

The Honorable Richard W. Spinrad, Ph.D.
Under Secretary of Commerce for Oceans and Atmosphere & NOAA Administrator
National Oceanic and Atmospheric Administration
Herbert C. Hoover Building, Room 6811
14th Street & Constitution Avenue, NW
Washington, DC 20230

September 26, 2024

Dear Dr. Spinrad,

We are pleased to share the first set of recommendations from the Marine and Coastal Area Based Management Federal Advisory Committee (FAC), developed by consensus, regarding NOAA activities related to the Bipartisan Infrastructure Law (BIL) and Inflation Reduction Act (IRA) Funding.

The newly established FAC held its first meeting in February 2024. We are proud of our ability to organize into subcommittees, establish working relationships, and develop and agree on recommendations that address our charge. We believe it is a testament of the FAC members commitment to this work, and we look forward to developing further guidance for you and the agency.

The FAC considered how NOAA can best leverage its area-based management tools, investments, and authorities to deliver biodiversity conservation, equitable access to nature, and climate resilience outcomes through the Bipartisan Infrastructure Law (BIL) and Inflation Reduction Act (IRA). The recommendations were developed in consideration of current BIL and IRA funding opportunities, but should be considered by NOAA for all future applicable NOAA funding opportunities and programs. These recommendations are directed primarily to NOAA leadership, including line office leads and grant administration offices responsible for distributing BIL/IRA funds, as well as other applicable future funding opportunities.

Recommendations include:

1. NOAA should work to obligate funds promptly to states, territories, Tribal Nations, Indigenous communities, and other communities and entities so that projects can be quickly and effectively implemented.
2. NOAA should adequately staff and support compliance processes so that projects can be quickly and effectively implemented.

3. BIL/IRA funding should not lead to a decrease in baseline funding for NOAA programs that support area-based management.
4. NOAA should conduct meaningful outreach and engagement with local, Tribal and Indigenous communities on BIL/IRA implementation.
5. BIL/IRA investments should advance biodiversity conservation, habitat restoration, coastal resilience, healthy coastal communities, and equitable public access.
6. BIL/IRA investments and projects across the U.S. should be captured in the Conservation & Stewardship Atlas.
7. Metrics should be used and enhanced to measure progress and advance conservation and other management goals.

The progress of the Committee would not be possible without the tremendous work and support of many NOAA team members who provide briefings, background information and insight. We commend the NOAA staff that directly support the FAC, and in particular Ellie Roberts for her dedication, support, and keen attention to details that allow our work to proceed smoothly and effectively. In addition, the leadership of the FAC Subcommittee on Effectiveness and Outcomes of Area-based Management – Pete Stauffer with Surfrider Foundation and Jessica Coakley with the Mid-Atlantic Fishery Management Council – worked closely together to listen to all perspectives, incorporate all feedback and advance this set of recommendations through consensus.

We kindly request an opportunity to meet with you and other NOAA Leadership to share an update on the FAC's progress, discuss these recommendations, and provide a roadmap to our upcoming work. Thank you!

Respectfully,

Amy Kenney

Amy Kenney

Chair, Marine and Coastal Area-based Management Federal Advisory Committee

Cc: Jainey Bavishi, Assistant Secretary of Commerce for Oceans and Atmosphere and Deputy NOAA Administrator
John Armor, Director, NOAA Office of National Marine Sanctuaries
Kelly Denit, Director, NOAA Office of Sustainable Fisheries

Marine and Coastal Area Based Management Federal Advisory Committee
Recommendations on NOAA Activities related to the Bipartisan
Infrastructure Law (BIL) and Inflation Reduction Act (IRA)
Funding

September 2024

The Committee considered how NOAA can best leverage its area-based management tools, investments, and authorities to deliver biodiversity conservation, equitable access to nature, and climate resilience outcomes through the Bipartisan Infrastructure Law (BIL) and Inflation Reduction Act (IRA). The recommendations were developed in consideration of current BIL and IRA funding opportunities, but should be considered by NOAA for all future applicable NOAA funding opportunities and programs. These recommendations are directed primarily to NOAA leadership, including line office leads and grant administration offices responsible for distributing BIL/IRA funds, as well as other applicable future funding opportunities.

1. NOAA should work to obligate funds promptly to states, territories, Tribal Nations, Indigenous communities, and other communities and entities so that projects can be quickly and effectively implemented.

Timely distribution of BIL/IRA funding is critical to ensure that coastal resilience, habitat restoration, and other area-based management projects can be implemented efficiently and achieve their intended outcomes. Delays in fund distribution can hinder project timelines, increase costs, and potentially compromise the effectiveness of conservation and resilience efforts.

Several key issues underscore the need for this recommendation:

- **Administrative bottlenecks:** NOAA has faced challenges in processing and distributing funds due to limited staff capacity and a recent transition to a new financial management system. These administrative hurdles have resulted in delays that impact both BIL/IRA projects and baseline programs.
- **Grant recipient challenges:** Many grant recipients, especially smaller organizations and Tribal Nations and Indigenous communities, face difficulties when project start dates precede the actual receipt of funds. This creates financial undue burden and can impede project initiation and success.
- **Time-sensitive nature of funding:** BIL/IRA funding has a limited timeframe (through FY26), making it crucial to distribute funds efficiently to allow sufficient time for project completion and essential to consider future funding to sustain conservation and restoration progress and address unmet needs.

To address these issues, we recommend NOAA:

- Enhance internal capacity: Allocate additional resources to increase staffing in grant administration to expedite the fund distribution process.
- Solve breakdown in the financial management system: allocate resources to address the technical limitations of the transition to the new financial system.
- Implement pre-award spending allowances: continue to allow recipients to incur project-related expenses prior to the official award date, with the ability to recover these costs once funds are distributed.
- Standardize monitoring processes: Develop a standardized system for tracking and reporting on fund distribution and initial spending across all BIL/IRA programs to identify and address bottlenecks quickly. The public-facing component of this should be user-friendly and provide ample transparency.
- Improve communication: Provide clear, frequent updates to grant recipients about the status of their awards and expected timelines for fund distribution.
- Consider extending project timelines: Where appropriate, allow flexibility in project end dates and reporting to account for initial delays in fund distribution.

The benefits of this guidance include:

- More efficient use of BIL/IRA funds, allowing for a greater number of projects to 1) begin as soon as possible and 2) be completed within the designated time frame. Evidence suggests that the current challenges with BIL/IRA fund distribution hampers efforts by Fishery Management Councils, National Marine Sanctuaries, National Estuarine Research Reserves, states and territories, community partners, and other NOAA-led or -supported bodies and programs.
- Reduced financial strain on grant recipients, particularly smaller organizations and Tribal Nations and Indigenous communities with limited resources. NOAA should proactively address internal administrative bottlenecks and capacity issues to minimize delays in fund distribution (plus other effects such as the loss of matching funds or exceeding permit operationalization windows) rather than expecting grant recipients and local communities to bear the financial and operational burdens resulting from these institutional challenges.
- Improved project outcomes due to timely implementation and full utilization of allocated funds.
- Enhanced trust and collaboration between NOAA and its partners in conservation and resilience efforts.
- Greater ability to demonstrate the impact and value of BIL/IRA investments in area-based management, potentially supporting arguments for continued funding beyond FY26.

By implementing these recommendations, NOAA can maximize the impact of BIL/IRA investments and better support its partners in achieving critical conservation, resilience, and area-based management goals.

2. NOAA should adequately staff and support compliance processes so that projects can be quickly and effectively implemented.

Sound environmental, Tribal, and historic preservation review is both required by law and essential for effective restoration projects under BIL and IRA across NOAA assets and awardees. With an increase in large and often complex restoration and conservation efforts under this funding, the needed time for detailed and thorough review has and may continue to exceed available staff time, resulting in delays in contracting, scheduling, and funds release that can impact essential partnerships on the ground. We recommend that NOAA increase staffing or contractual support to expedite environmental and historic preservation compliance reviews where possible, without compromising necessary oversight. This investment ensures that projects are executed in the time frame of an award, reducing administrative oversight associated with award extensions, while supporting effective conservation partnerships and economic benefits in communities.

3. BIL/IRA funding should not lead to a decrease in baseline funding for NOAA programs that support area-based management

Investments approved by Congress in 2022 under the BIL/ IRA laws provide a critical source of funding for coastal resilience and area-based management projects. This timely federal funding is already supporting numerous projects across the United States that help protect public resources and communities, even while the vast majority of proposed projects remain unfunded. The demand for funding and the high quality of conservation and restoration projects proposed, as well as the timeframes required for effective and sustained restoration, illustrates a deep and extended need for continued investments. As an example of that demand, the Climate Resilience Regional Challenge, funded through BIL, received 869 eligible letters of intent totaling \$16 billion in requests. Only \$575 million (approximately 3.6% of funding requests) was available for critical collaborative projects that increase the resilience of coastal communities and ecosystems to extreme weather, sea level rise, and drought.

Such BIL/IRA funding provided to NOAA and other federal agencies is intended to be supplementary, and not a replacement for sufficient annual appropriations support. Effective implementation of the BIL/IRA relies on region-based NOAA assets and partners often funded through cooperative agreements and base appropriations. BIL/IRA investments support a variety of time-limited and place-based projects that are beyond the scope of core agency programmatic work. Agency programs depend on annual baseline funding to carry out their work, regardless of BIL/IRA investments. Accordingly, we urge NOAA leadership to request sufficient funding levels in upcoming annual appropriations processes to meet the agency's mandates. Given the tremendous national effort and investment made under BIL and IRA and the unmet needs that have been demonstrated through the award competitions, comparable funding will be needed to sustain these investments beyond the five year timeframe.

4. NOAA should conduct meaningful outreach and engagement with local, Tribal and Indigenous communities on BIL/IRA implementation.

Unprecedented investments available from the BIL and IRA will allow NOAA to promote economic stability in communities by allowing those communities to prepare and adapt to climate change, maintain and improve access to healthier fish resources to support management goals, and build resilience in marine and coastal regions on Federal, State, Territorial, Tribal, and local lands.

Programs that are responsible for distributing BIL and IRA Funds within NOAA that support area-based management projects, such as the National Coastal Resilience Fund, CZM Habitat Protection and Restoration, NERR Habitat Protection and Restoration, and NOAA Fisheries Office of Habitat Conservation, among others, should support projects that have strong scientific merit as well as engage relevant communities including Tribal outreach to both federally recognized and non-federally recognized Tribal entities.

While NOAA is highly effective on outreach, it is strongly recommended that this work by NOAA should strongly emphasize engagement. In this context, outreach includes sharing funding opportunities and communicating about a proposed project or results and outcomes to those interested in or affected by this work. However, engagement with relevant communities, including Tribal Nations and Indigenous communities, should be more collaborative, with those community partnerships playing a broader role in the formation and implementation of projects, and providing support so communities that currently lack the technical capabilities to access project funding can build capacity so their communities can participate in and benefit from the opportunities afforded under BIL and IRA. We note the definition of engagement for BIL funding developed by NOAA Fisheries and NOAA Office for Coastal Management, which illustrates these concepts.

Our working definition of meaningful engagement refers to “communities having an opportunity to be an integral part of the visioning, decision-making, or leadership for activities that may affect their environment and/or health and wellbeing. Meaningful engagement relies on the involvement of those potentially affected in a manner that builds trust and addresses barriers to community participation to ensure that the scope of the activities is inclusive of the priorities and needs of communities and that the benefits of the activities flow back to the community.”

Challenges to accessing funding can be varied. However, NOAA can help connect these communities and Indigenous and Tribal groups with partners that have grant writing capabilities, have capacity or can help with capacity building to implement projects, fiduciary/grant administration capabilities - all of which are needed for groups to successfully access these funding opportunities either themselves or working with other partners.

Some of NOAA's partners such as SeaGrant and the NERRS Science Collaborative have proven to be highly effective in outreach and engagement in research.¹² These can serve as a guide for additional work for NOAA.

Communities and Tribal entities could be better engaged in several ways:

- Play critical roles in helping to design or implement funding opportunities and project proposals
- Help those implementing the project engage with local communities and Tribal and Indigenous entities, including over extended periods of time
- Leverage or enhance the recipient's ability to implement the project

5. BIL/ IRA investments should advance biodiversity conservation, habitat restoration, coastal resilience, healthy coastal communities, and equitable public access.

NOAA programs that distribute BIL/ IRA funding include the National Coastal Resilience Fund, CZM Habitat Protection and Restoration, NERR Habitat Protection and Restoration, and others. While there are key differences between these programs, biodiversity conservation is a core and central element of habitat restoration, ecosystem health, community resilience, and public access objectives. In keeping with these objectives, NOAA must ensure that BIL/ IRA funding distributed through programs optimizes benefits to biodiversity conservation through habitat restoration, coastal resilience, and equitable public access opportunities. For example, many BIL/ IRA investments to date are supporting planning and implementation of restoration projects that incorporate living shorelines and other nature-based approaches. Such approaches can result in important ecological benefits such as conserving and enhancing biodiversity, while increasing coastal resilience, reducing flood risk, and improving public access to the coast. Conversely, BIL/ IRA investments under NOAA should seek to avoid support of projects using hard armoring or 'gray' structural stabilization such as breakwaters, revetments, or bulkheads. Such hard-armoring approaches harm both ecological and human-use values, and are generally not compatible with NOAA program goals. In addition, funding to support public access infrastructure is limited and may not be allowable under some BIL/IRA funding sources, but complementary funding is important to provide access.

6. BIL/IRA investments and projects across the U.S. should be captured in the Conservation & Stewardship Atlas.

While BIL and IRA projects are currently included in the Atlas, the ability to link these projects within the Atlas to other area-based conservation and restoration goals and metrics is critical to be able to connect the fine-scale conservation work to larger scale area-based conservation outcomes.

¹ https://seagrant.oregonstate.edu/sites/seagrant.oregonstate.edu/files/osg_oe_guidance.pdf.

² <https://nerrssciencecollaborative.org/guide>

7. Metrics should be used and enhanced to measure progress and advance conservation and other management goals.

To ensure that BIL/IRA investments for managed areas are used responsibly and contributions to conservation are accounted for, NOAA should provide guidance for funded projects to adopt performance metrics that are used to evaluate effectiveness and success. These metrics should be directly related to the objectives of the grant program and the funded project and incorporate baseline data. Examples include metrics that relate to objectives for biodiversity conservation, fisheries management, healthy coastal communities, and meaningful community engagement. Where possible, metrics should be applied across programs in order to provide a broader view of the performance of BIL/IRA funded projects. The synthesis, summary and communication of metrics is an essential part of their value. Results and recommendations generated through analysis should be shared with funding recipients and community partners and incorporated into ongoing evaluation.