



June 2024

ABANDONED MINE LAND

Opportunities Exist to Improve Interior's Economic Revitalization Program for Coal Communities

GAO Highlights

Highlights of [GAO-24-106680](#), a report to congressional committees

Why GAO Did This Study

Millions of Americans live less than 1 mile from an abandoned coal mine, according to OSMRE. These sites can pose risks to human health and the environment.

The AMLER Program aims to aid communities impacted by abandoned mine land in six Appalachian states: Alabama, Kentucky, Ohio, Pennsylvania, Virginia, and West Virginia. Three Tribes with established programs for abandoned mine land reclamation are also eligible for funding: the Crow Tribe, the Hopi Tribe, and the Navajo Nation.

House Report 117-400 includes a provision for GAO to study the administration of the AMLER Program. This report examines, among other things, the information OSMRE collects on the program's performance and challenges identified by program officials, state and tribal participants, and others. GAO reviewed agency guidance and reports and interviewed officials from the program and all six states and three Tribes. GAO also visited Pennsylvania, the Navajo Nation, and the Hopi Tribe.

What GAO Recommends

GAO is making four recommendations, including that OSMRE (1) systematically track reliable and complete information on time frames to review and approve project proposals and (2) document roles and responsibilities of OSMRE staff in headquarters, regional, and field offices, and seek opportunities to streamline reviews. OSMRE agreed with all four recommendations and described steps it plans to take in response to each recommendation.

View [GAO-24-106680](#). For more information, contact Cardell Johnson at (202) 512-3841 or JohnsonCD1@gao.gov.

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Opportunities Exist to Improve Interior's Economic Revitalization Program for Coal Communities

What GAO Found

Congress appropriated nearly \$1 billion from fiscal year 2016 to fiscal year 2023 for the Department of the Interior's Office of Surface Mining Reclamation and Enforcement's (OSMRE) Abandoned Mine Land Economic Revitalization (AMLER) Program for grants to states and Tribes. For example, a project funded by the program in Pennsylvania reclaimed abandoned mine land and expanded a botanic garden, according to OSMRE.

AMLER-Funded Project in Pennsylvania at the Pittsburgh Botanic Garden



Sources: Bob Hedin, Hedin Environmental (left photo); GAO (right photo). | GAO-24-106680

Participants identified challenges related to OSMRE's long time frames to review and approve project proposals. For example, officials from Virginia told GAO that OSMRE took over 1,100 days to review a project proposal. Ultimately, the applicant withdrew it. As a result, \$1.6 million was tied up with that project and could not be awarded to other projects during that period, according to Virginia officials. Time frames to review and approve project proposals may vary in part due to projects' complexity, according to program officials.

OSMRE does not systematically track time frames to review and approve projects. Regional office staff track some information, but they do so in different ways. GAO found the information is incomplete and unreliable. For example, many projects were missing dates for steps in the process, and others had dates listed that were not in chronological order. In September 2022, Interior's office began evaluating the need for a dedicated system to track projects that is automated and web-based. The office requested but had not secured funding for this effort, as of March 2024. Program guidance established a goal for OSMRE to, as practicable, provide an initial assessment of project proposals submitted by states and Tribes within 60 days. By tracking reliable information in a consistent way, OSMRE can know whether it is meeting this goal and identify opportunities for improvement to streamline its process.

The office also has not documented internal policies and procedures related to the administration of the program, according to regional officials. For example, OSMRE has not documented the roles and responsibilities of headquarters, regional, and field office staff, and headquarters staff often duplicate work that regional staff are already doing, according to these officials. By documenting such policies and procedures, OSMRE could help ensure that it is not duplicating efforts and identify opportunities for improvement to streamline its process.

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Abbreviations

AMLER	Abandoned Mine Land Economic Revitalization
AML	Abandoned Mine Land
e-AMLIS	Enhanced Abandoned Mine Land Inventory System
NEPA	National Environmental Policy Act
OSMRE	Office of Surface Mining Reclamation and Enforcement
SMCRA	Surface Mining Control and Reclamation Act of 1977

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June 20, 2024

Congressional Committees:

More than 2 centuries of U.S. coal mining has resulted in millions of Americans living less than 1 mile from an abandoned coal mine, according to the Department of the Interior’s Office of Surface Mining Reclamation and Enforcement (OSMRE). The Surface Mining Control and Reclamation Act of 1977 (SMCRA) requires mine operators to reclaim mined lands.¹ Prior to 1977, there was limited government oversight of coal operators or what happened to mined areas following mining, according to OSMRE. Abandoned coal mines can pose risks to human health and the environment. For example, as we reported in 2018, mining can expose minerals and heavy metals to air and water, leading to the creation of acid mine drainage.² When untreated, this drainage can lead to long-term water pollution and harm some fish and wildlife species. Further, certain communities located around abandoned coal mine land have faced economic challenges, such as job losses and decreased tax revenues.³

Congress appropriated a total of nearly \$1 billion from fiscal year 2016 through fiscal year 2023 for the Abandoned Mine Land Economic Revitalization (AMLER) Program for grants to states and Tribes for the reclamation of abandoned mine lands in conjunction with economic and community development.⁴ Pursuant to congressional direction, OSMRE has made AMLER funding available to certain states and federally

¹Pub. L. No. 95-87, 91 Stat. 445 (codified as amended at 30 U.S.C. §§ 1201-1328). Mine operators can reclaim mined lands by, for example, stabilizing disturbed ground, returning the area to its approximate original contour, ensuring there are no adverse environmental impacts, and revegetating the mined area.

²GAO, *Coal Mine Reclamation: Federal and State Agencies Face Challenges in Managing Billions in Financial Assurances*, [GAO-18-305](#) (Washington, D.C.: Mar. 6, 2018).

³Congressional Research Service, *Federal Economic Assistance for Coal Communities*, R47831 (Washington, D.C.: Nov. 8, 2023).

⁴Congress authorized the Abandoned Mine Land (AML) Pilot Program (now known as the AMLER Program) in the Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, 129 Stat. 2242, 2537 (2015). Congress has appropriated funding for the AMLER Program on an annual basis since fiscal year 2016.

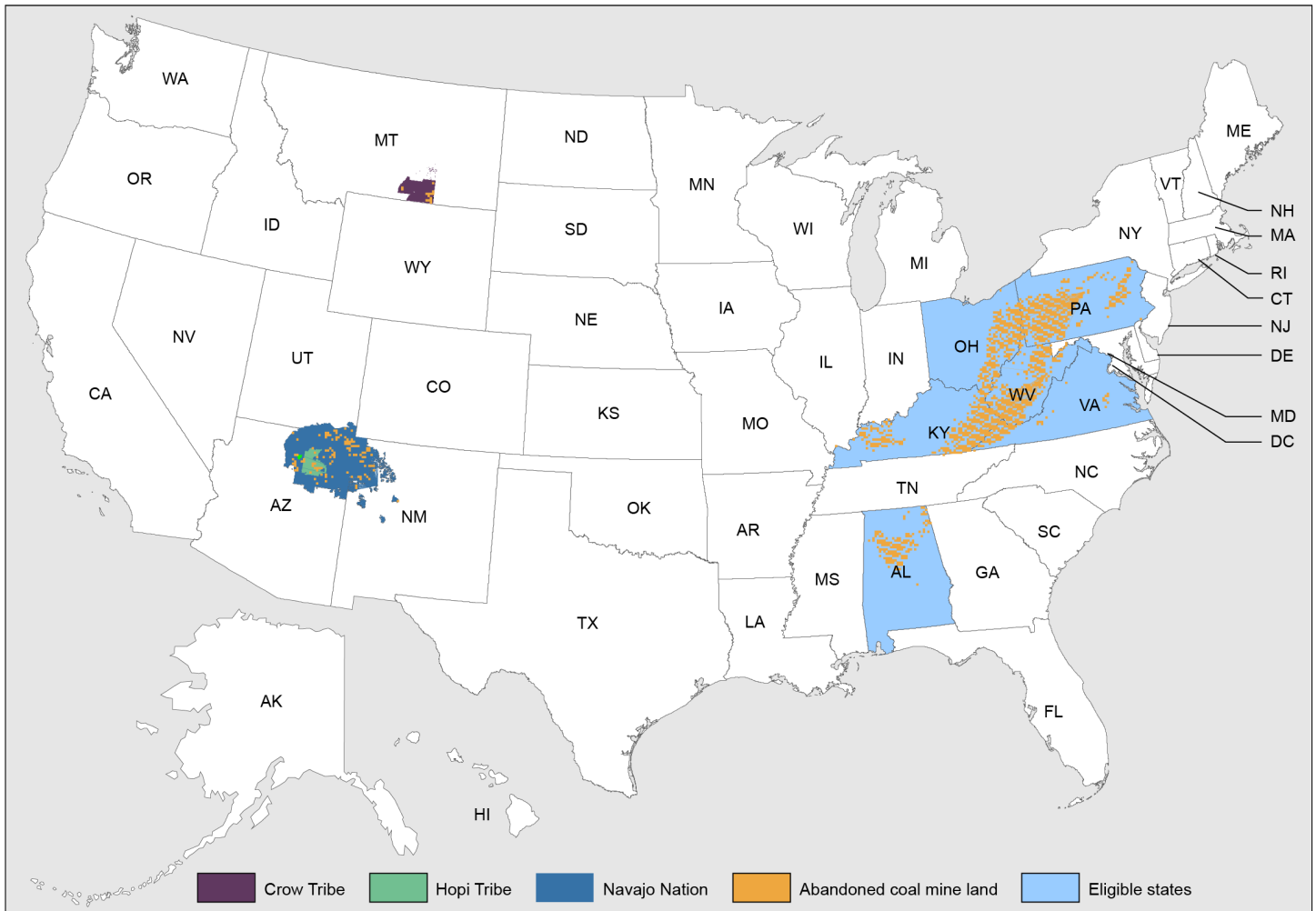
recognized Tribes⁵ with approved reclamation plans under SMCRA.⁶ The intent of the program is to explore and implement strategies that return legacy coal mining sites to productive uses through economic and community development.

OSMRE determined that the six Appalachian states and three federally recognized Tribes that are eligible to apply annually for grant funding under the AMLER Program are: Alabama, Kentucky, Ohio, Pennsylvania, Virginia, West Virginia, Crow Tribe, Hopi Tribe, and Navajo Nation. These states have the greatest amount of unfunded needs for reclamation of abandoned mine land sites, and these Tribes have established abandoned mine land (AML) programs, according to OSMRE (see fig. 1).

⁵Federal recognition of a Tribe establishes a government-to-government relationship between the recognized Tribe and the federal government, and federal law requires federal agencies to provide a range of services and benefits to Tribes and their members based on the political status of federally recognized Tribes and their members. As of January 8, 2024, there were 574 federally recognized Tribes. 89 Fed. Reg. 944 (Jan. 8, 2024). In this report, the term “Tribes” refers to federally recognized Tribes.

⁶In fiscal year 2016, Congress appropriated funding for the program to be distributed in equal amounts to the three Appalachian states with the greatest amount of unfunded needs. Pub. L. No. 114-113, 129 Stat. 2242, 2537 (2015). In fiscal year 2017, Congress appropriated funding for the three states with the greatest amount of unfunded needs as well as the three Appalachian states with the subsequent greatest amount of unfunded needs. Consolidated Appropriations Act, 2017, Pub. L. No. 115-31, 131 Stat. 135, 447. Beginning in fiscal year 2018, in addition to the six states, Congress appropriated funding for grants to federally recognized Tribes. Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, 132 Stat. 348, 646.

Figure 1: Map of Abandoned Coal Mine Land and States and Tribes Eligible for Funding under the Abandoned Mine Land Economic Revitalization Program, Fiscal Year 2023



Source: GAO analysis of U.S. Census data and the Department of the Interior's Enhanced Abandoned Mine Land Inventory System; Map Resources. | GAO-24-106680

Under the AMLER Program, states and Tribes receive grant funding from OSMRE, as appropriated by Congress, and then carry out AMLER

projects through either contractors or subrecipients.⁷ Subrecipients are grant applicants whose proposed AMLER project was selected by the state or Tribe and approved by OSMRE.⁸ Subrecipients receive funding from the state or Tribe to carry out the AMLER project. Subrecipients typically include state, tribal, and local government agencies, economic development organizations, and non-governmental organizations.

Members of Congress and states have cited various concerns with the program's administrative processes, including the length of time it takes for AMLER projects to receive funding. House Report 117-400 includes a provision for us to study several issues related to the administration of the

⁷In the AMLER Program, states and Tribes, as the grant recipients, are pass-through entities. A pass-through entity is a non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program. 2 C.F.R. § 200.1. Under federal grant regulations, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. A subrecipient is an entity that receives a subaward from a pass-through entity (in this case, a state or Tribe) to carry out part of a federal award. A subaward creates a federal assistance relationship with the subrecipient. A contractor is an entity that receives a contract, which is a legal instrument by which a recipient or subrecipient purchases property or services needed to carry out the project or program under a federal award. A contract creates a procurement relationship with the contractor. In determining whether an agreement between a pass-through entity and another non-federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. The pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract. See 2 C.F.R. §§ 200.1, 200.331.

⁸The Consolidated Appropriations Act, 2024, enacted in March 2024, provides that payments made from the AMLER appropriation shall be made to states and Tribes not later than 90 days after the date of enactment of the act. Pub. L. No. 118-42. The act further provides that if payments have not been made by that date, the amount appropriated for OSMRE salaries and expenses shall be reduced by \$100,000 per day until such payments have been made. Additionally, a committee report accompanying the act noted that in recognition that all participating states in the AMLER program have primacy, for fiscal year 2024, OSMRE is expected to provide technical assistance to grantees, but it is the participating states' sole responsibility to approve AMLER projects. H.R. Rep. No. 118-155, at 40 (2023). Participating Tribes also have sole responsibility for approving AMLER projects on their land for fiscal year 2024, according to an OSMRE official. In May 2024, OSMRE's Principal Deputy Director testified that changes made to AMLER in the Consolidated Appropriations Act for Fiscal Year 2024 remove OSMRE oversight from grant approvals. The appropriations language proposed in the President's fiscal year 2025 budget request seeks to restore program oversight and provide OSMRE with the necessary funding to effectively administer the program, according to the Principal Deputy Director. Sharon Buccino, Principal Deputy Director, Office of Surface Mining Reclamation and Enforcement, United States Department of the Interior, *Examining the President's FY 2025 Budget Request for the United States Geological Survey and the Office of Surface Mining Reclamation and Enforcement*, testimony before the House Committee on Natural Resources, Subcommittee on Energy and Mineral Resources, 118th Cong., 2nd sess., May 22, 2024.

AMLER Program.⁹ This report (1) describes the key steps OSMRE, states, and Tribes take to implement the AMLER Program; and examines (2) the status of AMLER funding and applications for project proposals as of fiscal year 2023; (3) the information OSMRE collects on the performance of the AMLER Program; and (4) the challenges OSMRE, states, Tribes, and selected subrecipients identified with the AMLER Program.

We obtained background information by conducting a literature search.¹⁰ To address all objectives, we reviewed agency reports, guidance, and documents. For example, we reviewed OSMRE annual guidance for AMLER project eligibility, as well as a November 2023 OSMRE report to Congress on the status of the AMLER Program and specific projects.¹¹ Additionally, we reviewed a report by a workgroup of representatives from state agencies participating in the AMLER Program.¹² We identified these reports by obtaining suggestions from OSMRE, states, Tribes, and stakeholders we interviewed. These stakeholders include the Interstate Mining Compact Commission,¹³ the Appalachian Citizens' Law Center,¹⁴

⁹H.R. Rep. No. 117-400, at 52 (2022), accompanying H.R. 8262, a bill for the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2023.

¹⁰Specifically, we searched databases such as Policy Commons, ProQuest, and Scopus for information on the AMLER Program. We found four reports through our search, three of which mentioned AMLER specifically. For example, we found a report that included recommendations on how to improve the AMLER Program. Reclaiming Appalachia Coalition and Appalachian Citizens' Law Center, *Abandoned Mine Land Economic Revitalization Program Recommendations for More Equitable Implementation* (Mar. 30, 2022).

¹¹Department of the Interior, Office of Surface Mining Reclamation and Enforcement, *Report on the Abandoned Mine Land Economic Revitalization (AMLER) Program for Fiscal Year 2016 – Fiscal Year 2022* (Washington, D.C.: Nov. 9, 2023). We refer to this report as the 2023 AMLER report.

¹²AML Pilot Work Group, *Report and Recommendations from the State Members of the Pilot Program Work Group* (July 2020). According to the report, pursuant to a request by state AML program administrators, and with the approval of the Acting Director of the Office of Surface Mining Reclamation and Enforcement (OSMRE), a workgroup consisting of state and OSMRE representatives was formed in late April 2020 to identify best practices and areas for improvement concerning the AMLER Program. The report, while jointly developed by the workgroup, was only approved by the state members of the workgroup, and not OSMRE.

¹³The Interstate Mining Compact Commission is a multi-state governmental organization representing state mining regulatory authorities and abandoned mine land authorities.

¹⁴The Appalachian Citizens' Law Center is a nonprofit law firm that advocates on miner health and safety and environmental justice issues in the coalfields.

Appalachian Voices,¹⁵ the Western Pennsylvania Coalition for Abandoned Mine Reclamation,¹⁶ and the Eastern Pennsylvania Coalition for Abandoned Mine Reclamation.¹⁷ We interviewed officials from all six states and three Tribes, as well as the five stakeholders described above who were knowledgeable about the AMLER Program and were recommended by others. Specifically, we selected stakeholders based on whether they had knowledge of or had been involved with the AMLER Program or had published reports on the program. We also interviewed officials from the Appalachian Regional Commission.¹⁸ Finally, we attended the 2023 National Association of Abandoned Mine Land Programs conference in Chicago.¹⁹

We conducted site visits to western Pennsylvania, the Hopi Tribe, and the Navajo Nation. We interviewed state, tribal, and OSMRE regional officials, and toured AMLER project sites. We selected Pennsylvania because it was one of three states with the greatest unfunded reclamation needs based on information from Interior's Enhanced Abandoned Mine

¹⁵Appalachian Voices is a regional nonprofit that advocates for environmental cleanup and economic redevelopment.

¹⁶The Western Pennsylvania Coalition for Abandoned Mine Reclamation is a nonprofit organization formed in 1982 focused on reclaiming and helping communities reclaim land polluted by historic coal mining in 24 western counties in Pennsylvania.

¹⁷The Eastern Pennsylvania Coalition for Abandoned Mine Reclamation is a nonprofit organization formed in 1995 that serves 16 counties in eastern Pennsylvania. This organization is focused on encouraging the reclamation of historical mine sites and providing technical assistance and environmental education.

¹⁸The Appalachian Regional Commission (ARC) manages a program called the Partnerships for Opportunity and Workforce and Economic Revitalization Initiative, which targets federal resources to help communities and regions that have been affected by job losses in coal mining, coal power plant operations, and coal-related supply chain industries due to the changing economics of America's energy production. The ARC, established by Congress in 1965, is a federal-state partnership composed of the governors of 13 Appalachian states and a federal co-chair.

¹⁹The National Association of Abandoned Mine Land Programs serves as a forum to address current issues, discuss common problems, and share new technologies regarding the reclamation of abandoned mine lands. Membership is open to any state or Tribe. All six states that are eligible for the AMLER Program are members, as well as the Crow Tribe, Hopi Tribe, and Navajo Nation.

Land Inventory System (e-AMLIS).²⁰ Further, Pennsylvania is one of the two states that has received the most funding from the AMLER Program. We selected the Navajo Nation because it has the largest land area of the three Tribes, and the Hopi Tribe because of its proximity to the Navajo Nation. Findings from these sites are not generalizable to those we did not visit as part of our review.

Throughout the report, we use the following categories to quantify statements identified by subrecipients, stakeholders, and officials from states and Tribes: “some” we define as two to three collectively, “several” we define as four to five, and “most” we define as six or more. In other cases, we provide the exact number. These views and our findings cannot be generalized to others we did not interview.

To examine key steps OSMRE, states, and Tribes take to implement the AMLER Program, we reviewed OSMRE’s annual AMLER Program guidance and reports from fiscal years 2016 through 2023. We reviewed descriptions of the program posted on the agency’s website as of May 2024. We also reviewed state and tribal websites describing their processes to implement the AMLER Program. We also asked OSMRE, state, and tribal officials about their roles to implement the program. To verify that our description of their roles and processes was accurate, we provided OSMRE, state, and tribal officials a written summary for their review and input, and we corroborated this information with documents posted on OSMRE, state, and tribal websites.

To examine the status of AMLER funding and applications for project proposals as of fiscal year 2023, we reviewed appropriations laws and relevant legislative history, as well as funding information from Interior’s Financial and Business Management System from fiscal years 2016 through 2023. We assessed the reliability of these funding data by (1) reviewing existing information about the data and the system that produced them, and (2) interviewing agency officials knowledgeable

²⁰The purpose of e-AMLIS is to provide an inventory of land and water impacted by legacy coal mining operations. The inventory contains information on the location, type, and extent of AML impacts, and on the cost associated with the reclamation of those problems. The inventory is based on information provided by states, Tribes, and OSMRE program officials. It is dynamic to the extent that it is modified as new problems are identified and existing problems are reclaimed. In March 2017, the Department of the Interior’s Office of Inspector General reported data accuracy issues with e-AMLIS and, in January 2023, noted that OSMRE continues to address those issues. Department of the Interior, Office of Inspector General. *Office of Surface Mining Reclamation and Enforcement’s Oversight of the Abandoned Mine Lands Program*, Report No. 2016-EAU-007 (Mar. 30, 2017).

about the data. We determined that the data were sufficiently reliable for reporting the status of AMLER funding by state and Tribe. During our interviews, we also asked officials from OSMRE, six states, and three Tribes about the process for spending those funds.²¹

Also, as part of our second objective to describe the status of applications for project proposals, we obtained AMLER application information from the six states and the Navajo Nation from fiscal year 2016 through March 2024, as applicable.²² We asked officials how they track their application data. We determined that the data were sufficiently reliable for reporting summary information on the number of applications each state and Tribe received and funded.

Further, we determined that the information and communication component of *Standards for Internal Control in the Federal Government* was significant to this objective; specifically, principles 14 and 15 that management should internally and externally communicate the necessary quality information to achieve the entity's objectives. We also determined that the control environment component was significant to this objective; specifically, principle 3 that management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity's objective.²³

²¹For the purposes of this report, we use the term "spent" to refer to the total amount of expenditures in the form of reimbursements from states and Tribes to AMLER project subrecipients and contractors.

²²We obtained application information from Kentucky starting from fiscal year 2016, when this state first became eligible for the AMLER Program. Pennsylvania was eligible for the AMLER Program starting in 2016 but did not solicit applications from the public until 2021. Therefore, we obtained Pennsylvania's application data starting from fiscal year 2021. West Virginia also became eligible for the AMLER Program in fiscal year 2016 but did not retain application information for that year. As a result, we obtained West Virginia's data starting in 2017. We obtained application information from Alabama, Ohio, and Virginia starting from fiscal year 2017, when these states first became eligible for the AMLER Program. We obtained application information from the Navajo Nation starting in fiscal year 2018, when this Tribe first became eligible for the AMLER Program. We did not obtain application information from the Crow Tribe and Hopi Tribe because these Tribes did not solicit project applications from the public.

²³GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

To examine the information OSMRE collects on the performance of the AMLER Program, we reviewed OSMRE guidance and reports.²⁴ We also reviewed our prior reports on economic development programs.²⁵ We interviewed OSMRE officials from headquarters and its three regional offices.²⁶ We held combined interviews with each regional office and associated field offices. Finally, we interviewed officials from all six states and three Tribes.

We also interviewed 11 AMLER subrecipients to learn about their experience with the AMLER Program. To identify subrecipients, we reviewed relevant reports such as OSMRE's 2023 AMLER report, which includes descriptions of AMLER projects. We selected and interviewed subrecipients from three of the six states—Ohio, Pennsylvania, and West Virginia. We interviewed six subrecipients in Pennsylvania in a group setting. We interviewed one subrecipient from Ohio and one from West Virginia. We interviewed two subrecipients from the Navajo Nation and one from the Hopi Tribe. We selected these subrecipients based on how many AMLER subawards they received, as well as the status of their AMLER-funded projects. We did not select any subrecipients from the Crow Tribe because the Crow Tribe did not have any active projects at the time of our review. We also interviewed representatives from

²⁴Department of the Interior, Office of Surface Mining Reclamation and Enforcement, *Guidance for Project Eligibility Under the Abandoned Mine Land Economic Revitalization Program for Fiscal Year 2023*. Department of the Interior, Office of Surface Mining Reclamation and Enforcement, *Report on the Abandoned Mine Land Economic Revitalization (AMLER) Program for Fiscal Year 2016 – Fiscal Year 2022* (Washington, D.C.: Nov. 9, 2023). AML Pilot Work Group, *Report and Recommendations from the State Members of the Pilot Program Work Group* (July 2020).

²⁵GAO, *Economic Development: Opportunities Exist for Further Collaboration among EDA, HUD, and USDA*, [GAO-21-579](#) (Washington, D.C.: July 30, 2021). GAO, *Economic Adjustment Assistance: Actions Needed to Better Address Workers' Needs and Assess Program Effectiveness*, [GAO-20-521](#) (Washington, D.C.: July 29, 2020). GAO, *Rural Economic Development: More Assurance is Needed That Grant Funding Information Is Accurately Reported*, [GAO-06-294](#) (Washington, D.C.: Feb. 24, 2006).

²⁶Three OSMRE regional offices work on the AMLER Program. These are Regions 1 and 2 (also known as the Appalachian Region) which oversees five of the six states that are eligible for the AMLER Program; Regions 3, 4, and 6 (also known as the Mid-Continent Region, which oversees Alabama); and Regions 5, and 7-11 (also known as the Western Region, which oversees the 3 Tribes).

Downstream Strategies, an organization that assists applicants with AMLER project proposals.²⁷

To examine the challenges OSMRE, states, Tribes, and selected subrecipients identified related to the AMLER Program, we reviewed relevant reports and interviewed officials from OSMRE, states, Tribes, and 11 subrecipients, selected as described above.²⁸ We analyzed the information on challenges and identified common themes from both interviews and reports. Given our methodology, we are not reporting on every challenge identified, but we provide commonly discussed challenges and examples OSMRE, states, Tribes, and selected subrecipients—collectively referred to as “participants” in this report—identified related to the AMLER Program.

We also reviewed OSMRE’s fiscal year 2023 guidance and the Federal Assistance Manual (FAM) for any requirements related to the time it takes to review and approve project proposals. We asked OSMRE officials how they track time frames for reviewing project proposals. In response to our request, some regional officials provided data that they individually collected via manual entry of dates into spreadsheets. However, the offices did not consistently track the same information, and some data were incomplete. As a result, we determined that the data were not reliable for purposes of analyzing OSMRE time frames for reviewing project proposals.

As part of our fourth objective, we determined that the following components of internal control were significant to this objective:

- Control environment—specifically, principle 3 that management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity’s objective.
- Control activities—specifically, principle 10 that management should design control activities to achieve objectives and respond to risks,

²⁷According to its website, Downstream Strategies is an environmental and economic development consulting firm that strengthens economies, sustains healthy environments, and builds resilient communities. Accessed May 24, 2024, <https://downstreamstrategies.com/>.

²⁸AML Pilot Work Group, *Report and Recommendations from the State Members of the Pilot Program Work Group* (July 2020). Reclaiming Appalachia Coalition and Appalachian Citizens’ Law Center, *Abandoned Mine Land Economic Revitalization Program Recommendations for More Equitable Implementation* (Mar. 30, 2022).

and principle 12 that management should implement control activities through policies.

- Information and communication—specifically, principle 13 that management should use quality information to achieve the entity’s objective and principles 14 and 15 that management should internally and externally communicate the necessary quality information to achieve the entity’s objectives.
- Monitoring—specifically, principle 16 that management should establish and operate monitoring activities to monitor the internal control system and evaluate results.²⁹

We conducted this performance audit from March 2023 to June 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

OSMRE and History of the AMLER Program

OSMRE was created under the Surface Mining Control and Reclamation Act of 1977 to, among other things, administer programs for controlling the impacts of surface coal mining operations.³⁰ Extracting coal requires disturbing the land, potentially affecting vegetation, wildlife, and water quality, among other things. OSMRE administers several programs related to coal mining and reclamation, including the AML fee-based

²⁹[GAO-14-704G](#).

³⁰Pub. L. No. 95-87, § 201, 91 Stat. 445, 449 (codified as amended at 30 U.S.C. § 1211). OSMRE’s primary objectives are (1) to ensure that coal mines are operated in a manner that protects citizens and the environment during mining and assures that the land is restored to beneficial use following mining; and (2) to mitigate the effects of past mining by aggressively pursuing reclamation of abandoned coal mines. As we reported in 2018, in surface coal mining, before the underlying coal can be extracted, the land is cleared of forests and other vegetation, and topsoil is removed and stored for later use. Explosives or other techniques are then used to break up the overlying solid rock, creating dislodged earth, rock, and other materials known as spoil. Surface coal mines can cover an area of many square miles. GAO, *Coal Mine Reclamation: Federal and State Agencies Face Challenges in Managing Billions in Financial Assurances*, [GAO-18-305](#) (Washington, D.C.: Mar. 6, 2018).

reclamation program and AMLER.³¹ These programs have different scopes. OSMRE is composed of headquarters, three regional offices, and seven field offices throughout the contiguous U.S.

Under the AML fee-based program, all operators of coal mining operations pay an AML reclamation fee, based on tons of coal produced. The fee is deposited into the Abandoned Mine Reclamation Fund to hold producers and users of coal responsible for reclaiming lands mined for coal and left abandoned prior to the establishment of reclamation requirements by SMCRA in 1977. OSMRE collects the AML fee and then annually distributes the fee receipts through grants to states and Tribes for reclamation activities based on a statutorily prescribed formula.³² In fiscal year 2023, OSMRE distributed \$126.5 million from coal mining operations to 24 states and two Tribes. Because coal production is generally declining in the U.S., the amount of funding available through this program has also been declining.³³ For example, in fiscal year 2023, OSMRE collected \$95 million from coal mining operators, about a 38 percent reduction from fiscal year 2018, according to OSMRE. Since states and Tribes often fund their entities in charge of reclamation through the AML fee-based program, funding for their administration has also declined, according to some state officials.

One of the differences between the AML fee-based reclamation program and the AMLER Program is that AMLER projects must have a nexus to economic and community development, whereas the current AML fee-based program does not have such a requirement. Furthermore, according to OSMRE's fiscal year 2023 guidance, the AMLER Program

³¹The AML Reclamation Program, also referred to as the Title IV program because it was established by Title IV of the act, addresses the hazards and environmental degradation posed by legacy coal mines. The AML Reclamation Program is funded by fees assessed on each ton of coal produced. For the purposes of this report, to distinguish it from the AMLER Program, we refer to the AML Reclamation Program as the AML fee-based program.

³²The grants are distributed among eligible states and Tribes based on a statutory formula to calculate their respective shares of annual coal reclamation fee receipts based on current and historical coal production. States with greater historical coal production generally have more reclamation needs to address affected lands and waters. Congressional Research Service, *The Abandoned Mine Reclamation Fund: Issues and Legislation in the 117th Congress*, IF11352 (Washington, D.C.: January 7, 2022).

³³According to OSMRE officials, the amount of fees collected was also affected by a reduction in 2021 of the fee rates assessed on coal production—from \$0.28 per ton to \$0.224 for surface coal mining; \$0.12 to \$0.096 for underground mining; and \$0.08 to \$0.064 for lignite coal. Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, § 40702(a), 135 Stat. 429, 1092 (2021) (codified at 30 U.S.C. § 1232(a)).

offers a non-traditional approach to the reclamation of impacted pre-SMCRA coal-mined lands.³⁴ The guidance further notes that the AMLER Program offers states, Tribes, and local communities flexibility in deciding which projects offer the greatest opportunities within their communities. States and Tribes have used AMLER funding to support a wide variety of projects, such as constructing baseball and soccer fields in Alabama, renovating a historic theater in Ohio, and constructing an airport business park in Pennsylvania. States and Tribes can also use AMLER funding in combination with funding from other sources, such as the AML fee-based program.³⁵ Although 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.

Congress has provided annual appropriations for the AMLER Program—known initially as the AML Pilot Program—since fiscal year 2016 for the reclamation of abandoned mine lands in conjunction with economic and community development and reuse goals.³⁶ The program provides funding to the six Appalachian states with the greatest unfunded reclamation needs based on information from Interior’s e-AMLIS. The

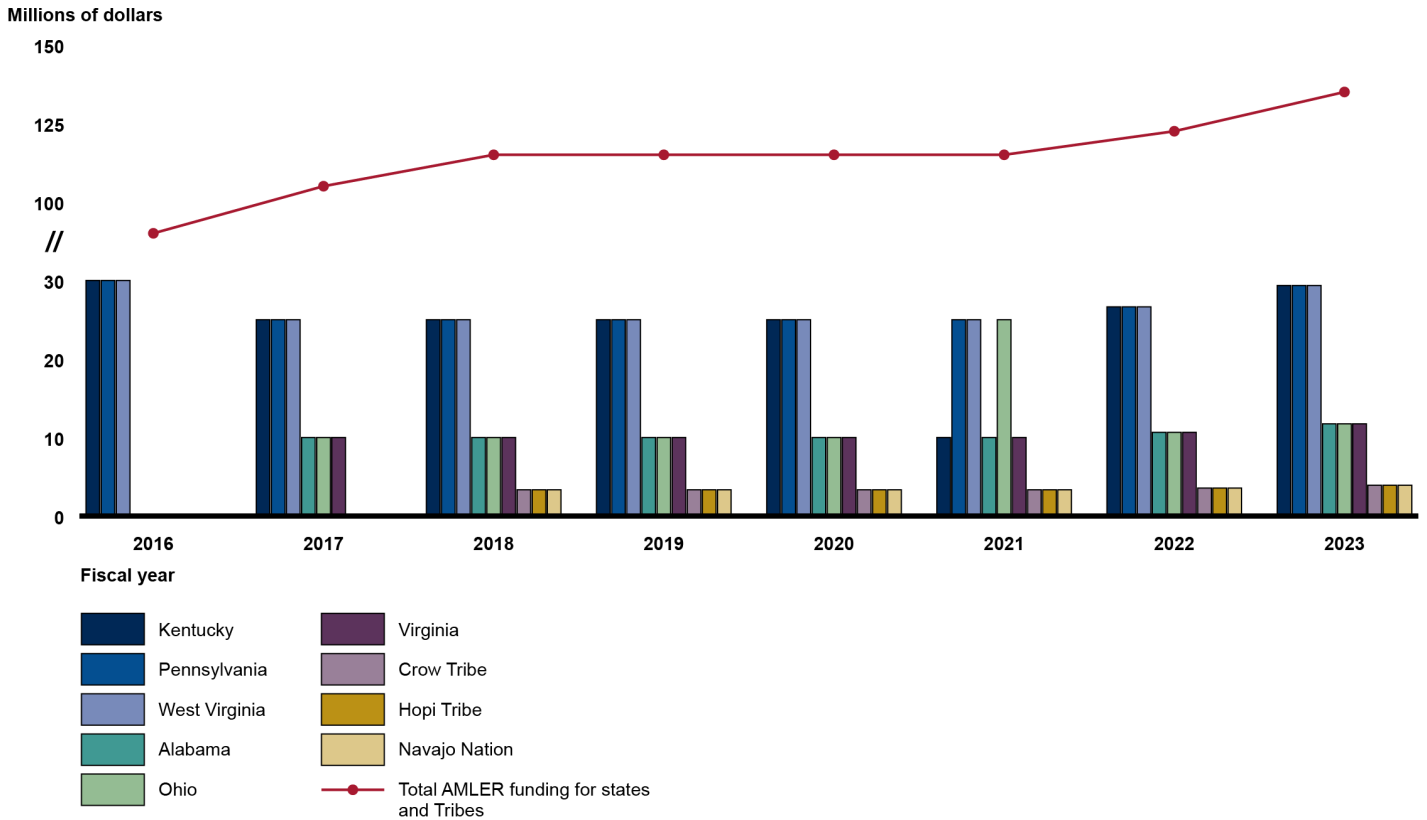
³⁴Department of the Interior, Office of Surface Mining Reclamation and Enforcement, *Guidance for Project Eligibility Under the Abandoned Mine Land Economic Revitalization Program for Fiscal Year 2023*.

³⁵While the AML fee-based program does not require projects to have a nexus to economic and community development, projects funded through the AML fee-based program may also be eligible for AMLER funding if they meet AMLER’s economic and community development nexus criteria.

³⁶See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, 129 Stat. 2242, 2537 (2015). Specifically, AMLER appropriations are to be used for economic and community development in conjunction with the priorities in section 403(a) of SMCRA, which describes the types and priorities of AML reclamation projects eligible for funding from the Abandoned Mine Reclamation Fund under the AML fee-based program. See 30 U.S.C. § 1233(a). House Report 114-170, as referenced by the explanatory statement accompanying the Consolidated Appropriations Act, 2016, notes that it is the Committee’s intent that states shall use AMLER funds to accelerate the remediation of AML sites with economic and community development end uses in mind. H.R. Rep. No. 114-170, at 36 (2015). Unlike the AML fee-based program, which is funded by the Abandoned Mine Reclamation Fund financed with coal reclamation fees, AMLER is funded through annual appropriations from the General Fund of the U.S. Treasury.

program also provides funding to the three eligible Tribes with AML programs (see fig. 2).³⁷

Figure 2: Abandoned Mine Land Economic Revitalization (AMLER) Program Funding for States and Tribes



Source: GAO analysis of annual appropriations acts and Office of Surface Mining Reclamation and Enforcement (OSMRE) data. | GAO-24-106680

Note: Funding for the AMLER Program has increased since it was first funded in fiscal year 2016, as additional states and Tribes were added.

Funding for the AMLER Program has increased since the program was first funded in 2016, as additional states and Tribes were added. Initially,

³⁷According to OSMRE officials, no additional funding was provided to administer and implement the AMLER Program. As a result, OSMRE has utilized existing resources to administer all its functions, according to these officials. OSMRE has requested funding for program administration from Congress, including a request to allocate 1.25 percent of AMLER appropriations to support program administration and oversight in fiscal year 2025. Department of the Interior, Office of Surface Mining Reclamation and Enforcement, *Budget Justifications and Performance Information, Fiscal Year 2025*.

the program provided grants to the three states with the greatest amount of unfunded needs, which in fiscal year 2016 were Kentucky, Pennsylvania, and West Virginia. In fiscal year 2017, the program expanded to also provide funding to the three states with the subsequent greatest amount of unfunded needs, which in that fiscal year were Alabama, Ohio, and Virginia. In fiscal year 2018, in addition to the six states with the greatest unfunded needs, AMLER further provided funding to the three federally recognized Tribes with established AML programs—the Crow Tribe, the Hopi Tribe, and the Navajo Nation.

OSMRE, States, and Tribes Play Different Roles to Implement the AMLER Program through Key Steps

The AMLER Program is administered through states and Tribes. OSMRE, states, and Tribes collaborate and have different roles to implement the program through the following key steps:

- (1) OSMRE issues AMLER guidance to states and Tribes.
- (2) States and Tribes apply annually for AMLER grant funding.
- (3) States and Tribes solicit applications for project proposals and select proposals for OSMRE’s review.³⁸
- (4) OSMRE reviews and approves the project proposals selected by states and Tribes.³⁹
- (5) Subrecipients or contractors, through subawards from or contracts with states and Tribes, complete projects. States and Tribes are required to report economic benefits and performance measures associated with awarded projects.

OSMRE issues AMLER guidance to states and Tribes. OSMRE provides states and Tribes guidance on the AMLER Program in a variety of ways. The office issues annual written guidance for project eligibility, posts the guidance to its website, participates in meetings with state and

³⁸Eligible subrecipients are typically limited to state, tribal, and local government agencies, economic development organizations, local communities, and non-government organizations, according to AMLER guidance.

³⁹As noted previously, legislative history accompanying the Consolidated Appropriations Act, 2024, indicated that for fiscal year 2024, it is the participating states’ sole responsibility to approve AMLER projects. H.R. Rep. No. 118-155, at 40 (2023). Participating Tribes also have sole responsibility for approving AMLER projects on their land for fiscal year 2024, according to an OSMRE official. For purposes of this report, we describe the process OSMRE used to review and approve grants and project proposals prior to fiscal year 2024.

tribal representatives, and attends industry meetings. OSMRE also provides guidance through website FAQs and phone consults. The 2023 project eligibility guidance, the most recent guidance available as of March 2024,⁴⁰ includes various information for states and Tribes, such as:

- General criteria by which OSMRE evaluates project proposals for eligibility and successful selection. The fiscal year 2023 guidance notes that it is intended to ensure that projects meet the economic and community development nexus criteria.⁴¹ According to the guidance, the AMLER Program offers states and Tribes flexibility in deciding which projects offer the greatest opportunities within their communities.
- OSMRE's role in reviewing and approving project proposals. The guidance notes that each AMLER project requires OSMRE issuance of an Authorization to Proceed.

States and Tribes apply annually for AMLER grant funding. Once Congress provides annual appropriations for the AMLER Program, states and Tribes apply for their AMLER grant for that fiscal year.⁴² To apply for their grant, states and Tribes use an online grants management website, GrantSolutions.⁴³ OSMRE reviews and approves AMLER grant applications and makes funds available to states and Tribes (see fig. 3).

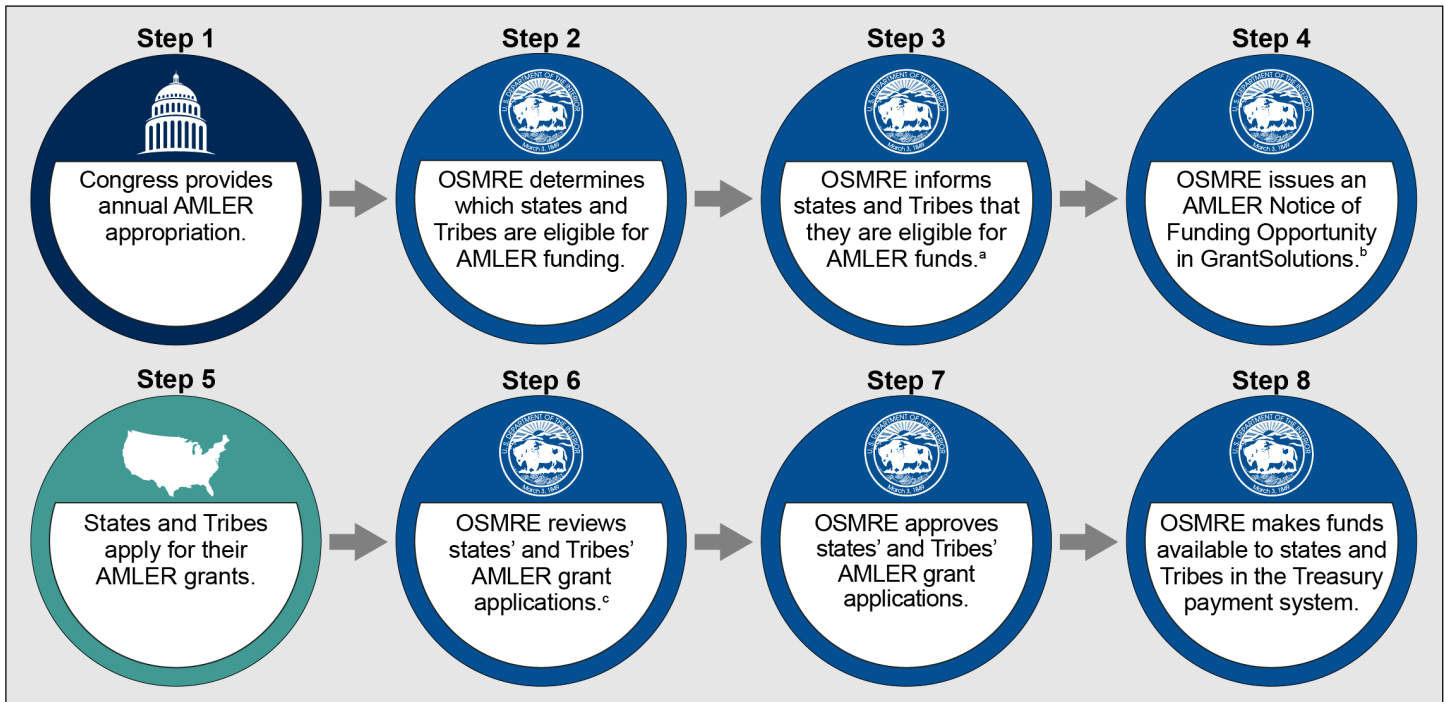
⁴⁰As of March 2024, the most recent annual guidance available was the *Guidance for Project Eligibility Under the Abandoned Mine Land Economic Revitalization Program for Fiscal Year 2023*. OSMRE has issued annual guidance for each AMLER Program year starting in fiscal year 2016. According to the fiscal year 2023 guidance, the purpose of the guidance is to provide states and Tribes with general criteria by which potential projects will be evaluated for eligibility and successful selection.

⁴¹According to the guidance, state and tribal AML programs, in consultation with state, tribal, and local economic and community development authorities, must develop eligible projects that demonstrate a nexus between AML land and water reclamation and economic and community development. The guidance notes that the AMLER Program offers a non-traditional approach to the reclamation of impacted pre-SMCRA coal-mined lands, as the current AML fee-based program does not require such economic and community development nexus criteria.

⁴²According to OSMRE officials, after the AMLER Program receives its annual appropriation, it must go through the Office of Management and Budget to receive funds. It can take up to 30 days for OSMRE to receive this allocation, according to officials. Thereafter, OSMRE can inform eligible states and Tribes of their eligibility to receive AMLER funds, according to these officials.

⁴³GrantSolutions is a financial assistance management software platform used by OSMRE to manage grants and cooperative agreements.

Figure 3: Process for the Office of Surface Mining Reclamation and Enforcement (OSMRE) to Make Abandoned Mine Land Economic Revitalization (AMLER) Program Funding Available to States and Tribes



Source: GAO analysis of OSMRE information; and GAO (icons). | GAO-24-106680

^aAccording to OSMRE officials, after the AMLER Program receives its annual appropriation, it must go through the Office of Management and Budget to receive funds. It can take up to 30 days for OSMRE to receive this allocation, according to officials. Thereafter, OSMRE can inform eligible states and Tribes of their eligibility to receive AMLER funds, according to these officials.

^bGrantSolutions is a financial assistance management software platform used by OSMRE to manage grants and cooperative agreements.

^cLegislative history accompanying the Consolidated Appropriations Act, 2024 indicated that for fiscal year 2024, it is the participating states' sole responsibility to approve AMLER projects. H.R. Rep. No. 118-155, at 40 (2023). Tribes will also have the sole responsibility to approve AMLER projects in FY24, according to an OSMRE official. For purposes of this report, we describe the process OSMRE used to review and approve grants and project proposals prior to FY 2024.

States and Tribes solicit applications for project proposals and select proposals for OSMRE's review. States and Tribes generally solicit applications for project proposals and select proposals for review by OSMRE.

Grant applications are applications states and Tribes submit to the Office of Surface Mining Reclamation and Enforcement (OSMRE) for their annual Abandoned Mine Land Economic Revitalization (AMLER) grant funding.

Applicants typically include states, tribal and local government agencies, economic development organizations, local communities, and non-governmental organizations. Applicants submit applications for project proposals to states and Tribes for their review and consideration.

Subrecipients are applicants whose AMLER project proposal was selected by the state or Tribe and approved by OSMRE. Subrecipients receive a subaward from the state or Tribe and use the AMLER funds to carry out the AMLER project.

Contractors are nonfederal entities with which states or Tribes contract to obtain goods and services for an AMLER project run by the state or Tribe.

Applications for project proposals are potential AMLER projects. Applications for project proposals are submitted to states and Tribes.

Project proposals are the applications that are selected by states and Tribes and then submitted to OSMRE for approval.

Projects are project proposals that, after being selected by states and Tribes, were approved and given an Authorization to Proceed by OSMRE. Projects are implemented by subrecipients or contractors. States and Tribes, in coordination with OSMRE, oversee projects through their completion.

Source: GAO analysis of AMLER documentation. | GAO-24-106680

States' and Tribes' processes for doing these tasks vary, but most states and Tribes generally incorporate some of the following steps:

- Advertise the AMLER grant opportunity on their websites and solicit applications for project proposals.
- Evaluate applications for project proposals submitted by organizations that may include local government agencies, economic development organizations, or local communities that will carry out the project. The evaluations sometimes rely on selection criteria determined by each state and Tribe, as well as OSMRE Program eligibility requirements. Evaluations sometimes utilize scoring systems and checklists.
- Assemble a team of experts or a committee to review applications.
- Officials select project proposals to submit to OSMRE.

OSMRE reviews and approves the project proposals selected by states and Tribes. States and Tribes submit selected project proposals to OSMRE on a rolling basis. Staff from OSMRE headquarters, regional offices, and field offices conduct separate reviews of the project proposals through a multi-step process. These reviews aim to ensure the projects meet the eligibility criteria outlined in annual guidance, as well as other federal requirements.⁴⁴

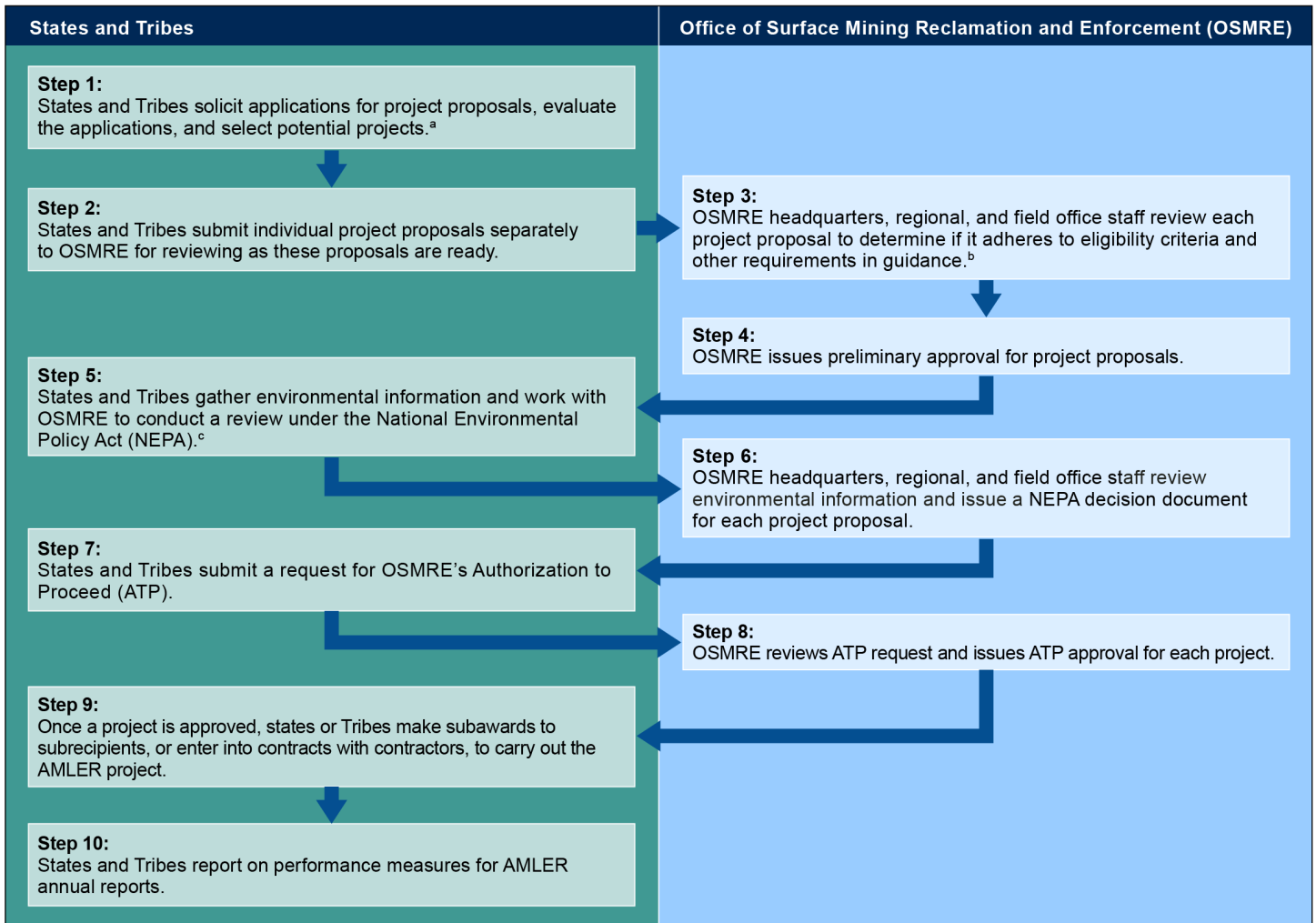
Subrecipients or contractors, through subawards from or contracts with states and Tribes, complete projects. States and Tribes are required to report economic benefits and performance measures associated with awarded projects. States and Tribes, through subawards or contracts, begin to distribute AMLER funds to subrecipients or contractors, which then implement projects. OSMRE guidance notes that the AMLER Program offers states and Tribes flexibility in deciding which projects offer the greatest opportunities within their communities. According to OSMRE guidance, 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

⁴⁴According to OSMRE's fiscal year 2023 guidance, OSMRE has determined that the National Environmental Policy Act (NEPA) applies to all AMLER projects. NEPA and its implementing regulations generally require federal agencies to assess the environmental effects of certain proposed actions, including those they propose to carry out, fund, or approve, prior to making decisions. Under NEPA, effects agencies are to analyze include ecological, aesthetic, historic, cultural, economic, social, and health effects.

practical.⁴⁵ States and Tribes can identify, track, and define the success of projects in many ways. However, under OSMRE guidance, states and tribal AML programs are required to report economic benefits and performance measures associated with awarded projects. Additionally, 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, according to the guidance. To this end, OSMRE prepares annual reports that evaluate the economic impact of the program and the status of AMLER projects within each state and Tribe. To prepare these reports, OSMRE uses information provided by the states and Tribes (see fig. 4).

⁴⁵Department of the Interior, Office of Surface Mining Reclamation and Enforcement, *Guidance for Project Eligibility Under the Abandoned Mine Land Economic Revitalization Program for Fiscal Year 2023*.

Figure 4: Abandoned Mine Land Economic Revitalization (AMLER) Process to Approve Projects



Source: GAO analysis of OSMRE documents and meetings with OSMRE, state, and tribal officials. | GAO-24-106680

^aApplications for project proposals can be submitted by state, tribal, and local government agencies, economic development organizations, local communities, and non-government organizations. According to OSMRE officials, states and Tribes have flexibility to initiate their solicitation for AMLER applications for project proposals at any time after they have been formally notified of their eligibility to receive AMLER funds or as soon as the congressional appropriation has been enacted.

^bThis step is referred to as the vetting step. If an application for a project proposal does not initially meet all eligibility criteria or if clarification is needed on the proposal, the vetting review may be an iterative process, such as clarifying other funding sources being leveraged, according to OSMRE officials. Additionally, officials stated that the review of the project proposal is not concurrent across OSMRE offices (i.e., field, regional, headquarters). Once the field office completes its review, the project proposal is submitted to the regional office for review. Thereafter, the regional office submits the project proposal through OSMRE's electronic data tracking system to headquarters for review and to schedule a preliminary "vetting call" across all three offices.

^cUnder the National Environmental Policy Act (NEPA) and its implementing regulations, agencies are generally required to assess the environmental effects of certain proposed actions, including those they propose to carry out, fund, or approve, prior to making decisions. According to OSMRE's fiscal year 2023 guidance, OSMRE has determined that NEPA applies to all AMLER projects.

OSMRE Approved 239 Projects from October 2016 through November 2022; States and Tribes Spent About 29 Percent of Total AMLER Appropriations

OSMRE Approved 239 Projects from October 2016 through November 2022; States and Tribes Received Hundreds of Applications for Project Proposals

OSMRE had approved 239 projects submitted by states and Tribes from October 2016 to November 2022, according to OSMRE's 2023 AMLER report.⁴⁶ States and Tribes have broad discretion over the process for soliciting, evaluating, and selecting AMLER project proposals to submit to OSMRE as long as they meet criteria under OSMRE guidance. The processes used by the states and Tribes vary and have changed over the life of the AMLER Program. Some states solicited applications for project proposals through public requests and received hundreds of applications from fiscal year 2016 to March 2024. For example, Kentucky had received a total of 502 applications as of March 2024—the most of any state. Similarly, West Virginia received a total of 290 applications as of March 2024. In contrast, Alabama and Virginia received fewer applications, with totals of 48 and 107, respectively.

⁴⁶OSMRE states that it had reviewed and vetted 266 projects as of November 2022 (the most recent OSMRE data available at the time of our review). Of the 266, 21 projects were tabled by the states, and six project proposals were returned as ineligible to states and Tribes. The remaining 239 projects include 60 projects that have been completed according to OSMRE's report. Department of the Interior, Office of Surface Mining Reclamation and Enforcement, *Report on the Abandoned Mine Land Economic Revitalization (AMLER) Program for Fiscal Year 2016 – Fiscal Year 2022* (Washington, D.C.: Nov. 9, 2023).

Officials from Pennsylvania and Ohio told us that before fiscal year 2021, they selected projects in ways other than soliciting applications from the public. For example, officials from Pennsylvania told us that they selected reclamation projects from an internal list of projects in their inventory system. Ohio officials told us that they did public outreach to regional districts and county organizations to develop projects internally.

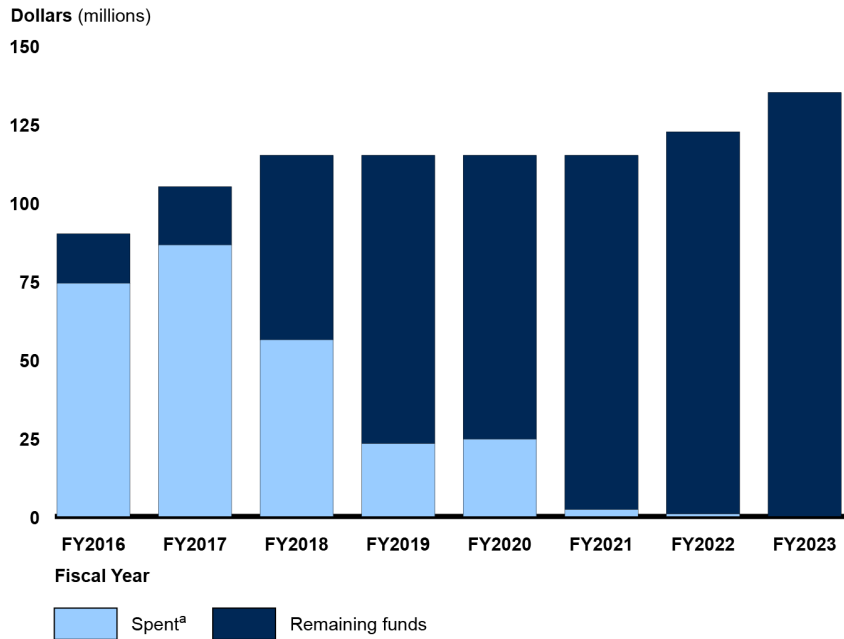
Tribes relied on a mix of soliciting applications from the public and identifying projects within the tribal government. For example, the Crow Tribe and Hopi Tribe identified one and three projects, respectively, whereas the Navajo Nation made a public solicitation and received eight applications. More details on the number of applications, projects funded, and subrecipients receiving AMLER funding are available in appendix I.

States and Tribes Spent About 29 Percent of the Amount Appropriated to the AMLER Program from Fiscal Years 2016 to 2023

As of the end of fiscal year 2023, states and Tribes had spent about \$268 million, or 29 percent, of the \$913 million appropriated to the AMLER Program from fiscal years 2016 through 2023, according to our analysis.⁴⁷ Due to a variety of factors, according to officials from OSMRE, states, and Tribes, none of the funding in fiscal year 2023 had been spent as of September 30, 2023. However, funding also remains from earlier years of the program. For example, more than \$15 million in funding remained out of the \$90 million appropriated for fiscal year 2016, and more than \$18 million in funding remained out of the \$105 million appropriated for fiscal year 2017 (see fig. 5).

⁴⁷As noted previously, since fiscal year 2016, Congress has provided appropriations to OSMRE for the AMLER Program. Congress has also provided direction on how OSMRE is to distribute funding to states and Tribes. States and Tribes apply for AMLER grants, and OSMRE awards grants and makes funding available to states and Tribes. For the purposes of this report, we use the term “spent” to refer to the total amount of expenditures in the form of reimbursements from states and Tribes to AMLER project subrecipients and contractors. As spent amounts include only actual expenditures, they do not account for funds that have not yet been spent but are likely to be spent in the future, such as funds that have been obligated for existing projects but not yet expended and funds that have not yet been obligated but remain available for obligation.

Figure 5: Spent and Remaining Funds of Total Abandoned Mine Land Economic Revitalization Program Appropriations, by Fiscal Year, as of September 30, 2023



Source: Annual appropriations acts and GAO analysis of data from the Department of the Interior's Financial and Business Management System. | GAO-24-106680

^aThe term "spent" refers to the total amount of expenditures in the form of reimbursements from states and Tribes to AMLER project subrecipients and contractors. As spent amounts include only actual expenditures, they do not account for funds that have not yet been spent but are likely to be spent in the future, such as funds that have been obligated for existing projects but not yet expended and funds that have not yet been obligated but remain available for obligation.

Some state and tribal officials told us that resource and administrative constraints affect their ability to spend funds and the pace at which they can implement the AMLER Program. For example, officials from some states and one Tribe told us that their staff administering the AMLER Program divide their time between AMLER and other related grant programs. In addition, these positions are sometimes funded by the AML fee-based program, whose funding had been decreasing in recent years. As a result, these states and the Tribe have had limited resources to administer the AMLER Program. Because the program is not permanent,

there is uncertainty about dedicated AMLER funding beyond any given fiscal year.⁴⁸

AMLER funding has not been available for states and Tribes to apply for at the beginning of the fiscal year, which also affects states and Tribes' ability to spend funds quickly. For example, according to an OSMRE document, in fiscal year 2018, funds were not available for states to apply for until almost 8 months after the beginning of the fiscal year. In contrast, in fiscal year 2020, funding was not available for states to apply for until 4 months after the beginning of the fiscal year. Furthermore, according to one state official, in fiscal year 2023, it took 4 months after applying to receive AMLER funding. As a result, most states are more than 1 year behind in terms of applying to OSMRE for AMLER funding as well as soliciting applications and selecting project proposals. For example, Virginia did not solicit applications for projects for its fiscal year 2023 grant until February 2024.

Several additional issues have affected the Tribes' ability to spend funds, including the following:

- Tribes were heavily impacted by the COVID-19 pandemic, which led to months-long closures of tribal government functions and delays in processing and administering AMLER grants, according to OSMRE officials.
- Tribes have unique governmental approval processes that can impact grant administration, according to officials from some Tribes. For example, Navajo Nation officials told us that internal tribal processes and requirements related to financial reviews and approval from tribal executive leadership adds time to the process for administering AMLER grants. Officials from the Hopi Tribe told us that in addition to tribal government approval for each AMLER project, they must also seek the approval of the village nearest to where the project is located.
- Tribes have faced challenges identifying appropriate projects for AMLER funding, according to officials from the Navajo Nation, in part, because many sites on their land that may otherwise be suitable for an economic development project are not served by the necessary

⁴⁸As noted previously, the AMLER Program has been continued each year since fiscal year 2016 through annual appropriations acts.

infrastructure, such as sewer and water utilities, according to these tribal officials.⁴⁹

OSMRE Has Not Issued Guidance on Options for Using Certain Unspent AMLER Funds

OSMRE does not allow states and Tribes to reallocate or roll over certain unspent funds (i.e., leftover funds from a certain grant year not obligated toward an AMLER project) to combine them with funding in another grant year, according to OSMRE officials.⁵⁰ This potentially further affects states' ability to use these unspent funds, according to state officials. OSMRE does not allow states and Tribes to reallocate funds across grant years because, although AMLER appropriations are no-year appropriations, they are provided on an annual basis, and the office chooses to retain this separation to facilitate tracking and reporting to Congress, according to OSMRE officials.⁵¹

Officials from some states told us that, in some cases, they have funds remaining in grant years that are too small to fund new projects, and that other projects approved for the same grant year are complete and, therefore, are not in need of additional funding. For example, officials in Ohio told us that they have \$442,000 and \$634,000 remaining from fiscal years 2017 and 2018, respectively, for which they did not have a project to fund. Further, because OSMRE does not allow funds to be reallocated across grant years, states and Tribes are not able to combine these

⁴⁹In addition, the Crow Tribe faced a challenge related to receiving federal payments. Officials from the Crow Tribe told us that the Tribe was disallowed from spending AMLER and other federal funds that they had been awarded due to outstanding federal debt. As a result of this debt, the U.S. Department of Treasury showed this outstanding federal debt in its "Do Not Pay" service, which agencies use to determine whether parties are eligible to receive federal funds. As a result, the Crow Tribe was ineligible to continue receiving AMLER reimbursements. According to a February 2024 letter from the Crow Tribe Chairman to OSMRE, the Crow Tribe was once again deemed eligible for payment by OSMRE, allowing them to proceed with working on their AMLER project.

⁵⁰However, with OSMRE approval, states and Tribes can reallocate unspent funds to a new or existing project within the original grant year. For example, officials from some states told us that the pandemic and inflation have affected the costs of projects, and that they can reallocate funding from one project to another within the same grant year. According to one state official, this is generally possible when remaining unspent funds from one project are reallocated to another project that needs additional funding within the same grant year.

⁵¹A no-year appropriation is an appropriation that is available for obligation for an indefinite period. See GAO, *Principles of Federal Appropriations Law, Chapter 2 The Legal Framework. Fourth Edition 2016 Revision*, [GAO-16-464SP](#) (Washington, D.C.: Mar. 2016).

unspent funds in a later grant year so that funds are sufficient for a new project, according to Ohio officials.

An official from an OSMRE region told us that headquarters staff told their region that unspent funds could not be reallocated or rolled over. However, in February 2024, after we raised the issue, OSMRE headquarters officials told us that OSMRE had not issued written guidance on what options, if any, are available to states and Tribes for using unspent funds and noted that a policy decision needed to be made in this regard.⁵² However, they did not provide an estimate for when this decision would be made and communicated to states and Tribes.

Our *Standards for Internal Control in the Federal Government* call for agencies to document key decisions to provide transparency to internal and external stakeholders.⁵³ Furthermore, documentation also provides a means to retain organizational knowledge and mitigate the risk of having that knowledge limited to a few personnel, as well as a means to communicate that knowledge as needed to external parties, such as external auditors. By determining and documenting what options, if any, states and Tribes have for using funds that cannot otherwise be spent in a given grant year, OSMRE could ensure that states and Tribes have a complete understanding of their options and how to maximize their use of AMLER funds that Congress has appropriated.

OSMRE Collected Available Information on the Performance of AMLER Projects

OSMRE's fiscal year 2023 guidance requires states and Tribes to measure how projects help develop local economies and communities. Specifically, the guidance encourages states and Tribes to demonstrate the success of their AMLER projects by tracking and reporting on as many measures as practical. This is done while the project is under construction and the grant is open, according to OSMRE officials. The guidance further notes that states and Tribes are required to report performance measures associated with awarded projects and provides examples of such measures, such as jobs created, businesses created or

⁵²According to a report by the Reclaiming Appalachia Coalition and Appalachian Citizens' Law Center, projects sometimes stall or fail for unexpected reasons, leaving unspent funds on the table. The report recommends that guidance be provided to state and tribal programs on how to redistribute funds that were awarded to projects that have not made significant progress in 2 or more years. Reclaiming Appalachia Coalition and Appalachian Citizens' Law Center, *Abandoned Mine Land Economic Revitalization Program Recommendations for More Equitable Implementation* (Mar. 30, 2022).

⁵³[GAO-14-704G](#).

served, infrastructure created, and revenues increased.⁵⁴ This information is collected through the following process:

- Subrecipients and contractors (as applicable) submit information on performance measures to their respective state or Tribe.⁵⁵
- States and Tribes review and report this information to OSMRE.
- OSMRE reviews and compiles this information in its reports to Congress on the AMLER Program.⁵⁶

Under the guidance, states and Tribes are to report performance measures in different ways depending on the form of economic and community development provided by the project:

- **Category A projects.** For projects that are expected to directly provide economic and community development, states and Tribes are

⁵⁴As we reported in 2011, performance measurement is the ongoing monitoring and reporting of program accomplishments, particularly progress toward preestablished goals. It is typically conducted by program or agency management. Performance measures may address the type or level of program activities conducted (process), the direct products and services delivered by a program (outputs), or the results of those products and services (outcomes). Performance measurement, because of its ongoing nature, can serve as an early warning system to management and as a vehicle for improving accountability to the public. GAO, *Performance Measurement and Evaluation: Definitions and Relationships*, [GAO-11-646SP](#) (Washington, D.C.: May 2, 2011).

⁵⁵States and Tribes determine whether an entity carrying out a project is a subrecipient or a contractor. In general, subrecipients are responsible for adhering to applicable federal program requirements specified in the subaward, whereas contractors are responsible for adhering to the terms of the contract. States or Tribes are responsible for monitoring subrecipient performance and compliance with programmatic requirements under the subaward, as well as contractor performance and adherence to the contract. States and Tribes function as pass-through entities in the AMLER Program.

⁵⁶This review includes OSMRE identifying the measures that the state or Tribe will need to report to demonstrate the success of the project. The vetting process also identifies and separates direct measures from secondary measures to ensure the AMLER Program does not overreport or double count project benefits, according to officials.

to report performance measures such as the number of jobs created (i.e., outputs).⁵⁷

- **Category B projects.** For projects that are expected to create the conditions for future economic and community development that occur post-reclamation, states and Tribes are to demonstrate how the project is likely to create favorable conditions for economic development (i.e., outcomes).⁵⁸ According to OSMRE's fiscal year 2023 guidance, such favorable conditions may be demonstrated by documentation of any of the following: (1) the role of the project in the area's economic development strategy or other economic and community development planning process; (2) the planned economic and community use of the project site after the primary reclamation activities are completed; or (3) community support for the project.

OSMRE officials said that they do not track AMLER projects by category and could not tell us how many projects were classified as category B versus category A.⁵⁹

⁵⁷The guidance notes that 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. The guidance provides examples of measures that states and Tribes may wish to report, such as jobs created. For example, the Ehrenfeld Coal Refuse Pile project in Pennsylvania is a category A project. According to OSMRE's 2023 report on the AMLER Program, a total of 3.3 million cubic yards of coal refuse material was excavated, hauled away, blended with alkaline material, and disposed. These efforts aimed to eliminate severe on-site erosion, off-site sedimentation, and a source of acid mine drainage runoff. Department of the Interior, Office of Surface Mining Reclamation and Enforcement, *Report on the Abandoned Mine Land Economic Revitalization (AMLER) Program for Fiscal Year 2016 – Fiscal Year 2022* (Washington, D.C.: Nov. 9, 2023).

⁵⁸For example, the Swoyersville Refuse Pile-Community Athletic Area is a category B project, according to a document we reviewed from Pennsylvania. The project aims to restore 15 acres of abandoned mine land at the site. Seven of those restored acres will be transferred to Swoyersville Borough for the development of recreational facilities, including a football field. The remaining 8 acres will be available for development by the property owner. Further, there are long-range plans to reclaim the entire Swoyersville coal refuse pile, ultimately restoring 55 acres of AML which could all be used for industrial and commercial development within Swoyersville Borough, according to OSMRE's report. Department of the Interior, Office of Surface Mining Reclamation and Enforcement, *Report on the Abandoned Mine Land Economic Revitalization (AMLER) Program for Fiscal Year 2016 – Fiscal Year 2022* (Washington, D.C.: Nov. 9, 2023).

⁵⁹The July 2020 state workgroup report recommended that OSMRE more clearly define specific requirements for category A and category B projects, and the difference between these categories.

Performance measure information on both short-term outputs and long-term outcomes for AMLER projects may be limited.⁶⁰ For example, according to OSMRE officials, states and Tribes are not required to track performance information on project outcomes after the construction of the project is completed and the grant is closed. Furthermore, if OSMRE were to track long-term project outcomes, the fact that most active AMLER projects are not yet completed would result in states and Tribes not yet being able to collect some performance information that requires project completion.

Many AMLER projects take several years to complete, which also presents a challenge to subrecipients to collect information on performance measures. For example, one project in Kentucky—the Appalachian Wildlife Center (also known as Boone’s Ridge)—received \$12.5 million in AMLER funding in 2016. The project consists of a visitor center on 246 acres, a museum and theater, over 19 square miles of trails, and a 12,000-acre wildlife and nature preserve. This project has been under construction since 2018, and the project’s completion date has changed several times over the years. According to Kentucky officials, the wildlife center is expected to open in 2025 (see fig. 6).

⁶⁰Outputs refer to the direct deliverables from a specific grant and can be used to ensure compliance with the terms and conditions of the grant. In contrast, outcomes refer to results of those deliverables and can be used to monitor project accomplishments and document progress towards pre-established program goals. Outcomes can include long-term economic benefits that accrue after the close-out of a grant. Federal agencies administering grant programs sometimes use consultants to assess outcomes. See GAO, *Economic Adjustment Assistance: Actions Needed to Better Address Workers’ Needs and Assess Program Effectiveness*, [GAO-20-521](#) (Washington, D.C.: July 29, 2020).

Figure 6: Appalachian Wildlife Center (Boone’s Ridge) in Kentucky, before and after Receiving Abandoned Mine Land Economic Revitalization Program Funding



Source: Kentucky Division of Abandoned Mine Lands. | GAO-24-106680

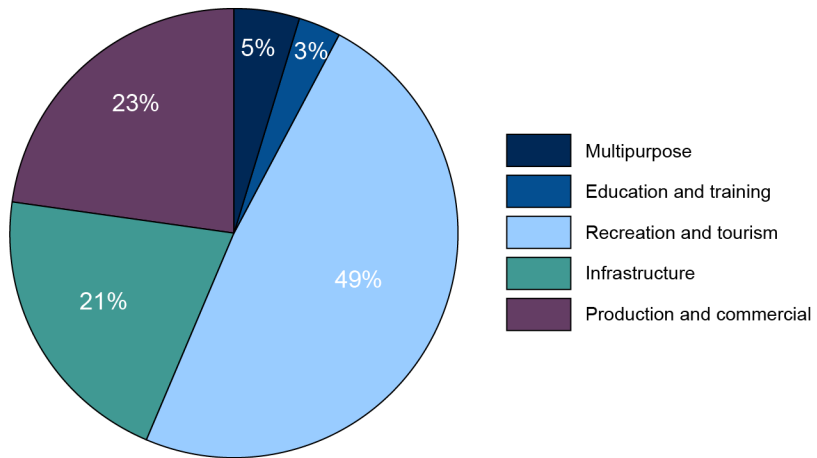
Performance measure information on both short-term outputs and long-term outcomes for AMLER projects may be limited for other reasons:

- Category B projects are not expected to directly result in measurable economic and community development outcomes, and officials from one state told us that most of their projects fall under this category. For example, it may take years after site reclamation before an industrial park is fully developed and housing new businesses.
- OSMRE’s 2023 AMLER report notes that several projects leverage funding from other sources. This makes attributing the project’s outputs or outcomes directly to AMLER funds difficult.

OSMRE collected available performance-related information on active AMLER projects and included this information in its 2023 report on the program.⁶¹ The office sorted projects into five categories (see fig. 7).

⁶¹Department of the Interior, Office of Surface Mining Reclamation and Enforcement, *Report on the Abandoned Mine Land Economic Revitalization (AMLER) Program for Fiscal Year 2016 – Fiscal Year 2022* (Nov. 9, 2023).

Figure 7: Categories and Percentages of Abandoned Mine Land Economic Revitalization Projects, Fiscal Years 2016 to 2021



Source: GAO analysis of Office of Surface Mining Reclamation and Enforcement data. | GAO-24-106680

Note: percentages may not add to 100 due to rounding.

Recreation and tourism (about 49 percent of projects). OSMRE included projects intended to restore natural areas and create amenities, such as improved habitat for recreational fishing, dog parks, recreation complexes, and trails for hiking and biking. Outcomes of these projects are expected to come from creating jobs—for example, workers are needed to clear vegetation and construct trails. Further, some of these projects are expected to result in an increase in the number of visitors and spur further economic activity in the nearby communities. For example, a project in Pennsylvania reclaimed a dangerous highwall and acid mine drainage while expanding the Pittsburgh Botanic Garden. The botanic garden has grown in visitation (from 38,000 in 2019 to 78,000 in 2022), according to OSMRE’s report (see fig. 8).⁶²

⁶²There could be alternative explanations for observed growth, such as widespread increases in outdoor recreation during the COVID-19 pandemic.

Figure 8: Pittsburgh Botanic Garden, before and after Receiving Abandoned Mine Land Economic Revitalization Program Funding



Sources: Bob Hedin, Hedin Environmental (left photo); GAO (right photo). | GAO-24-106680

Production and commercial (about 23 percent of projects). This category includes projects such as those reclaiming abandoned mine lands to facilitate the construction of building pads for office and industrial uses, airport improvements, and manufacturing sites. According to OSMRE's report, some of these projects are expected to result in economic activity related to jobs associated with the new businesses that are expected to eventually operate on these sites. For example, the Pittsburgh Airport Innovation Campus received \$500,000 from AMLER in 2016 and about \$32 million in additional funding from other sources. It is expected to employ more than 1,200 construction workers, create 7,000 direct and indirect jobs, and generate \$250 million in private investment. According to OSMRE's 2023 AMLER report, 54 acres of abandoned mine land have been reclaimed, including two dangerous highwalls.⁶³ In addition, two buildings that house five companies have been constructed on the site, according to the report.

The Navajo Nation's Kayenta Industrial Park Infrastructure project also falls under this category. Funded with fiscal year 2018 AMLER funds, this

⁶³Department of the Interior, Office of Surface Mining Reclamation and Enforcement, *Report on the Abandoned Mine Land Economic Revitalization (AMLER) Program for Fiscal Year 2016 – Fiscal Year 2022* (Washington, D.C.: Nov. 9, 2023).

project is located by communities impacted by the loss of mining jobs.⁶⁴ This project aims to expand the infrastructure of the Kayenta Industrial Park to attract new businesses and jobs for the local community. Infrastructure to be added includes up to 4,800 linear feet of waterline, 7,800 linear feet of sewer line, and 0.7 mile of road within the park, according to a report we reviewed (see fig. 9).

Figure 9: Abandoned Mine Land Economic Revitalization Project at Kayenta Industrial Park in the Navajo Nation



Source: Navajo Nation, Navajo Abandoned Mine Lands Reclamation Department. Courtesy photo by Jones and DeMille Engineering. | GAO-24-106680

Infrastructure (about 21 percent of projects). This category includes projects to treat contaminated water in rivers and streams and improve or expand utility infrastructure. For example, some AMLER utility projects included installing broadband infrastructure, natural gas pipelines to facilitate the expansion of manufacturing and businesses, and water delivery infrastructure to provide clean water for homes with contaminated water. These projects are expected to generate additional economic activity spurred by the improved utilities. An Ohio project highlighted in

⁶⁴According to a document we reviewed and Navajo Nation officials, Kayenta is impacted by the closure of the Peabody Western Coal Mines at Kayenta Coal Mine, Black Mesa Mine, and the AML sites at the nearby Chilchinbeto community. According to OSMRE's 2023 AMLER report, in addition to \$3.3 million in AMLER funds, Kayenta Township—a political subdivision of the Navajo Nation—provided \$745,000 in additional funding for the project.

OSMRE's 2023 AMLER report —Truetown Acid Mine Drainage Pigment Production—consists of building a water treatment plant to filter out iron from water and create paint pigments which will be sold to paint manufacturers. If the project is completed, subrecipients estimate that it would create four full-time jobs, and produce over 2 million pounds of pigment for paint, plaster, and other products, according to the report we reviewed (see fig. 10).⁶⁵

Figure 10: Abandoned Mine Land Economic Revitalization Project, Truetown Acid Mine Drainage Pigment Production in Ohio



Source: Ohio Department of Natural Resources (left photo) and Rural Action (right photo). | GAO-24-106680

Education and training (about 3 percent of projects). This category includes projects to provide education and training opportunities, such as a community college program to train electrical line workers and an institute to train former coal industry employees in advanced machinist and manufacturing trades. These programs are generally expected to generate economic benefits in the form of wages for their graduates.

For example, a project in Kentucky—the East Kentucky Advanced Manufacturing Institute—has received AMLER funding in multiple years. Specifically, the project received \$2.5 million in 2016 and \$1 million in

⁶⁵This assumes year-round operation with a value of \$1.5 million. According to the report, subrecipients also expect to restore seven miles of stream to a viable fishery and generate an estimated \$17,000 per year in revenue, if the project is completed. The project received other sources of funding, according to the OSMRE report.

2017.⁶⁶ The Institute operates and maintains a training center that provides certification for computer numeric controlled systems used in advanced manufacturing. As of March 2024, 300 students had graduated from the program, according to Kentucky state officials (see fig. 11).

Figure 11: Eastern Kentucky Advanced Manufacturing Institute, Which Received Abandoned Mine Land Economic Revitalization Program Funding



Source: Kentucky Division of Abandoned Mine Lands. | GAO-24-106680

Multi-purpose (about 5 percent of projects). Projects in this category serve multiple purposes. For example, the Hopi Wellness Center and Veterans Memorial Center expansion—currently in the process of applying for OSMRE funds—is expected to provide a space for members of the community to gather. According to officials from the Hopi Tribe, this project consists of reconstructing and expanding the Hopi Tribe’s Veterans Memorial building, which was built in 1977 and has substantial repair and maintenance needs. It aims to build new meeting rooms for community use, including a demonstration kitchen that will help facilitate a

⁶⁶According to officials from Kentucky, AMLER funds were used to improve the exterior of the portion of the property by correcting drainage issues caused by old mining and to establish new access and parking areas. Additionally, funds were used to completely renovate the interior of the structure to accommodate and incorporate the facility and machinery necessary to provide a high level of advanced, professional instruction to prospective students, according to these officials.

diabetes prevention program, among other improvements, according to these officials. The project is expected to receive funding from OSMRE (see fig. 12).

Figure 12: Hopi Wellness Center and Hopi Veterans Memorial Center Expansion Near Kykotsmovi Village, Arizona, Which Is Expected to Receive Abandoned Mine Land Economic Revitalization Program Funding



Source: GAO. | GAO-24-106680

Participants Identified Challenges Related to Time Frames for Reviews and Approvals, Agency Roles and Responsibilities, and AMLER Guidance

Some States and One Tribe Identified Long Time Frames for OSMRE Review of Proposals; OSMRE Does Not Systematically Track These Time Frames

Some state and tribal officials we interviewed and a July 2020 state workgroup report on the AMLER Program identified challenges related to the time it takes OSMRE to review and approve AMLER project proposals.⁶⁷ Time frames for reviewing and approving project proposals have varied widely, according to state officials. As previously discussed, states and Tribes must submit project proposals to OSMRE for review and approval.⁶⁸ The process is complex and requires back-and-forth collaboration. For example, OSMRE's review of one project proposal from Virginia took over 1,100 days, according to officials from Virginia. Ultimately, the applicant withdrew the proposal, according to OSMRE officials. As a result, \$1.6 million was tied up with that project and could not be awarded to any other projects during that period.⁶⁹ Officials from another state told us that the vetting process took over 500 days in one case, with little or no feedback from OSMRE. In contrast, it took less than 30 days for OSMRE to review and approve a project that created an area for recreational use in Ohio, according to OSMRE's 2023 AMLER report.

Overall time frames for OSMRE review and approval of project proposals may vary, in part, due to project focus or complexity. For example, OSMRE tends to approve more quickly projects that are focused on reclamation, according to one stakeholder we interviewed. In contrast, OSMRE officials told us that unique and complex projects take longer to review and approve. For example, OSMRE takes longer to review projects involving land purchases, according to an OSMRE official. In addition, a state official said that OSMRE asks very detailed questions that can be difficult to address at the early stages of a project. According to OSMRE officials, they sometimes need to consult with other agencies

⁶⁷AML Pilot Work Group, *Report and Recommendations from the State Members of the Pilot Program Work Group* (July 2020).

⁶⁸As noted previously, legislative history accompanying the Consolidated Appropriations Act, 2024, indicated that for fiscal year 2024, it is the participating states' sole responsibility to approve AMLER projects. H.R. Rep. No. 118-155, at 40 (2023). Participating Tribes also have sole responsibility for approving AMLER projects on their land for fiscal year 2024, according to an OSMRE official. For purposes of this report, we describe the process OSMRE used to review and approve grants and project proposals prior to fiscal year 2024.

⁶⁹According to Virginia officials, this project was proposed in 2018 and was a project intended to create housing, homesteading, and revenue sources and included assistance for solar power. The project was going to be funded using a land grant as well as state funds. State officials said that due to the long vetting period the project was abandoned. State officials said that they learned indirectly that OSMRE had questions about the revenue and solar power aspects of the project; however, Virginia officials said these concerns were never communicated to them.

to ensure projects are eligible, legal, and viable, and this can add time to the review and approval process. In addition, OSMRE officials noted that some project proposals were initially incomplete and gathering the necessary information from applicants to complete the application contributed to review time frames.

According to several participants we interviewed, states and Tribes have faced challenges due to OSMRE's long time frames to review and approve project proposals, such as

- projects have become more expensive due to inflation increasing costs over time,
- projects have been scaled back from the original proposed estimate because the funding will not go as far as originally projected, and
- other sources of funding have fallen through due to businesses seeking alternate investment opportunities because of delays to approve projects.

OSMRE does not systematically track its time frames to review and approve project proposals. OSMRE's regional offices track some information on the time it takes to review and approve project proposals. However, the information offices track varies, and the offices do not track information in a standardized way. For example, one regional office tracks detailed data on each step of the project proposal process, such as the dates when their initial review or vetting of project proposals begins at the field office and when it moves to the regional office. In contrast, other offices do not track these steps and instead only manually track a few steps in the overall process using spreadsheets. In addition, we found that some data fields on the time it takes OSMRE to review and approve project proposals were incomplete in some instances. For example, many projects were missing dates for steps in the process, and other projects had dates listed that were not in chronological order. As a result, we determined that the data were not reliable for purposes of analyzing OSMRE time frames for reviewing project proposals.

To help address challenges tracking reliable and complete information on its processes, in September 2022, OSMRE began exploring and evaluating the need for a dedicated system to track AMLER projects that is automated and web-based, according to an OSMRE document and officials. OSMRE requested but had not secured funding for this effort, as of March 2024.

OSMRE officials told us that they established a goal to process project proposals submitted by states and Tribes within 60 days. Specifically, OSMRE's fiscal year 2023 guidance states that the office will, as practicable, provide states and Tribes an initial assessment within 60 days either confirming there are no concerns with the proposed projects, identifying specific concerns, or stating that more review is needed by the agency to determine whether there are concerns. However, without systematically tracking time frames, OSMRE cannot know whether it is meeting its goal of providing an initial assessment, as practicable, of project proposals within 60 days.

According to our *Practices to Help Manage and Assess the Results of Federal Efforts*, regularly collected performance information allows for regular monitoring and oversight—both within a federal agency and by outside parties, such as Congress, the public, and other stakeholders.⁷⁰ By tracking reliable information in a consistent way, OSMRE can better monitor the length of time it takes to review project proposals and identify opportunities for improvement to streamline its process.

OSMRE Has Not Documented Policies and Procedures in Internal Guidance, Including Roles and Responsibilities

OSMRE regional officials identified as a challenge that OSMRE's headquarters office has not documented policies and procedures in internal guidance related to administration of the AMLER Program, including roles and responsibilities of headquarters, regional, and field office staff. Specifically, officials from one regional office that oversees five of the six eligible states said that an organizational chart does not exist, and staff are unsure who should complete certain responsibilities. In addition, according to these officials, because there is no clear guidance about the responsibilities between the regional and headquarters staff, headquarters staff are often duplicating work that the regional office's staff are already doing. In addition, officials from the Interstate Mining Compact Commission told us that the AMLER process is overbuilt and has several layers of redundant review at the field, regional, and headquarters levels that result in delays. If the regional offices could review and approve projects instead of headquarters, similar to the way

⁷⁰[GAO-23-105460](#). The explanatory statement accompanying the Consolidated Appropriations Act, 2023, noted that the committees expect OSMRE to increase its capacity and expertise to improve collaboration with states and Tribes and to process proposed projects in a timely and transparent manner. 168 Cong. Rec. S8652 (Dec. 20, 2022). While the explanatory statement noted Congress's expectation that OSMRE increase capacity, it did not provide OSMRE with any administrative resources with which to do so, according to OSMRE officials.

the AML fee-based program works, the process would be more efficient, according to an OSMRE regional official.

According to our *Standards for Internal Control in the Federal Government*, management should implement control activities through policies. Attributes that contribute to the design, implementation, and operating effectiveness of this principle include documenting responsibilities through policies.⁷¹ Specifically, management documents in policies the internal control responsibilities of the organization, and each unit documents policies in the appropriate level of detail to allow management to monitor the control activity. By documenting the roles and responsibilities at the headquarters, regional, and field office level in internal guidance, OSMRE could resolve staff uncertainty and help ensure that its offices are not duplicating efforts. This documentation could also help identify opportunities to streamline the process.

Several Participants Described AMLER Guidance as Unclear and Not Provided in a Timely Manner

Several participants identified challenges related to AMLER guidance—namely, that it is unclear and not provided in a timely manner. As previously mentioned, OSMRE updates AMLER guidance annually, and this guidance appears on the office’s website. States and Tribes access this guidance to confirm specific details on project eligibility.

Participants identified challenges related to the (1) clarity of guidance on issues such as project location requirements, and whether AMLER funds should be awarded through contracts or subawards;⁷² and (2) timeliness of guidance on issues such as requirements related to when a project intends to acquire real property.

Clarity of guidance. Some participants we interviewed, and the July 2020 state workgroup report we reviewed identified unclear guidance regarding project location requirements. OSMRE guidance provides that AMLER projects must be located on or adjacent to an abandoned mine site but does not define what constitutes an “adjacent” site, such as by

⁷¹[GAO-14-704g](#).

⁷²According to a report we reviewed, some states have operated under the assumption that AMLER project agreements are contracts; others handled them as subawards. There are expanded compliance requirements associated with federal grant regulations under 2 C.F.R. part 200 for subawards, according to the report, and some states were concerned about the impact this would have on their program administration and associated costs.

specifying an exact distance.⁷³ Officials from one state said that the advice from OSMRE officials on location requirements for eligible sites seems to change from one year to the next, and OSMRE has not documented a definition of “adjacent to” in written guidance. Furthermore, OSMRE field offices appear to have different interpretations on location and adjacency, according to the July 2020 state workgroup report on the AMLER Program.

Officials from the Crow Tribe, Hopi Tribe, and Navajo Nation noted that their Tribes face particular challenges finding suitable project locations that are adjacent to abandoned mine sites on their land. As previously mentioned, many sites on their land that may otherwise be suitable for economic development projects are not served by infrastructure, such as sewer and water utilities.

OSMRE officials said that OSMRE chose not to define the term “adjacent to” in order to allow flexibility for economic and development projects relative to AML sites. For example, an AMLER project seeking to develop an industrial site would likely be unsuitable to be placed on or next to an AML problem such as low-lying areas prone to flooding, according to these officials. They added that some states were operating under the assumption that projects had to “touch” AML sites, similar to the AML fee-based program requirement, while other states were not operating under that assumption. Therefore, clearer guidance in this regard could help states and Tribes have a uniform understanding of location requirements for sites eligible for the AMLER Program.

Several participants we interviewed also mentioned other challenges they have faced in the past related to OSMRE guidance, such as unclear guidance related to properly categorizing entities carrying out as

⁷³Specifically, OSMRE’s fiscal year 2023 guidance states that sites eligible under the AMLER Program include (1) unreclaimed Priority 1, Priority 2, or Priority 3 sites (i.e., AML lands and polluted waters) listed in e-AMLIS; (2) previously reclaimed AML lands and polluted waters; and (3) land adjacent to unreclaimed or previously reclaimed AML lands and polluted waters as justified by the state, Tribe, or the communities impacted by historical coal production. The guidance also specifies that currently permitted Title V mine sites are not eligible to receive AMLER funds. Formerly permitted mine sites reclaimed after August 3, 1977 (the date of SMCRA’s enactment) that are adjacent to, or connected with, an eligible AMLER project may be included in AMLER funding, according to the guidance.

contractors or subrecipients.⁷⁴ As discussed earlier, states and Tribes determine whether an entity carrying out a project is a subrecipient or a contractor.⁷⁵ In general, subrecipients are responsible for adhering to applicable federal program requirements specified in a subaward, whereas contractors are responsible for adhering to the terms of the contract.⁷⁶

Officials from one state told us that they paused soliciting AMLER applications in 2019 because of the ambiguity of whether entities carrying out projects should be considered subrecipients or contractors and sought assistance from OSMRE. A subrecipient from this same state told us that he received a letter from the state indicating that this subrecipient had been reclassified from a contractor to a subrecipient. This reclassification resulted in a significant administrative loss—about \$100,000—according to this subrecipient, because subrecipients are reimbursed on a time and materials basis and not based on a flat administrative fee. In addition, this subrecipient had to comply with additional reporting requirements. Further, according to the 2020 state workgroup report we reviewed, the ambiguity of whether to designate awardees as subrecipients or contractors resulted in vetting delays because of disagreements about the designation.

In 2020, states requested further guidance from OSMRE to help them distinguish between when contracts or subawards should be used for project proposals, and what corresponding requirements apply. OSMRE provided a checklist to help states and Tribes determine whether a project should follow rules for a contractor or a subrecipient.

Timeliness of guidance. Several state officials we interviewed also expressed concern about OSMRE not issuing AMLER guidance to states

⁷⁴According to a 2020 report by a state workgroup, the ambiguity of whether to designate awardees as subrecipients or contractors resulted in vetting delays because of disagreements about the designation.

⁷⁵As noted previously, federal grant regulations provide that in determining whether an agreement between a pass-through entity—here, a state or Tribe—and another non-federal entity casts the latter as a subrecipient or contractor, the substance of the relationship is more important than the form of the agreement. See 2 C.F.R. § 200.331(c).

⁷⁶As noted previously, states and Tribes function as pass-through entities in the AMLER Program.

in a timely manner.⁷⁷ For example, officials we interviewed from one state said that in the past, this state received the AMLER funds in the spring but did not receive the guidance until months later, as late as November or December.⁷⁸ In addition, OMSRE did not issue its fiscal year 2024 guidance until June 2024.⁷⁹

Furthermore, the guidance has discussed requirements that were not previously described in prior years' guidance and specified that those requirements also apply to projects approved in prior years. For example, in its fiscal year 2018 guidance, OSMRE discussed requirements related to the acquisition of real property that were not previously described in prior years' guidance.⁸⁰ Fiscal year 2019 guidance further noted that the real property requirements apply to all AMLER projects, including those from prior years. While federal real property requirements existed prior to being mentioned in the fiscal year 2018 guidance, OSMRE did not include them in the guidance until participants increasingly began to purchase land with AMLER funds, according to an OSMRE official.

Aside from this guidance, officials from one state said OSMRE provided some training on real property in March 2021, and OSMRE shared information on real property at meetings. However, according to officials from this same state, the training provided a broad overview but lacked

⁷⁷As previously mentioned, OSMRE updates AMLER guidance annually, and this guidance appears on the office's website. States and Tribes access this guidance to confirm specific details on project eligibility.

⁷⁸In a 2020 report we reviewed, states expressed concern about the increasing length of time it was taking OSMRE to annually release its guidance document. AML Pilot Work Group, *Report and Recommendations from the State Members of the Pilot Program Work Group* (July 2020).

⁷⁹Department of the Interior, Office of Surface Mining Reclamation and Enforcement, *Guidance for Project Eligibility Under the Abandoned Mine Land Economic Revitalization Program for Fiscal Year 2024*.

⁸⁰In contrast, AMLER guidance from fiscal years 2016 and 2017, the first 2 years of the program, did not specifically mention or refer to real property requirements. According to fiscal year 2018 AMLER guidance, real property means land or an interest in land, such as an easement, and may include land improvements and structures but excludes moveable machinery and equipment. The guidance noted that certain federal requirements, including federal grant regulations, apply to the acquisition use, management, and disposal of real property under federal grants, including AMLER grants. For example, according to the guidance, states and Tribes are to maintain 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 federal grant regulations, the state or Tribe must dispose of or revert title to the land in accordance with award documents, deed, or other legal instrument.

specific details related to the AMLER Program. Furthermore, in December 2023, OSMRE sent letters to states and Tribes to clarify OSMRE's position on the use of covenants or liens to protect the federal interest. According to a state official, OSMRE applied this condition to both ongoing and future AMLER projects.⁸¹

Officials from one of the three OSMRE regional offices that work on the AMLER Program said that challenges related to guidance and revisions on several issues such as the location of projects and real property have led to delays in the process. According to OSMRE, the office has delayed issuing updated AMLER guidance in part because the office

- used an incremental approach to develop AMLER guidance;
- had to determine how to develop guidance with limited available staff and resources;
- aimed to keep the program as flexible as possible and reach out to the states for input; and
- provided education on the program when changes in leadership occurred, such as new presidential administrations or department heads at OSMRE.

Officials also told us that because the AMLER Program was originally a pilot program, they modeled it after existing processes in place for the similar AML fee-based program. For example, OSMRE used a process for managing the Authorization to Proceed for the AMLER Program that

⁸¹Regarding OSMRE's requirement for liens or covenants, in testimony before the Senate Committee on Energy and Natural Resources, this state official said that the decision to demand covenants on all past, present, and future projects disrupts ongoing successful projects, and neglects those projects that may not have been as fruitful. *Examining the Implementation of Federal Coal Mine Land Reclamation and Abandoned Coal Mine Economic Revitalization Programs: Hearing Before the S. Comm. on Energy and Nat. Resources*, 118th Cong. 3-4 (2023) (statement of Rob Rice, Deputy Cabinet Secretary and Director, Division of Land Restoration, West Virginia Department of Environmental Protection). According to a December 2023 letter from OSMRE to the Kentucky Energy and Environment Cabinet Secretary, OSMRE determined that requiring certain non-federal entities to record covenants or liens was the best way to ensure that the federal interest is protected and that all parties and the public are aware of the obligations associated with the award. According to OSMRE officials, whether a covenant or lien must be filed will depend on the facts and circumstances surrounding each AMLER project, including, among other things, whether federal funds will be used to purchase or improve real property and the complexity of the financial arrangement. OSMRE stated that it will make every effort to inform recipients and subrecipients of the need to file covenants or liens no later than the preliminary approval of the project. According to OSMRE officials, they will continue to evaluate the need for filing of covenants or liens on a case-by-case basis, in coordination with state and tribal programs.

was documented in the FAM.⁸² In February 2024, OSMRE officials stated that they are in the process of updating the FAM to include management of the AMLER Program. According to these officials, the FAM update will include the

- AMLER Program overview including eligibility language and goals;
- grant application and submission process;
- application for project proposal and submission process;
- compliance with federal requirements including federal interest in real property;
- Authorization to Proceed process; and
- post-award grant monitoring requirements and process for closing out a grant.

According to *our Standards for Internal Control in the Federal Government*, information should be recorded and communicated internally within the federal government, and externally to relevant parties, such as states, Tribes, and subrecipients.⁸³ Clearly documented and timely guidance that addresses the challenges states and Tribes identified would help OSMRE regional and field office staff, as well as state and tribal officials, have a uniform understanding of how to handle issues such as location requirements. OSMRE has an opportunity to do so as part of its planned FAM update.

Conclusions

Millions of Americans live less than 1 mile from an abandoned coal mine. After mines are abandoned, the surrounding areas may not be in a ready state for development, such as building new businesses, and communities may have suffered economic losses. Further, abandoned mine lands may pose environmental hazards, such as groundwater contamination, to the surrounding communities.

Since the AMLER Program first received appropriations in fiscal year 2016, OSMRE has funded hundreds of projects across six states and three Tribes. The office has taken various actions to administer the program, including working with states and Tribes and providing training.

⁸²According to OSMRE's website, the office uses the Federal Assistance Manual to show how OSMRE and its grantees manage federal grants. Office of Surface Mining Reclamation and Enforcement, *Federal Assistance Manual* (Aug. 4, 2021).

⁸³[GAO-14-704g](#).

However, organizational challenges, such as limited staff and resources remain. The office initially structured the program to provide states and Tribes with certain flexibilities in how they implement projects, which has sometimes led to challenges like unclear and untimely guidance, and confusion among states and Tribes.

We identified opportunities for AMLER guidance to provide clarification in the following areas: what options, if any, are available to states and Tribes for using certain funds that cannot otherwise be spent in a given grant year; roles and responsibilities of OSMRE staff in headquarters, regional, and field offices; and improving the clarity and timeliness of guidance to states and Tribes. OSMRE has opted to use an incremental and collaborative approach to develop AMLER guidance. In addition, the office has delayed policy decisions, in part, due to administration changes. By addressing these issues in documented guidance, OSMRE can better ensure states and Tribes have a uniform understanding of program requirements.

We also identified areas in which policies and procedures around data collection and monitoring could be strengthened. Specifically, regular collection of reliable and complete information on how long it takes to review and approve project proposals could strengthen data collection and program monitoring. OSMRE requested, but has not yet received, funding for an automated, web-based data system to track AMLER projects. By addressing data collection and monitoring, OSMRE could better ensure that it obtains the high-quality information it needs to monitor program performance, enhance its ability to understand whether it is meeting its goal of providing initial assessments of project proposals within 60 days, and identify opportunities for improvement to streamline its process.

Recommendations for Executive Action

We are making the following four recommendations to OSMRE:

The Principal Deputy Director of OSMRE should determine and document what options, if any, states and Tribes have for using funds that cannot be otherwise spent in a given grant year. (Recommendation 1)

In updating the Federal Assistance Manual, the Principal Deputy Director of OSMRE should ensure that OSMRE provides states and Tribes clear and timely documented guidance that addresses challenges states and Tribes identified, such as those around location requirements. (Recommendation 2)

The Principal Deputy Director of OSMRE should regularly track reliable and complete information in a consistent and systematic way on how long it takes to review and approve project proposals and use this information to monitor processing time. (Recommendation 3)

The Principal Deputy Director of OSMRE should document the roles and responsibilities of OSMRE staff in headquarters, regional, and field offices, and seek opportunities to streamline the review process. (Recommendation 4)

Agency Comments

We provided a draft of this report to the Department of the Interior for review and comment. We received written comments from OSMRE, on behalf of Interior, which are reproduced in appendix II. The agency agreed with our four recommendations and also provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees, the Secretary of the Interior, the Principal Deputy Director of the Office of Surface Mining Reclamation and Enforcement, and appropriate officials from Alabama, Crow Tribe, Hopi Tribe, Kentucky, Navajo Nation, Ohio, Pennsylvania, Virginia, West Virginia, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions concerning this report, please contact me at (202) 512-3841 or JohnsonCD1@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix III.



Cardell D. Johnson
Director, Natural Resources and Environment

List of Committees

The Honorable Jeff Merkley
Chair
Subcommittee on Interior, Environment, and Related Agencies
Committee on Appropriations
United States Senate

The Honorable Lisa Murkowski
Ranking Member
Subcommittee on Interior, Environment, and Related Agencies
Committee on Appropriations
United States Senate

The Honorable Mike Simpson
Chair
Subcommittee on Interior, Environment, and Related Agencies
Committee on Appropriations
House of Representatives

The Honorable Chellie Pingree
Ranking Member
Subcommittee on Interior, Environment, and Related Agencies
Committee on Appropriations
House of Representatives

Appendix I: Applications for Project Proposals and Projects Funded through the Abandoned Mine Land Economic Revitalization Program

Table 1: Applications for Project Proposals and Projects Funded through the Abandoned Mine Land Economic Revitalization (AMLER) Program, by State or Tribe, as of March 2024

State or Tribe	Number of applications	Number of unique project applicants	Number of projects funded	Number of subrecipients receiving funding multiple times
Alabama ^a	48	19	19	4
Crow Tribe ^b	0	N/A	1	0
Hopi Tribe ^c	0	N/A	0	0
Kentucky ^d	502	239	86	18
Navajo Nation ^e	8	5	2	0
Ohio ^f	29	27	32	0
Pennsylvania ^g	16	12	78	7
Virginia ^h	107	52	42	8
West Virginia ⁱ	290	170	72	10
Total	1000	524	332	47

N/A = not applicable.

Source: AMLER application information provided by states and Tribes. | GAO-24-106680

^aAlabama did not receive AMLER funding in fiscal year 2016; Alabama did not solicit applications for the fiscal year 2022 grant and, as of January 2024, had not yet applied for its fiscal year 2023 program funding.

^bThe Crow Tribe became eligible to receive AMLER funding in fiscal year 2018. As of September 2023, the Crow Tribe had applied for fiscal year 2018 funding.

^cThe Hopi Tribe became eligible to receive AMLER funding in fiscal year 2018. As of September 2023, the Hopi Tribe had selected one project for review by OSMRE but had not yet applied for any of its funding.

^dAs of January 2024, Kentucky had not applied for its fiscal year 2023 AMLER funding.

^eThe Navajo Nation became eligible to receive AMLER funding in fiscal year 2018. As of September 2023, the Navajo Nation had applied for its fiscal year 2018 and fiscal year 2019 funding.

^fOhio became eligible to receive AMLER funding in fiscal year 2017 and solicited applications for fiscal year 2021 funding. As of February 2024, Ohio had applied for but had not received its fiscal year 2023 funding.

^gPennsylvania solicited applications for fiscal year 2022 and fiscal year 2023 AMLER funding; for other years it chose projects from an internal list of priority projects based on Interior's Enhanced Abandoned Mine Land Inventory System, an inventory of land and water impacted by past mining.

^hVirginia became eligible to receive AMLER funding in fiscal year 2017.

ⁱApplicants in West Virginia not selected for AMLER funding in fiscal year 2016 are not included because West Virginia did not retain application information for fiscal year 2016.

Appendix II: Comments from the Department of the Interior

United States Department of the Interior



OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT
Washington, D.C. 20240



Cardell Johnson
Director, Natural Resource and Environment
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Johnson,

Thank you for providing the Department of the Interior (Department) an opportunity to review and comment on the draft Government Accountability Office (GAO) report titled, "Abandoned Mine Land Economic Revitalization (AMLER) Program (Draft Report for Agency Comment, Job Code 106680)" (GAO-24-106680). We appreciate GAO's review of the Office of Surface Mining Reclamation and Enforcement's (OSMRE) AMLER program.

The GAO issued four recommendations to OSMRE to address its findings. Below is a summary of actions taken or planned to implement the recommendations:

Recommendation 1: The Principal Deputy Director of OSMRE should determine and document what options, if any, states and Tribes have for using funds that cannot be otherwise spent in a given grant year.

Response: Concur. OSMRE will identify and document what options, if any, would allow States and Tribes to track and use funds that cannot be used during any given grant year.

Responsible Official: Principal Deputy Director, OSMRE

Recommendation 2: In updating the Federal Assistance Manual, the Principal Deputy Director of OSMRE should ensure that OSMRE provides states and Tribes timely documented guidance that addresses challenges states and Tribes identified, such as those around location requirements, and the clarity and timeliness of guidance.

Response: Concur. OSMRE is in the process of updating the Federal Assistance Manual (FAM) to include general information related to the management of the AMLER program. As part of its planned FAM update, OSMRE will, as practicable given the lack of permanent authorizing language for the AMLER program, provide guidance on challenges identified by GAO and the states/Tribes.

**Appendix II: Comments from the Department
of the Interior**

Responsible Official: Principal Deputy Director, OSMRE

Recommendation 3: The Principal Deputy Director of OSMRE should regularly track reliable and complete information in a consistent and systematic way on how long it takes to review and approve project proposals and use this information to monitor processing time.

Response: Concur. OSMRE will enhance policies and procedures to strengthen program monitoring and associated data requirements.

Responsible Official: Principal Deputy Director, OSMRE

Recommendation 4: The Principal Deputy Director of OSMRE should document the roles and responsibilities of OSMRE staff in headquarters, regional, and field offices, and seek opportunities to streamline the review process.

Response: Concur. As part of OSMRE's ongoing efforts to improve the AMLER program, OSMRE will continue to evaluate the roles and responsibilities of staff in its headquarters, regional, and field offices implementing the AMLER program to ensure that AMLER funds produce on the ground results expeditiously and efficiently.

Responsible Official: Principal Deputy Director, OSMRE

Enclosed are technical comments on the draft report for your consideration. If you should have any questions or need additional information, please contact Taneka Littlejohn, OSMRE Audit Liaison at tlittlejohn@osmre.gov.

Sincerely,

STEVEN
FELDGUS

Steve Feldgus
Principal Deputy Assistant Secretary
Land and Minerals Management

Digitally signed by STEVEN
FELDGUS
Date: 2024.06.07 12:49:59
-04'00'

Enclosure

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

Cardell D. Johnson, (202) 512-3841 or JohnsonCD1@gao.gov.

Staff Acknowledgments

In addition to the contact named above, Casey L. Brown (Assistant Director), Celia Rosario Mendive (Analyst in Charge), Brian Hartman, Angela Miles, and Sruti Ramachandran made key contributions to this report. Also contributing to this report were Adrian Apodaca, Leia Dickerson, Carlos Diz, Cindy Gilbert, Tom James, Jocelyn Kuo, Joseph Maher, John Mingus, Patricia Moye, Leslie Pollock, Brenda Rabinowitz, and Caitlin Scoville.

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