

AGENCY: ENVIRONMENTAL PROTECTION AGENCY (EPA)

TITLE: Consumer Recycling Education and Outreach (REO) Grant Program
Solid Waste Infrastructure for Recycling (SWIFR) Grant Program for Political Subdivisions of States and Territories

ACTION: Request for Applications (RFA) – Questions and Answers

RFA NUMBERS: EPA-I-OLEM-ORCR-23-02
EPA-I-OLEM-ORCR-23-03

Updated on 1/19/23

SUMMARY: The following are formal Agency responses to questions/comments received regarding the Consumer Recycling Education and Outreach (REO) Grant Program and Solid Waste Infrastructure for Recycling (SWIFR) Grant Program for Political Subdivisions of States and Territories. This list of questions and answers will be updated as questions about the funding opportunity are received.

Contents

Q&As for Both Grant Programs	3
Eligible Activities.....	3
Surveys	4
Track System.....	6
Eligible Entities	6
Procurement and Subawards	6
General	7
Q&As for the SWIFR Grant Program for Political Subdivisions of States and Territories (EPA-I-OLEM-ORCR-23-03)	10
Eligible Activities.....	10
Procurement and Subawards	11
Eligible Entities	13
National Environmental Policy Act (NEPA)	15
Davis-Bacon Act	15
General	16



Q&As for the Consumer Recycling Education and Outreach (REO) Grant Program (EPA-I-OLEM-ORCR-23-02)	18
Eligible Activities.....	18
Eligible Entities	19
General	20

Q&As for Both Grant Programs

Eligible Activities

1. **Question:** My project has both an education component as well as an infrastructure component, which RFA should I apply to?

Answer: You will need to make that decision based on the primary purpose of the project you are asking EPA to fund. Carefully review *Section I.D: Program Vision and Goals*, and *Section I.G: Scope of Work*, in both RFAs for information on the vision of the programs and the scope of work.

For example, an applicant for a Solid Waste Infrastructure for Recycling (SWIFR) Grant Program for Political Subdivisions of States and Territories project that seeks to achieve the objective, “Demonstrate a significant and measurable increase in the diversion, recycling rate, and quality of materials collected for municipal solid waste,” may propose a project that has both an infrastructure construction/improvement and educational component.

We indicate in *Section I.G.* of the SWIFR RFA that “. . . the creation and construction of tangible infrastructure, technology, or other improvements to reduce contamination in the recycled materials stream” is one of the objectives of SWIFR and that projects for “[D]evelopment of and/or upgrades to reuse infrastructure . . .” are eligible for funding. In contrast, while we did not state that infrastructure construction projects are ineligible for funding under the *Consumer Recycling Education and Outreach (REO) Grant Program* the program vision and scope of work for that program are focused on information dissemination activities that promote recycling. Costs for incidental construction that is reasonably necessary to carry out a REO education and outreach project may be allowable but the primary purpose of REO is not infrastructure construction/improvement.

For additional information on general principles for cost allowability for EPA grants, please refer to *Section I.A: General Principles for Cost Allowability* of [EPA’s Interim General Budget Development Guidance for applicants and Recipients of EPA Financial Assistance](#).

2. **Question:** Are projects related to the recycling of household hazardous (HHW) waste permitted? Such as a project that would establish a HHW collection facility.

Answer: Yes, household hazardous waste (such as batteries and electronics) is an eligible waste stream for recycling. A HHW collection facility to collect MSW considered as Hazardous Materials an eligible activity provided you can demonstrate the HHW can be recycled.

3. **Question:** My project serves communities that cross more than one EPA region. May I still apply for these grant programs?

Answer: Yes. While the EPA anticipates making at least one award per EPA region, it will consider applications from organizations that serve multiple EPA regions.

4. **Question:** Can I use grant funding to pay for projects already underway (i.e., reimbursement)?

Answer: *Our anticipated announcement of SWIFR selections is in April of 2023 and any costs incurred prior to an applicant receiving notification of selection would not be approved by an EPA award official.* It depends on the timing of when your organization incurs the pre-award costs. If costs were incurred up to 90 days prior to the award, under 2 CFR Part 1500.9, EPA may reimburse successful SWIFR applicants for eligible pre-award costs even if the applicant did not request prior approval to incur pre-award costs provided the costs are eligible and allowable. Costs incurred more than 90 days prior to award require specific approval of an EPA award official.

For example, costs for contracts (including consultants) are allowable only if the contract was entered into in a manner that complies with the competitive procurement provisions of EPA's grant regulations (Procurement Standards in 2 CFR Part 200). Selected applicants must include the pre-award costs in their final budget and workplan submitted to EPA and provide the date the pre-award costs were incurred. For more information, please see EPA's term and condition on pre-award costs.

Please note that applicants incur pre-award at their own risk and that EPA is not obligated to reimburse applicants for pre-award costs that are not included in the workplan, and budget EPA approves. EPA has no obligation to reimburse unsuccessful applicants for pre-award costs. Selected applicants should discuss pre-award costs with their EPA Project Officer.

Surveys

5. **Question:** How would direct mailing/door hanger/sticker marketing pieces that drives people to a specific website, etc. intersect "information collection"? For instance, could we direct people to a website that allows them to sign up for a newsletter?

We planned to consider developing a multifaceted behavior change campaign with follow-up communication as one of the legs. I just want to make sure if we have some sort of a "Join our mailing list" component to that, we are not putting ourselves in a negative position. The hope would be that we can engage our folks using a mailing list and help to provide very economical future communication.

Answer: Thank you for your question. Based on the information you provided, collecting information for a mailing list would generally not trigger the Paperwork Reduction Act, as long as the sign up process does not involve the collection of information beyond that "necessary to ensure proper transmission" of the information. It cannot, for example, also include questions intended to collect demographic information.

Please refer to this excerpt from [OMB's 2010 Guidance on Social Media](#):

Electronic subscriptions to agency notifications or publications.

OMB does not consider mailing addresses collected for agency mailing lists to be information subject to the PRA. Similarly, an agency is not collecting information when it collects email addresses for agency updates, alerts, publications, or email subscription services; mobile phone numbers for text notification lists; or addresses for RSS feeds, which allow individuals to customize and subscribe to updates from websites.

If, however, the agency requests a member of the public to provide additional information (e.g., age, sex, race/ethnicity, employment, or citizenship status) beyond what is necessary to ensure proper transmission of responses, the collection of that additional information is covered under the PRA. As with non-electronic mailing lists, the use of email lists to survey subscribers (about, for example, satisfaction with government program design) is an information collection under the PRA.

If an agency authorizes website users to share content, such as “send to a friend” using a web form, this authorization is not covered by the PRA unless the agency collects the “friend’s” email address or user name to use it for some purpose other than sharing the content selected by the sender. Agencies should provide notice to users on the web form if they intend to retain email addresses for future use.

6. **Question:** Can grantees conduct surveys with EPA grant funds?

Answer: It depends. Grantees cannot ask 10 or more individuals the same question as part of an activity funded under this RFA. Reasonable costs for analyzing and publishing the independently collected information are allowable to the extent authorized in the EPA approved budget for this agreement. Please see *Section III.E: Prohibited Use of Funds* for more information.

7. **Question:** Why may I not use grant funding to collect information from 10 or more individuals?

Answer: The prohibited activities language is referencing the Paperwork Reduction Act. A survey or other information collection of identical information from 10 or more parties will not be eligible under this funding opportunity because EPA funding will be in the form of a cooperative agreement. OMB’s regulations implementing the Paperwork Reduction Act, 5 CFR 1320.3(d), provide that EPA is considered a sponsor of information collections under cooperative agreement. The process for EPA to obtain OMB approval for information collections is lengthy and resource intensive. This restriction on eligibility applies to both the applicant and any contractors or subaward recipients supported with EPA funding as well. Note that as indicated in the RFA you may use other funds for the development and administration of the survey and EPA funds may be used for analysis and publication of the results.

For additional information on the Paperwork Reduction Act, refer to <https://pra.digital.gov/do-i-need-clearance/>.

Track System

8. **Question:** My project covers an area has some, but not all, disadvantaged communities. Should I apply as Track 1 or Track 2?

Answer: Projects that serve at least one disadvantaged community are eligible to apply to Track 1. Please be specific in your project narrative as to how the project will benefit the disadvantaged community.

Eligible Entities

9. **Question:** Is there any federal/state grants or monetary assistance available for an individual trying to start a recycling business?

Answer: Individuals are not eligible for these funding opportunities. Eligibility information is stated in *Section III. A: Eligible Applicants* of the RFAs. For funding opportunities geared towards small businesses please look into Small Business Innovation Research (SBIR) grants at www.sbir.gov.

10. **Question:** Am I limited to only apply to only one of the grant programs?

Answer: An entity may apply to both of the grant programs assuming they are eligible for both opportunities. Applying or receiving one grant does not make you ineligible for the other. However, please note the differences in the programs as stated in *Section I.G. Scope of Work* in the RFAs.

Procurement and Subawards

11. **Question:** If we partner with an NGO and the funds they will receive are more than \$10,000, then do we still comply with the competition requirements?

Answer: Generally, no, as long as the transaction with the NGO is not to procure commercial services such as accounting. Funding the NGO to carry out a portion of the substantive work under the EPA grant on a cost reimbursement basis (no profit allowed) would meet the requirements for a subaward under Appendix A of the [EPA Subaward Policy](#). Under our Subaward Policy, recipients can select subrecipients on a non-competitive basis as long as that approach complies with the state/local laws and the subaward policies of the recipient. Note that our response presumes that the “NGO” you refer to is a private nonprofit organization.

12. Question: Can an applicant’s project budget include funding a fiscally-sponsored organization (not a 501c3 themselves), in order for that organization to execute part of the applicant’s project initiatives?

Answer: No. EPA does not recognize or accept a “fiscal sponsorship” relationship in which an eligible applicant such as a non-profit organization applies for funding on behalf of an ineligible organization such as a for profit firm that will provide services necessary to execute a project. We have made that point clearly and directly in previous webinars on compliance with competitive procurement requirements contained in 2 CFR Parts 200 and 1500. EPA does not recognize “fiscally-sponsored organization” relationships that could be used to circumvent competitive procurement requirements. Any contracts between eligible applicants and for profit service providers must comply with the competition requirements in 2 CFR 200.319 and 2 CFR 200.320 as interpreted by EPA’s Best Practice Guide for Procuring Services, Supplies, and Equipment Under EPA Assistance Agreements. Note in particular the restrictions in 2 CFR 200.319(b) on potential contractors assisting applicants or recipients in preparing Requests for Proposals.

General

13. Question: Does my project need to report on all or just some of the outputs and outcomes listed in *Section I.L: Measuring and Reporting Environmental Results: Outputs and Outcomes?*

Answer: Yes, applicants must report on **all** of the outputs and outcomes listed in that section of the RFAs that pertain to the project being proposed.


For the *Solid Waste Infrastructure for Recycling (SWIFR) Grant Program for Political Subdivisions of States and Territories*, if the project that is being proposed includes the activities in the lefthand side of the table on page 12-13 of the RFA under “Activity Funded,” then the corresponding “Output/Outcomes” are required reporting.

For the *Consumer Recycling Education and Outreach (REO) Grant Program*, all of the outputs and outcomes on page 13 of the RFA are required reporting.

14. Question: What should I consider as the maximum period of performance of these grants?

Answer: As stated in *Section II.F: What is the project period for awards resulting from this solicitation?* in the RFAs, The estimated start date for projects resulting from this solicitation is **October 2023**. All project activities must be completed within the negotiated project performance period of three years. Please refer to the previous question on pre-award costs as well.

15. Question: How will grant funds be disbursed?



Answer: Grant funds will be paid up front once awards are made. Recipients must draw funds from the Automated Standard Application for Payments (ASAP) system for the minimum amounts needed for actual and immediate cash requirements to pay employees, contractors, subrecipients or to satisfy other obligations for allowable costs under this assistance agreement. The timing and amounts of the drawdowns must be as close as administratively feasible to actual disbursements of EPA funds. For additional information, please refer to EPA's General Terms and Conditions: https://www.epa.gov/system/files/documents/2022-09/fy_2022_epa_general_terms_and_conditions_effective_october_1_2022_or_later.pdf.

16. Question: Will these RFAs be offered in the future?

Answer: For the SWIFR Grant Program for Political Subdivisions of States and Territories, the Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (BIL), provides \$275,000,000 for grants authorized under Section 302(a) “Post-Consumer Materials Management Infrastructure Grant Program” of the Save Our Seas 2.0 Act ([Public Law 116–224](#)) as codified at 33 U.S.C. 4282(a). The BIL funds will be available to EPA at \$55,000,000 per year from Fiscal Year 2022 to Fiscal Year 2026.

For the Recycling Education and Outreach Grant Program, Section 70402 of the BIL established the “Consumer Recycling Education and Outreach Grant Program” (REO grants) and provides \$75,000,000 for REO grants for Federal Fiscal Years 2022 through 2026 at \$15,000,000 per year. Pursuant to Section 70402(b) of the BIL, the purpose of the competitive REO grant program is to improve the effectiveness of residential and community recycling programs through public education and outreach.

EPA plans on future rounds of funding, however, the exact nature of those NOFOs and timing is still in development.


17. Question: Does my demonstration for the program tracks from *Section I.F: Program Tracks* in the RFA count as part of the Narrative Proposal's 10-page limit or the "Summary Information Cover Letter 1-page limit?

Answer: No, that demonstration will not count towards the page limit indicated in the RFA. Applicants can put this demonstration as part of the "Optional Documents: Other Attachments."

18. Question: Where can I learn more about SAM.gov registration, UEI numbers, and/or Grants.gov registration?

Answer: Please review *Section IV.B: Submission Information* of the RFAs. Also, <https://www.grants.gov/support.html> or <https://sam.gov/content/about/contact>. You will be able to live chat or call an expert who will be able to help you with your issue.

19. Question: Can the grant money be used to cover a salary for up to three years of the project period?



Answer: Yes, as stated in the RFA (*Section IV. E.b.v. Budget and Expenditure of Awarded Grant Funds*) both grants can be used for personnel costs for the grant period, which is up to three years.

20. Question: Should Evaluation Criterion 1.b. also include reference to *Section I.H: National Recycling Strategy Plan Linkage*?

Answer: Yes, Criterion 1.b. should also include reference to *Section I.H: National Recycling Strategy Plan Linkage*.

Q&As for the SWIFR Grant Program for Political Subdivisions of States and Territories (EPA-I-OLEM-ORCR-23-03)

Eligible Activities

1. **Question:** Are feasibility studies eligible for grant funding?

Answer: Yes, feasibility studies, or other plans supporting innovative approaches, are eligible if combined with infrastructure projects. A feasibility study on its own would not be eligible. Please refer to *Section I.G: Scope of Work* for a list of acceptable infrastructure projects.

2. **Question:** Are projects focusing on biosolids eligible for grant funding?

Answer: It depends. A project that is *only* focused on a publicly owned treatment works (POTW) biosolids recycling would not be eligible. However, a project at a POTW incorporating MSW in addition to biosolids, such as a food waste co-digestion project, would be eligible.

3. **Question:** Is purchasing a tire shredder an allowable activity?

Answer: Purchasing a tire shredder is an allowable activity for tire recycling. However, using recycled tires or any other materials for landfill cover or incineration activities is prohibited. Please note, activities that focus on the landfilling or incineration pathways of tires are not included in the list of management pathways in *Section I.G: Scope of Work* of the RFA and will not be considered for funding.

4. **Question:** Are chemical or advanced recycling projects eligible for grant funding?

Answer: No, chemical or advanced recycling projects (including pyrolysis and gasification) are not eligible for grant funding. Materials and waste streams considered under SWIFR include municipal solid waste (MSW), including plastics, organics, paper, metal, glass, etc., and construction and demolition (C&D) debris. In addition, materials and waste streams considered include the management pathways of source reduction, reuse, sending materials to material recovery facilities, composting, industrial uses (e.g., rendering, anaerobic digestion (AD)), and feeding animals. Please refer to *Section I.G: Scope of Work* for more information on acceptable waste streams.

5. **Question:** Is land acquisition an eligible expense?

Answer: Land acquisition is an eligible cost. Although as provided in 2 CFR 200.311(a) title to the property upon acquisition vests with the recipient, the regulations contain detailed coverage at 2 CFR 200.311(c) on the disposition actions EPA is authorized to direct the recipient to take when the real property is no longer needed for the originally authorized purpose. Additionally,

under 2 CFR 200.316 EPA's practice is to require recipients to record a lien to provide notice that the ". . . real property has been acquired or improved with a federal award and that use and disposition conditions apply to the property."

6. **Question:** Can funding be applied to labor as well as building cost? For example, will the grant support hiring a person to perform the labor needed to manage new infrastructure created as a part of the project?

Answer: Yes, funding can be applied to labor as well as building cost. Please refer to the following sites for additional information on developing your budget:

<https://www.epa.gov/sites/default/files/2019-05/documents/applicant-budget-development-guidance.pdf> and <https://www.epa.gov/sites/default/files/2019-05/documents/applicant-budget-development-guidance.pdf>

7. **Question:** My project involves construction, should I use the SF-424C form instead of the SF-424A form?

Answer: No, please use the SF424A form. Please refer to page 32 of the RFA for information on categorizing construction costs. For additional information on completing SF-424A form, please utilize this resource: <https://www.grants.gov/web/grants/forms/sf424-fid.html?formId=241>

8. **Question:** Are there restrictions on the use of SWIFR funds for issuing State and local government bonds?


Answer: Yes. As provided in 33 U.S.C. 4282(f), SWIFR cooperative agreement funding ". . . may not be used (directly or indirectly) as a source of payment (in whole or in part) of, or security for, an obligation the interest on which is excluded from gross income under section 103 of Title 26" of the United States Code. This provision relates to State and local bonds.

9. **Question:** My project team is specific looking to establish a curbside collection program for traditional recycling pick-up. Would that be considered an eligible project even though it is not focused on the curbside collection of organics?

Answer: A traditional recycling pick-up project would be eligible for grant funding

Procurement and Subawards

10. **Question:** Our organization has recently been donated land to open a community composting facility. We need to purchase a \$X,000 dump truck and a \$X,000 skid steer (front end loader). We are 501(c)3 tax exempt. Would we qualify as a subrecipient to receive this equipment from a city as a pass-through organization? We would not be "profiting" from the equipment, but it would give us the ability to render services that would generate revenue to pay employees "fair and reasonable" salaries. Is this a subrecipient scenario that the EPA would deem acceptable?"



Answer: Yes. Assuming EPA selected the city for SWIFR funding they could choose to provide your organization with a noncompetitive subaward to purchase the dump truck and front end loader. The requirements for managing equipment specified in 2 CFR 200.313 would “flow down” to your organization. Those regulations specify that title to the equipment would vest in your organization (as the subrecipient) once your organization purchased the equipment with subaward funds. However, the City would remain accountable to EPA for proper use of the funds. Note that one requirement of the regulations at 2 CFR 313(c)(3) is that recipients “. . . not use equipment acquired with the Federal award to provide services for a fee that is less than private companies charge for equivalent services unless specifically authorized by Federal statute for as long as the Federal Government retains an interest in the equipment.”. The Federal interest in the equipment remains in effect as long as the equipment is being used to carry out the EPA funded project.

11. Question: The X City MFR is jointly owned by the City of X and the County of Y. The City of X owns the land, building, and equipment. The MRF is operated by a private contractor. The contractor was selected using the city of X’s procurement bidding and awarding process. The revenue produced is shared through a contractual revenue share agreement between all entities. We’re looking to submit an application for extending the MRF’s tip floor and upgrades to sorting equipment. The tip floor extension would require construction. I believe our application would be eligible but wanted to clarify as I heard information on today’s webinar that had me worried due to the profit element. “

Answer: The project is eligible for funding and there are no competitive procurement concerns because the City of X is not using EPA funds to procure the equipment from the firm operating the MRF facility. Rather, the City of X is purchasing equipment to upgrade its own MRF facility that is operated by a for profit firm under contract to the City. MFR facilities operated by for profit firms may be improved even though the for profit firm is not eligible to receive SWIFR funding as a grant recipient. An eligible recipient such as the City of X can receive funds to improve the facility (including funding for construction) and if necessary provide a subaward to the for-profit facility operator to reimburse the firm for otherwise eligible and allowable costs. However, the subaward could not include an allowance for profit in excess of actual costs the firm incurred for the project.

12. Question: We are partnering with several small cities to help them develop plans to implement city-scale reusable foodware systems. The cities are eager to champion the work and help secure funding, but they do not necessarily want to be the ultimate owner of the reuse infrastructure. In the SWIFR grants, can they subgrant some of the funding for other parties (a third party reuse service provider that could be either for profit or not for profit) for the purchase of the assets or does the grant require that the government entity be the owner of any purchased assets or infrastructure?

Answer: Recipients of SWIFR grants for political subdivisions may provide subawards (as pass-through entities) to eligible subrecipients to enable the subrecipient to purchase infrastructure assets (e.g. equipment or real property) necessary to improve municipal recycling or local solid waste management programs. The subrecipients would be subject to the Property Standards in 2 CFR Part 200 which would “flow down” to the subawards from the pass-through entities as provided in 2 CFR 200.332(a)(2) and (3). For example, the terms of the EPA award may require

that the pass-through entity ensure that the subrecipient record liens on the property to ensure that disposition requirements are complied with if real or personal property acquired with EPA funds is sold.

Eligible Entities

13. Question: How do I determine if my organization is considered a “political subdivision” of a state or a territory?

Answer: Please refer to *Section I.C: Key Definitions* and *Section III. A: Eligible Applicants* of the RFA for information on “Political Subdivision” (highlights displayed for emphasis).

The EPA considers counties, cities, towns, parishes, and similar units of governments that have executive and legislative functions to be political subdivisions of states.


Local governments are generally political subdivisions of states and differ from state and federal governments in that their authority is not based directly on a constitution. Each state constitution describes in detail a procedure for establishing local governments. In most cases the state legislature must approve the creation or incorporation of a local government. The local government then receives a charter defining its organization, authority and responsibilities, including the means for electing governing officials. Local government units bear a variety of names, such as city, county, township, village, parish, district, etc. The legal significance of these terms may vary from state to state. The authority of local governments varies greatly. Generally, a local government has the authority to:

- Impose taxes
- Try people accused of breaking local laws or ordinances
- Administer local programs within its boundaries

Other entities (e.g., **state or territorial institutions of higher education, special districts, housing authorities**) must provide documentation that the state or territory in which they are located considers these entities to be a political subdivision of the state. Documentation must cite applicable state or territorial law. Examples of acceptable forms of proof include legal opinions from the state Attorney General or equivalent or from the Chief Legal Officer of the state college or university.

If you are unsure about if your organization is considered a political subdivision, please contact SWIFR@epa.gov.

14. Question: We are a special district that wants to apply for the SWIFR grants for political subdivisions RFA (**EPA-I-OLEM-ORCR-23-03**). It does say in *Section III. A: Eligible Applicants* of the RFA that we need to provide legal opinions from the state Attorney General or equivalent or from the Chief Legal Officer of the state college or university to prove that we are a political subdivision of the state. I think it is clear from my state’s statute that they **do** consider special districts a political subdivision. Do I still need the legal opinion from the state Attorney General?



Answer: Yes, you will still need to provide legal opinions even in this instance. EPA will not be interpreting state law for determining if an entity is considered a political subdivision of the state/territory. EPA will also accept the legal opinion from the Chief Legal Officer of your organization. Depending on the clarity of the specific statute, that opinion does not necessarily have to be extensively researched.

15. Question: Our organization is a Planning District Commission is considered a form of Local Government under the definition in 2 CFR 200.1. The term Planning District Commission is also known as a *Regional Council of Governments in other states*. We serve various Counties. Additionally, we have a Solid Waste Management Committee that consists of Landfill Operators and Recycling and Solid Waste Managers from our region. We submit our Solid Waste Management Plan as a region and make decisions for regional cooperation and operations. Does are organization require proof that we are a political subdivision?

Answer: As stated in Section III.A: Eligible Applicants of the RFA, the eligible applicants for the Solid Waste Infrastructure for Recycling RFA include political subdivisions of the state. The EPA considers counties, cities, towns, parishes, and similar units of governments that have executive and legislative functions to be political subdivisions of states. The definition of Local Government under the definition in 2 CFR 200.1 does not equate with "political subdivison." Other entities (e.g., state or territorial institutions of higher education, special districts, housing authorities) must provide documentation that the state or territory in which they are located considers these entities to be a political subdivision of the state. Documentation must cite applicable state or territorial law. Examples of acceptable forms of proof include legal opinions from the state Attorney General or equivalent or from the Chief Legal Officer of the state college or university.

16. Question: We are a regional planning commission in **Virginia**. Do we need to contact the Attorney General's office before we apply for this grant?

Answer: No, you do not need to contact the Attorney General's office. Based on a previous opinion within an annual report cited below, all regional planning commissions in Virginia qualify as political subdivisions.

“A Planning District Commission is a political subdivision of the Commonwealth, chartered under the Regional Cooperation Act by the local governments of each planning district.” 2011 Op. Va. Att’y Gen. 3, 5. Please see Op. No. 11-039, p. 3-8 herein:

https://www.oag.state.va.us/files/AnnualReports/AnnualReports2001-Present/2011_Annual_Report.pdf

National Environmental Policy Act (NEPA)

17. Question: What kind of construction activities would trigger NEPA?

Answer: The SWIFR grants are subject to compliance with NEPA. Before the EPA can award the grant, the EPA will need to complete an environmental review and determine if the proposed action is eligible for coverage under a categorical exclusion or requires the preparation of an environmental assessment. It is anticipated that construction activities (i.e., ground disturbance) will require an environmental assessment to be prepared.

18. Question: What happens if I have not done the NEPA review yet for my project? Does that mean my grant will be delayed?

Answer: The EPA will need to complete the environmental review under NEPA before it can award the grant. The EPA will review the proposed action to determine if it is eligible for coverage under a categorical exclusion or if it requires the preparation of an environmental assessment. The timing for completing the environmental review will vary under each proposed action, such as whether consultation may be required under the National Historic Preservation Act or Endangered Species Act, etc.

Davis-Bacon Act

19. Question: Do Davis-Bacon Related Act prevailing wage requirements apply to SWIFR cooperative agreements?

Answer: Yes. As provided in 33 U.S.C. 4282(e) EPA must ensure that “. . . all laborers and mechanics employed on projects funded directly, or assisted in whole or in part, by a [SWIFR grant] be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with [the Davis-Bacon Act]”. The Davis-Bacon Act applies to contractors and subcontractors performing work on federally-funded or assisted construction contracts in excess of \$2,000.

20. Question: How can we determine if Davis-Bacon prevailing wage requirements apply to a construction project that is partially funded with SWIFR grant funds?

Answer: As provided in 33 U.S.C. 4282(e) EPA must ensure that “. . . all laborers and mechanics employed on projects funded directly, **or assisted in whole or in part**, by a [SWIFR grant] be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with [the Davis-Bacon Act]”. Emphasis added. EPA will follow the Department of Labor’s “purpose, time and place” test for determining whether Davis-Bacon compliance is required for construction projects that are funded “in part” by a SWIFR grant. Below is an excerpt from DOL guidance for the American Recovery and Reinvestment Act of 2009 (ARRA) which contained prevailing wage language virtually identical to 33 U.S.C. 4282(e)

...the Department's longstanding view [is] that a project consists of all construction necessary to complete the building or work regardless of the number of contracts involved so long as all contracts awarded are closely related in purpose, time and place. The use of the phrase "projects funded directly by or assisted in whole or in part" in the ARRA labor standard provision precludes the intentional splitting of ARRA projects into separate and smaller contracts to avoid Davis-Bacon coverage on some portion of a larger project, particularly where the activities are integrally and proximately related to the whole. However, that does not suggest that Davis-Bacon coverage of an ARRA project lasts in perpetuity. There are many situations in which major construction activities are clearly undertaken in segregable phases that are distinct in purpose, time, or place. While the Federal agency must examine every situation independently, the general guidelines that define "project" for Davis-Bacon coverage purposes as contracts that are related in purpose, time, and place should govern in most instances.

General

21. Question: Can projects be less than \$500,000 or more than \$4M? Is there any flexibility there?

Answer: No, for the SWIFR Political Subdivision grant awards the absolute minimum is \$500,000 and absolute maximum is \$4M. Grant applications with rewards requests below \$500,000 will not meet threshold eligibility criterion 4 in *Section III.C: Threshold Eligibility Criteria*, and thus will not be considered.

22. Question: May grantees use these funding opportunities as matching funds for other grant funding opportunities?


Answer: The EPA puts no prohibitions on using these funds to match other funding opportunities. Grantees should check with the federal agency requiring matching funds to determine whether this funding opportunity can be used under that funding opportunity. The answer is dependent on the grant requiring matching funds (as per 2 CFR 200.306(b)(5)).

23. Question: Is the EPA making only one award per region?

Answer: No, the EPA is making a *minimum* of one award per region, assuming an acceptable application is received from each region. Multiple awards per region may be made.

24. Question: My county is wondering if offering up land that is already owned by the county to be used as a location for new composting infrastructure would count as an in-kind match for leveraging?

Answer: EPA cannot comment on the merits of a specific project during the preapplication assistance phase of this competition. Land owned by the county would qualify as "additional funds/resources beyond the grants funds awarded" per *Section IV. E.ix, Leveraging*. However, if



an applicant proposes to pledge land as an in-kind legally binding voluntary match or cost share then a Federal lien could be required under 2 CFR 200.316. Legally binding cost shares are subject to Federal award requirements. Please carefully review the distinction between leveraged funds or in-kind contributions that are not pledged as legally binding voluntary cost shares and those that are as described in *Section IV. E.ix, Leveraging*. Please also note leveraging is not required, but is worth 5 points.

25. Question: We would be applying for recycling equipment. Our equipment would be manufactured in the United States but the raw steel to build the equipment may be originally purchased from another country. Is this acceptable with Build America, Buy America?

Answer: Grantees should ask for a certification or other assertion that the supplied product is “Produced in the United States” in accordance with the definition of that term in section 70912(6) of the Infrastructure Investment and Jobs Act. It will be the manufacturers responsibility to determine whether the product meets that definition. Grants will be able to rely upon that certification. EPA will be providing FAQs that will reflect this response in the near future.

Q&As for the Consumer Recycling Education and Outreach (REO) Grant Program (EPA-I-OLEM-ORCR-23-02)

Eligible Activities

1. **Question:** Are education and outreach projects for composting permitted?

Answer: Yes, projects that address composting as a waste stream to reduce the amount of material entering landfills will be considered.

2. **Question:** Using grant funds, may grantees purchase small incentives for participants in project activities, such as gift cards, meal vouchers, a recycling bin for contest winners, etc.?

Answer: Yes, reasonable costs for gift cards and similar incentives for program participation are allowable (with prior approval of the Award Official) under the EPA Guidance on Participant Support Costs (<https://www.epa.gov/sites/default/files/2020-11/documents/epa-guidance-on-participant-support-costs.pdf>) as long as EPA determines that the incentives further the statutory objective of the Grant Program. Grantees should include this information within their project budget with their application.

3. **Question:** May an eligible entity propose a project that promote recycling in hospitals, schools, and business eligible for funding under this opportunity?

Answer: Yes, projects that promote recycling at hospitals, schools, and businesses are eligible to receive funding under this opportunity as per *Section I.G: Scope of Work*, if the entity applying is eligible.

4. **Question:** Can grantees purchase equipment, such as recycling bins or roll-off bins, to support community recycling?

Answer: The primary purpose of the REO grant program is for education and outreach to promote recycling behavior. Some equipment, for the creation of educational materials and as incentives for participation in the grant program are allowed, but should not be the primary focus of the project. If your project focuses on the purchase of equipment, it may be better for the SWIFR Grant Program for Political Subdivisions of States and Territories.

5. **Question:** Can the funds be used to establish baselines and measure the impact of education and outreach (say by funding a waste characterization study)? The baseline and measurements would be in conjunction with educational projects.

Answer: Yes, as long as the baselines and measures are developed to evaluate the education and outreach activities undertaken with EPA funding and the evaluation process is described in the scope of work for the EPA grant.

6. **Question:** Can the funding be used to conduct outreach and education for a curbside recycling program that will be started during the project’s period of performance?

Answer: Yes, funding could be used to conduct outreach and education in support of a new recycling program. Please ensure to include a plan to measure the required outcomes and outputs in the application, as described in *Section I.L. Measuring and Reporting Environmental Results: Outputs and Outcomes*.

Eligible Entities

7. **Question:** I am a public university applying for the REO grant, but “political subdivision” is not an eligible entity in this grant program. May I still apply?

Answer: Universities applying for REO grants should apply as non-profits, which are an eligible entity. Please refer to *Section I.C: Key Definitions* and *Section III. A: Eligible Applicants of the RFA* for information on “Non-Profits.”

8. **Question:** What constitutes a “local government” in *Section III* of the RFA?

Answer: The legislation states that “a unit of local government as defined in the *Local government* provision of [2 CFR 200.1](#)” are eligible to apply for this funding opportunity. *Local government* means any unit of government within a state, including a:

- (1) County;
- (2) Borough;
- (3) Municipality;
- (4) City;
- (5) Town;
- (6) Township;
- (7) Parish;
- (8) Local public authority, including any public housing agency under the United States Housing Act of 1937;
- (9) Special district;
- (10) School district;
- (11) Intrastate district;
- (12) Council of governments, whether or not incorporated as a nonprofit corporation under State law; and
- (13) Any other agency or instrumentality of a multi-, regional, or intra-State or local government.

9. **Question:** Are federal agencies eligible entities?

Answer: No, federal agencies are not an eligible entity in *Section III.A: Eligible Entities* of the RFA, so they cannot apply independently or as the public entity in a public private partnership. Eligible entities for the Recycling Education and Outreach program are:

- U.S. States, including Washington, D.C.
- Puerto Rico, Virgin Islands, Guam, American Samoa, Commonwealth of Northern Mariana Islands.
- Local governments.
- Federally recognized tribal governments.
- Native Hawaiian organizations, Department of Hawaiian Home Lands, Office of Hawaiian Affairs.
- Nonprofit organizations.
- Public-private partnerships.

10. **Question:** How should public-private partnerships apply to this opportunity in SAM.gov and Grants.Gov?

Answer: Public-private partnerships (P3s) may apply using an account in SAM.gov and Grants.gov created specifically for the partnership or may apply using the public entity SAM.gov and Grants.gov accounts. The partnership may not use the private entity's SAM.gov and Grants.gov accounts. **All P3 applications should include a copy of the legally binding agreement establishing the P3 in their application.**

11. **Question:** May an international nonprofit organization apply?

Answer: All applicants must be headquartered in the US and the project must be located in the US and showcase benefits to communities in the US.


General

12. **Question:** From which track will the statutory set-aside awards be made?

Answer: Both Track 1 and Track 2 applicants may receive an award from the statutory set-aside, as stated in *Section I.F: Program Tracks* of the RFA.

13. **Question:** Evaluation Criterion 3 references *Section I.K: Measuring and Reporting Environmental Results*. Should that be Section I.L instead?

Answer: Yes, that should be a reference to *Section I.L: Measuring and Reporting Environmental Results: Outputs and Outcomes*.



14. Question: I am with a state agency and have a question about the requirements for states that do not name a public-private partnership. During the webinar for REO, EPA discussed that if a state agency does not have to name a contractor/partner, then we will still have to meet requirements. Also, it was stated that states do not have to follow the same procurement requirements. Can you tell me where to find the requirements the state needs to follow if they do not have a partnership?

Answer: The regulation is [2 CFR 200.317](#). This regulation provides that each state must follow that state's own procurement guidelines, with the exception of requirements in small and disadvantaged businesses (200.321), recycled materials (200.322), domestic preferences (200.323) and contract clauses (200.327). [EPA's 40 CFR Part 33 Disadvantaged Business Participation](#) rule applies to states. So, the state agency's procurement policies would be what you use when selecting contractors.

15. Question: Should Evaluation Criterion 1.b. refer to *Section I.G.: Scope of Work* instead of *Section I.F.: Scope of Work*?

Answer: Yes, Criterion 1.b. should refer to *Section I.G.: Scope of Work*.

16. Question: A non-profit without dedicated staff is currently being managed and operated by a consultant firm. The nonprofit would like to submit an application and sole source to the current firm, as they are the founders, subject matter experts, and current operational managers. Is there a sole sourced justification to be made? Will the application be disqualified?

Answer: While we cannot advise you on your application strategy, you should be aware that EPA would not accept your justification for using EPA funds for a sole source contract to a consulting firm that is managing a nonprofit organization that does not have its own staff. That arrangement would circumvent the statutory eligibility requirements that limit eligibility for REO grants to nonprofits and public-private partnerships as well as being inconsistent with EPA's position that sole source contracting must be limited to situations in which a patent, copyright or equipment warranty prevents competition. Additionally, the arrangement between the consulting firm and nonprofit you describe could violate 2 CFR 200.318(c) which precludes personal or organizational conflicts of interest when procuring EPA funded services. We cannot, therefore, assure you that EPA would find your application eligible for REO funding.