

FY18 Cleanup Cooperative Agreement

Terms and Conditions

Please note that these Terms and Conditions (T&Cs) apply to Brownfields Cleanup Cooperative Agreements awarded under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) § 104(k).

I. GENERAL FEDERAL REQUIREMENTS

A. Federal Policy and Guidance

1. Cooperative Agreement Recipients: By awarding this cooperative agreement, the Environmental Protection Agency (EPA) has approved the proposal for the Cooperative Agreement Recipient (CAR) submitted in the Fiscal Year 2018 competition for Brownfields Cleanup cooperative agreements.
2. In implementing this agreement, the CAR shall ensure that work done with cooperative agreement funds complies with the requirements of CERCLA § 104(k). The CAR shall also ensure that cleanup activities supported with cooperative agreement funding comply with all applicable federal and state laws and regulations. The CAR must ensure cleanups are protective of human health and the environment.
3. The CAR must consider whether it is required to conduct cleanups through a State or Tribal response program. If the CAR chooses not to participate in a State or Tribal response program, then the CAR is required to consult with the EPA Project Officer to ensure the proposed cleanup is protective of human health and the environment.
4. A term and condition or other legally binding provision shall be included in all agreements entered into with the funds awarded under this agreement, or when funds awarded under this agreement are used in combination with non-federal sources of funds, to ensure that the CAR complies with all applicable federal and state laws and requirements. In addition to CERCLA § 104(k), federal applicable laws and requirements include 2 CFR Part 200.
6. The CAR must comply with federal cross-cutting requirements. These requirements include, but are not limited to, DBE requirements found at 40 CFR Part 33; OSHA Worker Health & Safety Standard 29 CFR § 1910.120; Uniform Relocation Act (40 USC § 61); National Historic Preservation Act (16 USC § 470); Endangered Species Act (P.L. 93-205); Permits required by Section 404 of the Clean Water Act; Executive Order 11246, Equal Employment Opportunity, and implementing regulations at 41 CFR § 60-4; Contract Work Hours and Safety Standards Act, as amended (40 USC §§ 327-333); the Anti-Kickback Act (40 USC § 276c); and Section 504 of the Rehabilitation Act of 1973 as implemented by Executive Orders 11914 and 11250.
7. The CAR must comply with Davis-Bacon Act prevailing wage requirements and associated U.S. Department of Labor (DOL) regulations for all construction, alteration, and repair contracts and subcontracts awarded with funds provided under this agreement by operation of

CERCLA § 104(g). For more detailed information on complying with Davis-Bacon please see the Davis-Bacon Addendum to these terms and conditions.

(EPA PROJECT OFFICER MUST ATTACH APPROPRIATE DAVIS-BACON TERMS AND CONDITIONS TO THIS COOPERATIVE AGREEMENT THEN DELETE PROMPT.)

II. SITE OWNERSHIP/RECIPIENT ELIGIBILITY REQUIREMENTS

A. Site Ownership

1. The CAR may only clean up sites it solely owns. The CAR must retain ownership of the site throughout the period of performance. For the purposes of this agreement, the term “owns” means fee simple title unless EPA’s Office of Brownfields and Land Revitalization previously approved a different ownership arrangement.

B. Obligations for CARs Asserting a Limitation on Liability from CERCLA § 107

1. EPA awarded this cooperative agreement to the CAR based on information indicating that the CAR would not use cooperative agreement funds to pay for a response cost at the site for which the CAR was potentially liable under CERCLA § 107. The CAR must demonstrate that it meets the requirements for one of the Landowner Liability Protections as either a Bona Fide Prospective Purchaser (BFPP), Contiguous Property Owner (CPO), or Innocent Landowner (ILO). These requirements include certain threshold criteria and continuing obligations that must be met in order for the CAR to maintain its status. If the CAR fails to meet these obligations, EPA may disallow the costs incurred under this cooperative agreement for cleaning up the site under CERCLA § 104(k)(8)(C). The Landowner Liability Protection requirements include:

- a. Performing “all appropriate inquiry” into the previous ownership and uses of the site on or before the date of acquisition of the site.

- b. No affiliation.

- i. Not being potentially liable or affiliated with any other person who is potentially liable for response costs at the site through:

- I. any direct or indirect familial relationship; or

- II. any contractual, corporate, or financial relationships.

- ii. A reorganized business entity that was potentially liable.

(Does not specifically apply for the ILO protection, but a person must still establish by a preponderance of the evidence that the act or omission that caused the release or threat of release of hazardous substances and any resulting damages were caused by a third party with whom the person does not have an employment, agency, or contractual relationship.)

- c. Complying with any land use restrictions established or relied on in connection with the response action at the site and not impeding the effectiveness or integrity of institutional controls employed in connection with the response action.

- d. Exercising appropriate care with respect to hazardous substance releases by taking reasonable steps to stop any continuing releases, prevent any threatened future releases, and prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substance.
- e. Providing full cooperation, assistance, and access to persons that are authorized to conduct response actions or natural resource restoration at the site from which there has been a release or threatened release.
- f. Complying with information requests and administrative subpoenas (does not specifically apply for the ILO protection).
- g. Providing all legally required notices with respect to the discovery or release of any hazardous substances at the site (does not specifically apply for the ILO protection).

Notwithstanding the CAR's continuing obligations under this agreement, the CAR is subject to the applicable liability provisions of CERCLA governing its status as a BFPP, CPO, or ILO. CERCLA requires additional obligations to maintain the liability limitations for BFPP, CPO, and ILO; the relevant provisions for these obligations include §§ 101(35), 101(40), 107(b), 107(q) and 107(r).

C. Site Substitution and Cleanup Method Changes

- 1. The CAR must use funds provided by this agreement to clean up the brownfield site(s) in the EPA approved workplan. The CAR may not substitute a different brownfield site.
- 2. The CAR may not make substantial changes to the cleanup method described in the workplan, including changes to the expected cleanup based on public comment or other reasons, without prior EPA approval.

III. GENERAL COOPERATIVE AGREEMENT ADMINISTRATIVE REQUIREMENTS

A. Terms of the Agreement

- 1. If after 18 months from the date of award, EPA determines that the CAR has not made sufficient progress in implementing its cooperative agreement, the CAR must implement a corrective action plan concurred on by the EPA Project Officer and approved by the Award Official or Grants Management Officer. Alternatively, EPA may terminate this agreement under 2 CFR § 200.339 for material non-compliance with its terms, or with the consent of the CAR as provided at 2 CFR § 200.339, depending on the circumstances. Sufficient progress is indicated when an appropriate remediation plan is in place, institutional control development (if necessary) has commenced, initial community involvement activities have taken place, relevant state or tribal pre-cleanup requirements are being addressed, and a solicitation for remediation services has been issued.

B. Substantial Involvement

1. EPA may be substantially involved in overseeing and monitoring this cooperative agreement.
 - a. Substantial involvement by EPA generally includes administrative activities by the EPA Project Officer such as monitoring, reviewing project phases, and approving substantive terms included in professional services contracts. EPA will not direct or recommend that the CAR enter into a contract with a particular entity.
 - b. Substantial EPA involvement may include reviewing financial and program performance reports, monitoring all reporting, record-keeping, and other program requirements.
 - c. EPA may waive any of the provisions in Section III.B.1. at its own initiative or upon request by the CAR. EPA will provide waivers in writing.
2. Effects of EPA's substantial involvement include:
 - a. EPA's review of any project phase, document, or cost incurred under this cooperative agreement will not have any effect upon CERCLA § 128 *Eligible Response Site* determinations or rights, authorities, and actions under CERCLA or any federal statute.
 - b. The CAR remains responsible for ensuring that all cleanups are protective of human health and the environment and comply with all applicable federal and state laws. If changes to the expected cleanup become necessary based on public comment or other reasons, the CAR must consult with EPA and the State.
 - c. The CAR remains responsible for ensuring costs are allowable under 2 CFR Part 200, Subpart E.

C. Cooperative Agreement Recipient Roles and Responsibilities

1. The CAR must acquire the services of a Qualified Environmental Professional(s) as defined in 40 CFR § 312.10 to coordinate, direct, and oversee the brownfield site cleanup activities at a particular site, if it does not have such a professional on staff.

REMOVE IF WORKPLAN DOES NOT INCLUDE SUBAWARDS

2. Subawards are defined at 2 CFR § 200.92. The CAR may not subaward to for-profit organizations or individual consultants. The CAR must obtain commercial services and products necessary to carry out this agreement under competitive procurement procedures as described in 2 CFR §§ 200.317 through 200.326. In addition, EPA policy encourages awarding subawards competitively and the CAR must consider awarding subawards through competition. Recipients may consult EPA's [Subaward Policy](#) and [Best Practice Guide for Procuring Services, Supplies, and Equipment Under EPA Assistance Agreements](#) for additional guidance.

SELECT THE APPROPRIATE LANGUAGE

3. Cybersecurity – The recipient agrees that when collecting and managing environmental data under this cooperative agreement, it will protect the data by following all State law cybersecurity requirements.

- a. EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement are secure. For purposes of this Section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition.

If the recipient's connections as defined above do not go through the Environmental Information Exchange Network or EPA's Central Data Exchange, the recipient agrees to contact the EPA Project Officer (PO) no later than 90 days after the date of this award and work with the designated Regional/Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data.

- b. The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in Section III.C.3.a. above if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under 2 CFR § 200.331(d), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and EPA.
4. Geospatial Data Standards – All geospatial data created must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at www.fgdc.gov.

D. Quarterly Progress Reports

1. In accordance with EPA regulations 2 CFR Parts 200 and 1500 (specifically, § 200.328, *Monitoring and Reporting Program Performance*), the CAR agrees to submit quarterly progress reports to the EPA Project Officer within 30 days after each reporting period. The reporting periods are October 1 – December 31 (1st quarter); January 1 – March 31 (2nd quarter); April 1 – June 30 (3rd quarter); and July 1 – September 30 (4th quarter).

These reports shall cover work status, work progress, difficulties encountered, preliminary data results and a statement of activity anticipated during the subsequent reporting period, including a description of equipment, techniques, and materials to be used or evaluated. A discussion of expenditures and financial status for each workplan task, along with a comparison of the percentage of the project completed to the project schedule and an

explanation of significant discrepancies shall be included in the report. The report shall also include any changes of key personnel concerned with the project.

The CAR shall refer to and utilize the Quarterly Reporting function resident within the Assessment, Cleanup and Redevelopment Exchange System (ACRES) to submit quarterly reports.

2. The CAR must submit progress reports on a quarterly basis to the EPA Project Officer. Quarterly progress reports must include:
 - a. A summary that clearly differentiates between activities completed with EPA funds provided under the Brownfield Cleanup cooperative agreement, including the required cost-share, and related activities completed with other sources of leveraged funding.
 - b. A summary and status of approved activities performed during the reporting quarter; a summary of the performance outputs/outcomes achieved during the reporting quarter; and a description of problems encountered during the reporting quarter that may affect the project schedule.
 - c. A comparison of actual accomplishments to the anticipated outputs/outcomes specified in the EPA-approved workplan and reasons why anticipated outputs/outcomes were not met.
 - d. An update on project schedule(s) and milestones, including an explanation of any discrepancies from the EPA-approved workplan.
 - e. A budget recap summary table with the following information: current approved project budget; EPA funds drawn down during the reporting quarter; costs drawn down to date (cumulative expenditures); cost-share contributions; program income generated and used (if applicable); and total remaining funds. The CAR should include an explanation of any discrepancies in the budget from the EPA-approved workplan, of cost overruns or high unit costs, and other pertinent information.

Note: Each property where cleanup activities were performed and/or completed must have its corresponding information updated in ACRES prior to submitting the quarterly progress report (see Section III.E. below).

REMOVE IF WORKPLAN DOES NOT INCLUDE SUBAWARDS

3. Because the workplan and budget for this agreement includes subawards, the CAR is a pass-through entity under the “Establishing and Managing Subaward” General Term and Condition of this agreement. As the pass-through entity, the CAR must report to EPA on its subaward monitoring activities under 2 CFR § 200.331(d), including the following information on subawards as part of the CAR’s quarterly performance reporting:
 - a. Summaries of results of reviews of financial and programmatic reports.
 - b. Summaries of findings from site visits and/or desk reviews to ensure effective subrecipient performance.
 - c. Environmental results the subrecipient achieved.

- d. Summaries of audit findings and related pass-through entity management decisions.
 - e. Actions the pass-through entity has taken to correct any deficiencies such as those specified at [2 CFR § 200.331\(e\)](#), [2 CFR § 200.207](#) and [2 CFR § 200.338, Remedies for Noncompliance](#).
4. The CAR must maintain records that will enable it to report to EPA on the amount of funds disbursed by the CAR on the specific property(ies) under this cooperative agreement.
 5. In accordance with 2 CFR § 200.328(d)(1), the CAR agrees to inform EPA as soon as problems, delays, or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the EPA-approved workplan.

E. Property Profile Submission

1. The CAR must report on interim progress (i.e., clean up started) and any final accomplishments (i.e., clean up completed, contaminants removed, institutional controls, engineering controls) by completing and submitting relevant portions of the Property Profile Form using the Assessment, Cleanup and Redevelopment Exchange System (ACRES). The CAR must enter the data in ACRES as soon as the interim action or final accomplishment has occurred, or within 30 days after the end of each reporting quarter. The CAR must enter any new data into ACRES prior to submitting the quarterly progress report to the EPA Project Officer. EPA will provide the CAR with training prior to obtaining access to ACRES. The training is required to obtain access to ACRES. The CAR must utilize the ACRES system.

F. Final Technical Cooperative Agreement Report with Environmental Results

1. In accordance with EPA regulations 2 CFR Parts 200 and 1500 (specifically, § 200.328 *Monitoring and Reporting Program Performance*), the CAR agrees to submit to the EPA Project Officer within 90 days after the expiration or termination of the approved project period a final technical report on the cooperative agreement and at least one reproducible copy suitable for printing. The final technical report shall document project activities over the entire project period and shall include brief information on each of the following areas:
 - a. a comparison of actual accomplishments with the anticipated outputs/outcomes specified in the EPA-approved workplan;
 - b. reasons why anticipated outputs/outcomes were not met; and
 - c. other pertinent information, including when appropriate, analysis and explanation of cost overruns or high unit costs.

G. Conflict of Interest

1. Recipients are subject to EPA's [Financial Assistance Conflict of Interest Policy](#) when making and managing subawards.

2. Recipient employees, officials, contractors (including consultants), or other individual associated with the CAR will neither solicit nor accept gratuities, favors, or anything of monetary value from subrecipients. Recipients may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards of conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by affected parties.

IV. FINANCIAL ADMINISTRATION REQUIREMENTS

**REMOVE IF THE ENTIRE COST-SHARE IS WAIVED BY EPA
EDIT IF A PORTION OF THE COST-SHARE IS WAIVED BY EPA**

A. Cost-Share Requirement

1. CERCLA § 104(k)(10)(B)(iii) requires the recipient of this cooperative agreement to pay a cost-share (which may be in the form of a contribution of money, labor, material, or services from a non-federal source unless a Federal statute provides otherwise) of at least 20% (i.e., 20% of the total federal funds awarded, which equates to 16.67% of total project costs as shown in the budget table of this agreement). The cost-share contribution must be for costs that are eligible and allowable under the cooperative agreement, be supported by adequate documentation, and otherwise comply with 2 CFR § 200.306. The recipient may use allowable administrative costs borne by the recipient or a third party to meet its cost-share obligation, including indirect costs, subject to the 5% limit on administrative costs described in Section IV.3. Administrative costs, whether paid for by EPA or used as cost-share (or a combination of both), may not exceed the 5% limit.

B. Eligible Uses of the Funds for the Cooperative Agreement Recipient

1. To the extent allowable under the EPA-approved workplan, cooperative agreement funds may be used for eligible programmatic expenses necessary to clean up sites. Eligible programmatic expenses include activities described in Section V. of these Terms and Conditions. In addition, eligible programmatic expenses may include:
 - a. Ensuring cleanup activities at a particular site are authorized by CERCLA § 104(k) and the EPA-approved workplan.
 - b. Ensuring that a cleanup complies with applicable requirements under federal and state laws, as required by CERCLA § 104(k).
 - c. Limited site characterization including confirming the effectiveness of the proposed cleanup design or the effectiveness of a cleanup once an action has been completed.
 - d. Preparing an Analysis of Brownfields Cleanup Alternatives (ABCA) which will include information about the site and contamination issues, cleanup standards, applicable laws, alternatives considered, and the proposed cleanup.
 - e. Ensuring that public participation requirements are met. This includes preparing a Community Relations Plan which will include reasonable notice, opportunity for

public involvement and comment on the proposed cleanup, and response to comments.

- f. Establishing an Administrative Record.
- g. Developing a Quality Assurance Project Plan (QAPP) as required by 2 CFR § 1500.11. The specific requirement for a QAPP is outlined in *Implementation of Quality Assurance Requirements for Organizations Receiving EPA Financial Assistance* available at <https://www.epa.gov/grants/implementation-quality-assurance-requirements-organizations-receiving-epa-financial>.
- h. Using a portion of the cooperative agreement funds to purchase environmental insurance for the remediation of the site. Funds may not be used to purchase insurance intended to provide coverage for any of the ineligible uses under Section IV.C.
- i. Any other eligible programmatic costs, including direct costs incurred by the recipient in reporting to EPA; procuring and managing contracts; awarding, monitoring, and managing subawards to the extent required to comply with 2 CFR § 200.331 and the “Establishing and Managing Subawards” General Term and Condition; and carrying out community involvement pertaining to the cleanup activities.

REMOVE IF RECIPIENT IS NOT A LOCAL GOVERNMENT

2. **Local Governments Only.** No more than 10% of the funds awarded by this agreement may be used by the CAR itself as a programmatic cost for Brownfield Program development and implementation (including monitoring of health and institutional controls). The CAR must maintain records on funds that will be used to carry out this task to ensure compliance with this requirement.

ENTER MAX AMOUNT ALLOWABLE FOR ADMINISTRATIVE COSTS

3. Under CERCLA § 104(k)(5)(B), CARs and subrecipients may use up to 5% of the amount of federal funding for this cooperative agreement for administrative costs, including indirect costs under 2 CFR § 200.414. The limit on administrative costs for this agreement is **\$YYYY**. The total amount of indirect costs and any direct costs for cooperative agreement administration by the CAR or subaward administration by subrecipients paid for by EPA under the cooperative agreement, or used to meet the recipient’s cost-share, may not exceed this amount. As required by 2 CFR § 200.403(d), the CAR and subrecipients must classify administrative costs as direct or indirect consistently and may not classify the same types of cost in both categories.

Eligible cooperative agreement and subaward administrative costs subject to the 5% limitation include direct costs for:

- a. Costs incurred to comply with the following provisions of the *Uniform Administrative Requirements for Cost Principles and Audit Requirements for Federal Awards* at 2 CFR Parts 200 and 1500 other than those identified as programmatic.
 - i. Record-keeping associated with equipment purchases required under 2 CFR § 200.313;
 - ii. Preparing revisions and changes in the budgets, scopes of work, program plans

- and other activities required under 2 CFR § 200.308;
- iii. Maintaining and operating financial management systems required under 2 CFR § 200.302;
 - iv. Preparing payment requests and handling payments under 2 CFR § 200.305;
 - v. Financial reporting under 2 CFR § 200.327.
 - vi. Non-federal audits required under 2 CFR 200 Subpart F; and
 - vii. Closeout under 2 CFR § 200.343 with the exception of preparing the recipient's final performance report. Costs for preparing this report are programmatic and are not subject to the 5% limitation on direct administrative costs.
- b. Pre-award costs for preparation of the proposal and application for this cooperative agreement (including the final workplan) or applications for subawards are not allowable as direct costs but may be included in the CAR's or subrecipient's indirect cost pool to the extent authorized by 2 CFR § 200.460.

C. Ineligible Uses of the Funds for the Cooperative Agreement Recipient

1. Cooperative agreement funds shall not be used by the CAR for any of the following activities:
 - a. Pre-cleanup environmental assessment activities such as site assessment, identification, and characterization with the exception of site monitoring activities that are reasonable and necessary during the cleanup process, including determination of the effectiveness of a cleanup;
 - b. Monitoring and data collection necessary to apply for, or comply with, environmental permits under other federal and state laws, unless such a permit is required as a component of the cleanup action;
 - c. Construction, demolition, and site development activities that are not cleanup actions (e.g., marketing of property, construction of a new facility, or addressing public or private drinking water supplies that have deteriorated through ordinary use);
 - d. Job training unrelated to performing a specific cleanup at a site covered by the cooperative agreement;
 - e. To pay for a penalty or fine;
 - f. To pay a federal cost-share requirement (e.g., a cost-share required by another federal grant) unless there is specific statutory authority;
 - g. To pay for a response cost at a brownfield site for which the CAR is potentially liable under CERCLA § 107;
 - h. To pay a cost of compliance with any federal law, excluding the cost of compliance with laws applicable to the cleanup; and
 - i. Unallowable costs (e.g., lobbying and purchases of alcoholic beverages) under 2 CFR 200, Subpart E.

2. Cooperative agreement funds may not be used for any of the following properties:
 - a. Facilities listed, or proposed for listing, on the National Priorities List (NPL);
 - b. Facilities subject to unilateral administrative orders, court orders, and administrative orders on consent or judicial consent decree issued to or entered by parties under CERCLA;
 - c. Facilities that are subject to the jurisdiction, custody or control of the United States government except for land held in trust by the United States government for an Indian tribe; or
 - d. A site excluded from the definition of a brownfield site for which EPA has not made a property-specific funding determination.

V. CLEANUP REQUIREMENTS

A. Authorized Cleanup Activities

1. The CAR shall prepare an analysis of brownfield site cleanup alternatives (ABCA), or equivalent state Brownfields program document, which will include information about the site and contamination issues (i.e., exposure pathways, identification of contaminant sources, etc.); cleanup standards; applicable laws; alternatives considered; and the proposed cleanup. The evaluation of alternatives must include effectiveness, ability to implement, and the cost of the response proposed. The evaluation of alternatives must also consider the resilience of the remedial options to address potential adverse impacts caused by extreme weather events (e.g., sea level rise, increased frequency and intensity of flooding, etc.). The alternatives may additionally consider the degree to which they reduce greenhouse gas discharges, reduce energy use or employ alternative energy sources, reduce volume of wastewater generated/disposed, reduce volume of materials taken to landfills, and recycle and re-use materials generated during the cleanup process to the maximum extent practicable. The evaluation will include an analysis of reasonable alternatives including no action. The cleanup method chosen must be based on this analysis.
2. Prior to conducting or engaging in any on-site activity with the potential to impact historic properties (such as invasive sampling or cleanup), the CAR shall consult with the EPA Project Officer regarding potential applicability of the National Historic Preservation Act (NHPA) (16 USC § 470) and, if applicable, shall assist EPA in complying with any requirements of the NHPA and implementing regulations.

B. Quality Assurance (QA) Requirements

1. If environmental data are to be collected as part of the brownfield cleanup (e.g., cleanup verification sampling, post-cleanup confirmation sampling), the CAR shall comply with 2 CFR § 1500.11 requirements to develop and implement quality assurance practices sufficient to produce data adequate to meet project objectives and to minimize data loss. State law may impose additional QA requirements.
2. The recipient shall develop Quality Assurance Project Plans (QAPP) to support all

environmental data operations in accordance with “The EPA New England Planning and Documenting Brownfields Projects - Generic Quality Assurance Project Plans and Site Specific QAPP Addenda,” March 2009. The term “environmental data operations” refers to any measurement or information that describe environmental processes, conditions, or location; ecological or health effects; produced from models or surveys; compiled from other sources such as data bases and literature; or the performance of environmental technology. The Quality Assurance Project Plan must be approved by EPA before data collection and/or data generation activities begin. The recipient will submit the QAPP to the following:

EPA Project Officer (see page 1 of the assistance agreement for name and address), and

Regional Quality Assurance Manager (EQA)
US Environmental Protection Agency
11 Technology Drive
North Chelmsford, MA 01863

INCLUDE FOR AWARDS THAT INCLUDE QA AND ARE MORE THAN \$200,000

3. **Competency of Organizations Generating Environmental Measurement Data:** In accordance with Agency Policy Directive Number FEM-2012-02, *Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements*, the CAR agrees, by entering into this agreement, that it has demonstrated competency prior to award, or alternatively, where a pre-award demonstration of competency is not practicable, the CAR agrees to demonstrate competency prior to carrying out any activities under the award involving the generation or use of environmental data. The CAR shall maintain competency for the duration of the project period of this agreement and this will be documented during the annual reporting process. A copy of the Policy is available online at http://www.epa.gov/fem/lab_comp.htm or a copy may also be requested by contacting the EPA Project Officer for this award.

C. Community Relations and Public Involvement in Cleanup Activities

1. All cleanup activities require a site-specific Community Relations Plan that includes providing reasonable notice, opportunity for involvement, response to comments, and administrative records that are available to the public.
2. The CAR agrees to clearly reference EPA investments in the project during all phases of community outreach outlined in the EPA-approved workplan, which may include the development of any post-project summary or success materials that highlight achievements to which this project contributed.
 - a. If any documents, fact sheets, and/or web materials are developed as part of this cooperative agreement, then they shall include the following statement: "**Though this project has been funded, wholly or in part, by EPA, the contents of this document do not necessarily reflect the views and policies of EPA.**"
 - b. If a sign is developed as part of a project funded by this cooperative agreement, then the sign shall include either a statement (e.g., this project has been funded, wholly or

in part, by EPA) and/or EPA's logo acknowledging that EPA is a source of funding for the project. The EPA logo may be used on project signage when the sign can be placed in a visible location with direct linkage to site activities. Use of the EPA logo must follow the sign specifications available at <https://www.epa.gov/grants/epa-logo-seal-specifications-signage-produced-epa-assistance-agreement-recipients>.

3. The CAR agrees to notify the EPA Project Officer of public or media events publicizing the accomplishment of significant events related to construction and/or site reuse projects as a result of this agreement, and provide the opportunity for attendance and participation by federal representatives with at least ten (10) working days' notice.
4. To increase public awareness of projects serving communities where English is not the predominant language, CARs are encouraged to include in their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable.

D. Administrative Record

1. The CAR shall establish an Administrative Record that contains the documents that form the basis for the selection of a cleanup plan. Documents in the Administrative Record shall include the ABCA; site investigation reports; the cleanup plan; cleanup standards used; responses to public comments; and verification that shows that cleanup is complete. The CAR shall keep the Administrative Record available at a location convenient to the public and make it available for inspection. The Administrative Record must be retained for three (3) years after the termination of the cooperative agreement subject to any requirements for maintaining records of site cleanups ongoing at the time of termination.

E. Implementation of Cleanup Activities

1. The CAR shall ensure the adequacy of each cleanup in protecting human health and the environment as it is implemented.
2. If the CAR is unable or unwilling to complete the cleanup, the CAR shall ensure that the site is secure. The CAR shall notify the appropriate state agency and EPA to ensure an orderly transition should additional activities become necessary.

F. Completion of Cleanup Activities

1. The CAR shall ensure that the successful completion of a cleanup is properly documented. This must be done through a final report or letter from a Qualified Environmental Professional, or other documentation provided by a State or Tribe that shows cleanup is complete. This documentation needs to be included as part of the Administrative Record.

VI. OTHER REQUIREMENTS

A. Inclusion of Additional Terms and Conditions in Cleanup Documents

1. In accordance with 2 CFR § 200.333 the CAR shall maintain records pertaining to the cooperative for a minimum of three (3) years following submission of the final financial report unless one or more of the conditions described in the regulation applies. The CAR shall provide access to records relating to cleanups supported with cleanup cooperative agreement funds to authorized representatives of the Federal government as required by 2 CFR § 200.336.
2. The CAR has an ongoing obligation to advise EPA if they are assessed any penalties resulting from environmental non-compliance at the site subject to this agreement.

VII. PAYMENT AND CLOSEOUT

For the purposes of these Terms and Conditions, the following definitions apply: “payment” is EPA’s transfer of funds to the CAR; “closeout” refers to the process EPA follows to ensure that all administrative actions and work required under the cooperative agreement have been completed.

A. Payment Schedule

1. The CAR may request advance payment from EPA pursuant to 2 CFR § 200.305(b)(1) and the prompt disbursement requirements of the General Terms and Conditions of this agreement.

This requirement does not apply to states which are subject to 2 CFR § 200.305(a).

B. Schedule for Closeout

1. Closeout will be conducted in accordance with 2 CFR § 200.343. EPA will close out the award when it determines that all applicable administrative actions and all required work under the cooperative agreement have been completed.
2. The CAR, within 90 days after the expiration or termination of the grant, must submit all financial, performance, and other reports required as a condition of the cooperative agreement 2 CFR Part 200.
 - a. The CAR must submit the following documentation:
 - i. The Final Technical Cooperative Agreement Report as described in Section III.F. of these Terms and Conditions.
 - ii. Administrative and Financial Reports as described in the Grant-Specific Administrative Terms and Conditions of this agreement.
 - b. The CAR must ensure that all appropriate data have been entered into ACRES or all Property Profile Forms are submitted to the EPA Project Officer.
 - c. As required by 2 CFR § 200.343, the CAR must immediately refund to EPA any

balance of unobligated (unencumbered) advanced cash or accrued program income that is not authorized to be retained for use on other cooperative agreements.