary, shared or co-created with DOH program manager.</p>
Attend Environmental Justice Council meetings or agency briefings.	<p>Documentation of meetings, such as meeting minutes or summary, shared or co-created with state agency program manager.</p>
Tribal Consultations related to the different obligations of the HEAL Act.	<p>Attend Tribal consultation on the Dept. of Commerce’s Energy grants.</p>
Conduct environmental health and justice assessment.	<p>Documentation of assessment, such as summary or key findings.</p>

Funding Overview

Healthy Environment for All Act Capacity Grants



50%

- Tribes
- Tribal Organizations

Administration and prioritization processes being determined through Consultation

50%

- Overburdened communities*
- Vulnerable populations

Process TBD based on Consultation and community input

**Tribes included in this definition*

What We Heard – Listening Session and Roundtables

- Feedback we are incorporating:
 - Create clear, simple, and flexible grant processes that respect tribal sovereignty and incorporate learnings from DOH and other state agency contracting efforts with Tribes.
 - Allow self-determination in application and scopes of work, while also providing templates to support the uniqueness of each Tribe and reduce administrative burdens on Tribes.
 - Allow both reimbursement and prepayment-based funding options for Tribes.
 - Limit the collection of tribal data and protect data to the extent allowable by law.
 - Create ongoing, frequent, and meaningful opportunities for collaboration as programs are developed.

What We Heard – Listening Session and Roundtables

- Feedback we are incorporating specific to the Healthy Environment for All Act Capacity Grant program:
 - Allow both reimbursement and prepayment-based funding options for Tribes.
 - Allow reallocation of unspent funds.
 - Shorten initial application period for priority review and allow rolling submissions.

What We Heard – Consultation 1

- Funding priority should be the 29 Federally-Recognized Tribes
- Confusion regarding DOH's proposed inclusion of Tribes beyond the 29 Federally-Recognized Tribes
- Tribes should receive priority for funding, it should not be split in half with Tribal Organizations
- Tribes with Tribal Organizations should not receive double funding
- Need clarity on how to define and which Tribal Organizations to include
- Interest in holding Consultation 2 and the need for more engagement with Tribal leaders

Reframe of the Discussion

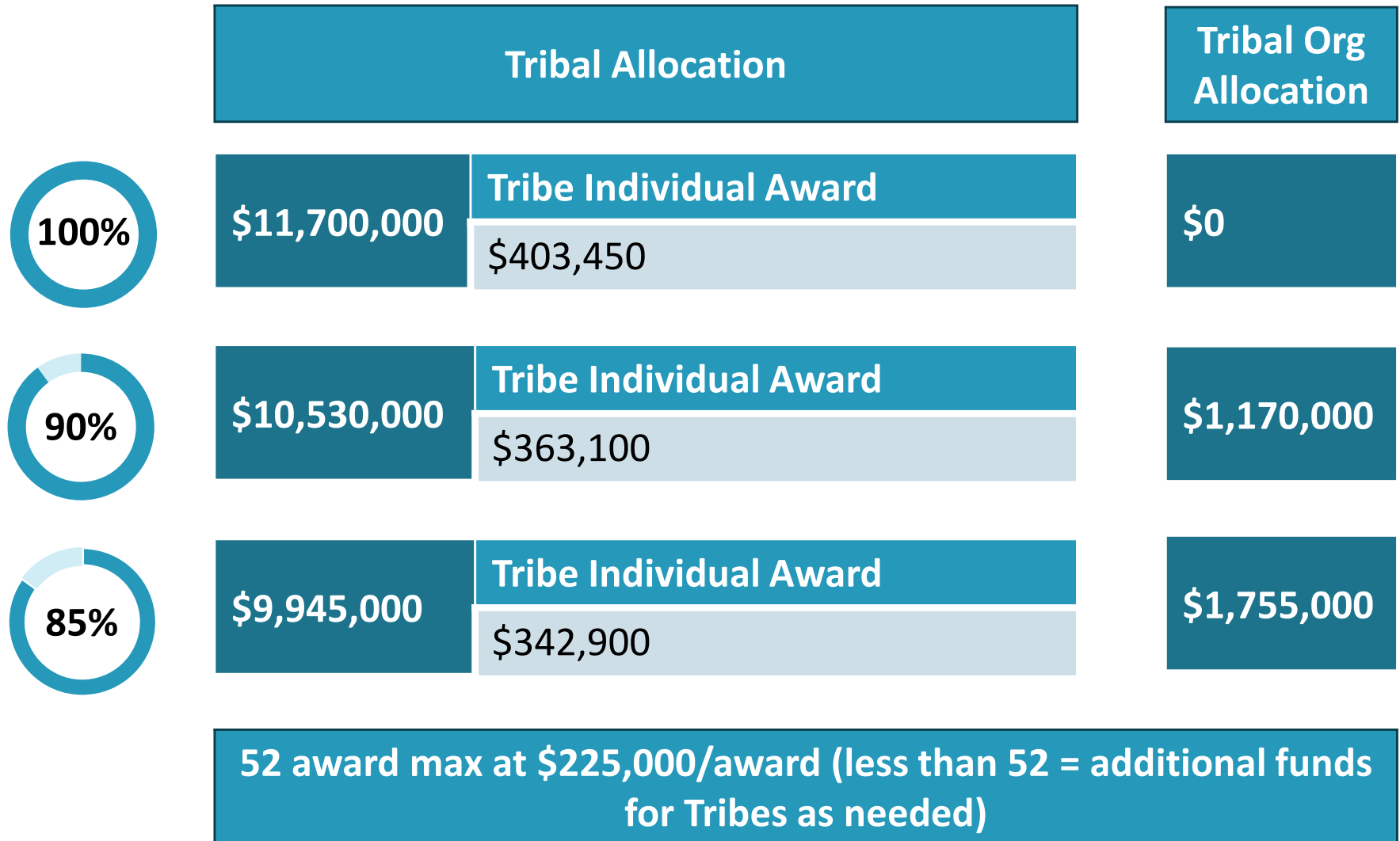
- Goal: Ability for each Tribe to hire 1 FTE or contractor through June 30, 2025
 - Assumed \$225,000 for 18 months
 - What is needed?
- Need: Prioritization of first round of funding
 - Do not expect all Tribes to request funds given new program, narrow scope, and one-time funds
 - Healthy Environment for All Act focus is the rights and interests of Federally Recognized Indian Tribes' on their Tribal Lands

Tribal Lands: "Indian country" as provided in 18 U.S.C. Sec. 1151, and also includes sacred sites, traditional cultural properties, burial grounds, and other Tribal sites protected by federal or state law

Prioritization Input – Funding Allocation

Funding Allocation - Ranking Priority 1-4 (1 st priority, 2 nd priority, 3 rd priority, 4 th priority)	1	2	3	4
\$11.7M distributed equally to each Tribe				
90% of \$11.7M distributed equally to each Tribe and 10% distributed equally to each Tribal Organization				
85% of \$11.7M distributed equally to each Tribe and 15% distributed equally to each Tribal Organization				
Base funding of \$225,000 (estimate of funding for 1FTE, 18mo) to each Tribe and Tribal Organization + additional requests based on need				

Prioritization with the Amounts



Prioritization Input – Tribal Organizations

Tribal Organization - Ranking Priority 1-3 (1 st priority, 2 nd priority, 3 rd priority)	1	2	3	4
No funding to Tribal Organizations (100% of \$11.7M for Tribes)				
Limit to Tribal Organizations based in and serving those in Washington agreed to through Consultation				
Limit to Tribal Organizations serving those in Washington agreed to through Consultation				
Tribal Organizations with interest in and intersection with Healthy Environment for All Act environmental justice activities serving populations in Washington				

DISCUSSION QUESTIONS

Any questions?

Any concerns?

**Any additional feedback to
guide DOH's proposed
plan?**

Decisions for Today

1. Prioritization of funding allocation for Healthy Environment for All Act – Capacity Grant
2. Close out this consultation
3. Proceed with Workplace Safety and Community Budgeting grant programs:
 - Listening sessions
 - Roundtable discussions
 - Consultation

Thank You!



Next Steps



- Provide any additional comments within 10 days.
- A Dear Tribal Leader letter will be sent out to close the consultation. It will include contact information for tribal government or program representatives who want to be part of ongoing collaboration.

Contact Information

Candice Wilson –Quatz'tenaut

(Lummi)

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