

## **FY24 Frequently Asked Questions about Technical Assistance to Existing and Potential Brownfields Revolving Loan Fund Grant Recipients**

(as of January 30, 2024; **two new questions added since January 2<sup>nd</sup> are shown in red**)

EPA prepared these Frequently Asked Questions (FAQs) and answers to assist prospective applicants with preparing an application for Technical Assistance to Existing and Potential Brownfields Revolving Loan Fund (RLF) Grant Recipients (hereafter referred to as RLF TA). Please review the Fiscal Year 2024 (FY24) Notice of Funding Opportunity (NOFO) (also referred to as the Guidelines Request for Applications (RFAs)) when preparing your application. If the information in the FAQs differs from information in the statute, regulation, or the NOFO, then the statute, regulation, or the NOFO will take precedence. The FAQs will be updated periodically as we continue to receive questions.

### **TABLE OF CONTENTS**

#### **I. General Information**

1. What is meant by an “existing RLF CAR or grant recipient” and “existing RLF Program?”
2. What is meant by a “potential RLF CAR or grant recipient” and “potential RLF Program?”
3. Why is RLF TA needed and what makes RLF TA under this grant different than Brownfields Program TA grants?
4. Who is eligible to apply for this grant?
5. How do Intertribal consortia demonstrate their eligibility?
6. How do “other nonprofit organizations” who do not have tax exempt status demonstrate their eligibility?
7. If an entity applies for and is awarded this RLF TA Grant, can that entity continue to receive EPA funding under an existing or new Brownfields Grant?
8. Can a group of eligible entities apply as a coalition? What documentation is required?
9. Is an organization incorporated under state law and exempt from Federal taxation under section 501(c)(4) of the Internal Revenue Code that lobbies within the meaning of the Lobbying Disclosure Act 2 U.S.C. 1601 et. seq. eligible for Brownfield Grant funding if it qualifies as an “eligible entity” under CERCLA § 104(k)(1) as a quasi-governmental entity or otherwise?
10. Is an organization that is exempt from Federal taxation under section 501(c)(4), but does not lobby within the meaning of the Lobbying Disclosure Act 2 U.S.C. 1601 et. seq. eligible for Brownfield Grant funding?
11. Can we issue a subaward to a nonprofit organization that is exempt from Federal taxation under section 501(c)(4) of the Internal Revenue Code?
12. Does the applicant have to be available to provide technical assistance nationally to all potential and existing RLF CARs?
13. Can applicants provide technical assistance beyond the five subject areas?
14. What is the closing date of the NOFO?
15. What is the total maximum award amount?
16. **Criterion 2.a on pg 34 of the NOFO says “Applicants who demonstrate in-house expertise and knowledge of at least two of the five subject areas will be evaluated more favorably.” How is “in-house expertise” defined?**
17. **Regarding the Online Toolkit and Training on the Toolkit subject area in the RFA: Is there more information on who is developing the RLF Handbook, how much progress has been**

made to date, the target date for completion, and responsibilities of the EPA, EPA Contractor and RLF TA provider?

## **II. General Budget Questions and Information on Partners**

18. What activities cannot be paid for with RLF TA grant funds?
19. Would it be acceptable to EPA for an applicant to work with another agency or organization as partners?
20. Can coalition members be added or removed after the award?
21. Can consultants and other contractors providing technical assistance funded under this grant receive sole source contracts funded by Federal grants?
22. Are applicants required to procure a consultant before submitting an application?
23. Can I receive sample Requests for Proposals (RFPs)/Requests for Quotes (RFQs) or other forms of assistance in developing RFPs/RFQs from potential contractors that will then be allowed to bid on the procurement that will be made under the RFP?
24. What are the potential consequences for an applicant/recipient that does not conduct a fair and open competition for the procurement of a contractor?
25. Can the same contractor that assists me with preparing the grant application also submit a proposal in response to an RFP/RFQ for consulting services?
26. How must recipients handle contracts for micro-purchases?
27. If we are a successful applicant, will EPA reimburse us for the costs of paying a consultant to prepare our grant application?
28. If our application is successful, will EPA reimburse us for eligible programmatic costs we incurred prior to the award?
29. CONFLICTS OF INTEREST - Can a grant recipient (and/or its coalition members, consultants, and subrecipients) provide technical assistance to potential applicants on a funding competition (Federal, state, local or private foundation) and also apply for funding under THAT competition or be identified as a funded partner on another organization's application for funding under that same competition?

## **III. Participant Support Costs and Advisory Council Costs**

30. What are participant support costs?
31. Are participant support costs allowable under this grant?
32. Can grant funds be used to pay for food provided at annual RLF meetings?
33. What are advisory councils?
34. Are advisory council costs allowable under this grant?
35. What is the maximum amount in stipends that can be paid to program participants and advisory council members?
36. What is the maximum participant support cost amount? What is the maximum advisory council cost amount?

## **IV. Administrative Costs**

37. Does the term "administrative cost" include both direct and indirect costs?
38. Are there limits on administrative costs for Brownfield Grants?
39. Our organization's federally negotiated rate is greater than 5%. Can we charge more than 5% for indirect costs?
40. Does the limit on administrative costs for Brownfield Grants conflict with the requirement in 2 CFR § 200.414(c) for EPA to accept a recipient's negotiated indirect cost rate?

41. What is the difference between a direct administrative cost and a programmatic cost?
42. What are examples of allowable programmatic costs that are not subject to the 5% administrative cap?

#### **V. Information on Submitting the Application in Grants.gov**

43. How do we submit our application?
44. I know my organization is registered in [www.sam.gov](http://www.sam.gov). Should we check to make sure the account is active?
45. How do we know if our application was received by the deadline?
46. Can we use another organization's UEI number to submit the application package?
47. What is the "Catalog of Federal Domestic Assistance Number" and the "CFDA Title" that should be used on the Application for Federal Assistance (SF-424)?
48. If the title of the person responsible for submitting the application does not have Executive Director as their official title, is some other designation ok?
49. What documents do we need to include with our application?
50. What do we attach to the Project Narrative Attachment Form?
51. How should we upload the Narrative Information Sheet, the Narrative, and associated attachments (Project Narrative Attachment Form) in [www.grants.gov](http://www.grants.gov)?
52. Can we include letters of support or commitment (e.g., to document leveraging) in the attachments even though they are not required?
53. How should I respond to Question 19 on the SF-424 "Application for Federal Assistance"?

## **I. GENERAL INFORMATION**

### **1. What is meant by an “existing RLF CAR or grant recipient” and “existing RLF Program?”**

When the Notice of Funding Opportunity (NOFO) refers to an existing Brownfields RLF Grant recipient or existing RLF cooperative agreement recipient (CAR), it is referring to an entity that has an existing Brownfields RLF Program. An existing RLF Program consists of all awarded Brownfield RLF Grants the CAR has received, whether the grants be in open, post-closeout, and/or closed status. Note that an existing Brownfield RLF CAR could also be a potential RLF CAR if it no longer has an open RLF cooperative agreement and is interested in applying for one through the Brownfields RLF Grant competition.

### **2. What is meant by a “potential RLF CAR or grant recipient” and “potential RLF Program?”**

When the NOFO refers to a potential RLF Grant recipient or potential RLF CAR, it is referring to an eligible entity that is interested in applying for an EPA Brownfield RLF Grant through the Brownfields RLF Grant competition. The term potential RLF Program refers to preparing entities to apply for a Brownfield RLF Grant so that they can establish a successful RLF Program.

### **3. Why is RLF Technical Assistance (TA) needed and what makes RLF TA under this grant different than Brownfields Program TA grants?**

Due to the complexity of Brownfield RLF Grants and the capacity needed to implement a successful RLF Program, EPA determined that additional RLF-specific TA would be helpful beyond what is already provided under other Brownfields Grants such as Technical Assistance to Brownfields Communities (TAB). This determination is supported by written and verbal comments received in response to EPA’s August 21, 2023 RLF TA Listening Session.

One component of this grant is for the RLF TA provider to research what technical assistance is already available from EPA technical assistance providers to assure there is no duplication, but rather a coordinated effort to help existing and potential RLF CARs. However, key components of this RLF TA Grant that EPA believes go beyond typical Brownfields TAB include:

- Facilitating/hosting annual RLF meetings for potential and existing RLF CARs to come together to learn, exchange ideas, and network in order to better understand RLF policy and tools for improving their RLF Programs.
- Developing an online toolkit that potential and existing RLF CARs can use to build a successful RLF Program (e.g., templates, examples, checklists, financial spreadsheets for fund tracking of multiple RLF grants, loan management software, suggested timelines, and contributions to an EPA-created RLF Handbook).
- Providing training on the toolkit through recorded webinars and the annual RLF meetings.
- Potentially developing an RLF Advisory Council that would consist of experienced RLF CARs from across EPA Regions and/or other subject matter experts who would provide feedback and input to the RLF TA provider on all subject areas included in this grant.
- Creating methods to facilitate peer-to-peer networking and a community of practice for existing and potential RLF CARs.

- Using the RLF TA provider’s experience, as well as that of an RLF Advisory Council and other subject matter experts, to provide nationwide technical assistance on detailed RLF-specific topics such as:
  - Roles and responsibilities of RLF team members (e.g., Fund Manager, attorney);
  - Loan execution/management process to include how to best structure a loan for a particular site (e.g., interest rate, repayment terms, offering a discount, proper collateral, strategies based on the market, etc.);
  - Strategies for expenditures on loans and subgrants while still meeting the minimum 50/50 split for loan to non-loan costs; and
  - How to market a CAR’s RLF Program.

#### **4. Who is eligible to apply for this grant?**

The following information indicates which entities are eligible to apply for this cooperative agreement:

- General Purpose Unit of Local Government. [For purposes of the EPA Brownfields cooperative agreement Program, a “local government” is defined as stated under 2 CFR § 200.64.: Local government means a county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937), school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under state law), any other regional or interstate government entity, or any agency or instrumentality of a local government.]
- Land Clearance Authority or another quasi-governmental entity that operates under the supervision and control of, or as an agent of, a general-purpose unit of local government.
- Government Entity Created by State Legislature.
- Regional Council or group of General-Purpose Units of Local Government.
- Redevelopment Agency that is chartered or otherwise sanctioned by a state.
- State.
- Federally recognized Indian Tribe other than in Alaska. (The exclusion of Alaskan Tribes from Brownfields cooperative agreement eligibility is statutory at CERCLA § 104(k)(1)). Intertribal Consortia, comprised of eligible Indian Tribes, are eligible for funding in accordance with EPA’s policy for funding intertribal consortia published in the *Federal Register* on November 4, 2002, at 67 Fed. Reg. 67181.)
- Alaska Native Regional Corporation, Alaska Native Village Corporation, and Metlakatla Indian Community. (Alaska Native Regional Corporations and Alaska Native Village Corporations are defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 and following.)
- Nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.
- Limited liability corporation in which all managing members are 501(c)(3) nonprofit organizations or limited liability corporations whose sole members are 501(c)(3) nonprofit organizations.
- Limited liability partnership in which all general partners are 501(c)(3) nonprofit organizations or limited liability corporations whose sole members are 501(c)(3) nonprofit organizations.
- Qualified community development entity as defined in Section 45D(c)(1) of the Internal

Revenue Code of 1986.

- Other Nonprofit organizations. (For purposes of this cooperative agreement program, the term “nonprofit organization” means any corporation, trust, association, cooperative, or other organization that is operated mainly for scientific, educational, service, charitable, or similar purpose in the public interest; is not organized primarily for profit; and uses net proceeds to maintain, improve, or expand the operation of the organization. The term includes nonprofit colleges, universities, and other educational institutions.)

Notes:

- Individuals, for-profit organizations, and nonprofit organizations exempt from taxation under Section 501(c)(4) of the Internal Revenue Code that lobby within the meaning of the Lobbying Disclosure Act 2 U.S.C. 1601 et. seq. are not eligible to receive Brownfields cooperative agreements.
- Existing RLF CARs and existing CERCLA § 104(k)(7) TA providers are eligible to apply for this grant, either as a lead applicant or as a non-lead coalition member.

### **5. How do Intertribal consortia demonstrate their eligibility?**

Intertribal consortia must attach documentation that they meet the requirements in 40 CFR § 35.504(a) and (c). All members of the Intertribal consortium must authorize submission of an application to provide nationwide technical assistance.

### **6. How do “other nonprofit organizations” who do not have tax exempt status demonstrate their eligibility?**

Eligible nonprofit entities must attach documentation/evidence of nonprofit status under Federal, state, or Tribal law, as applicable.

### **7. If an entity applies for and is awarded this RLF TA Grant, can that entity continue to receive EPA funding under an existing or new Brownfields Grant?**

Yes. For example, if an existing RLF CAR or Brownfields TA provider were to be awarded an RLF TA Grant, it will not affect that entity’s ability to receive other EPA funding under either an existing or new Brownfields Grant.

### **8. Can a group of eligible entities apply as a coalition? What documentation is required?**

Yes. One organization may partner with and apply on behalf of a coalition. Each member of the coalition must be an eligible entity per Section III.A. of the NOFO. For example, the coalition may be comprised of cities, counties, Tribes, states, community development entities, nonprofit organizations, and/or institutions of higher education, to include existing Brownfield RLF CARs or TA CARs. If selected, the lead entity will be the point of contact for the other coalition members. The lead entity will be the grant recipient and must administer the grant, and be accountable to EPA for effectively carrying out the scope of work and the proper financial management of the grant including performing proper subrecipient oversight and management as required by 2 CFR § 200.332 and the EPA Subaward Policy.

Each non-lead coalition member must submit a signed letter to the RLF TA grant applicant (the lead coalition member) in which they agree to be part of the coalition. An active Memorandum of Agreement (MOA) that includes a description and role of each coalition member may serve in place of the individual coalition members’ letters. A MOA documenting the coalition’s process

must be in place prior to the expenditure and draw down of any funds that are awarded. The coalition members should identify and establish relationships necessary to achieve the project's goal. A process for successful execution of the project's goal, including a description and role of each coalition member, should be established along with the MOA. The purpose of the MOA is for coalition members to agree internally on the distribution of funds and the mechanisms for implementing the technical assistance.

**9. Is an organization incorporated under state law and exempt from Federal taxation under section 501(c)(4) of the Internal Revenue Code that lobbies within the meaning of the Lobbying Disclosure Act 2 U.S.C. 1601 et. seq. eligible for Brownfield Grant funding if it qualifies as an “eligible entity” under CERCLA § 104(k)(1) as a quasi-governmental entity or otherwise?**

No. An organization exempt from taxation under section 501(c)(4) of the Internal Revenue Code, as provided in the Lobbying Disclosure Act (LDA), 2 U.S.C. 1611, is ineligible for Federal grants if the organization engages in lobbying activities regardless of how those activities are financed. The term “lobbying activities” is defined at 2 U.S.C. 1602(7) and additional relevant information (the definition of “Lobbying contact”) is available at 2 U.S.C. 1602(8). EPA has determined that the prohibition in 2 U.S.C. 1611 on awarding grants to specified entities supersedes the general eligibility provisions for Brownfields Grants in CERCLA § 104(k)(1). An organization can be both an eligible entity defined in CERCLA § 104(k)(1) and be tax exempt under Federal law as a 501(c)(4), however, it is not eligible to receive Brownfield Grant if the organization lobbies as defined in the LDA.

**10. Is an organization that is exempt from Federal taxation under section 501(c)(4), but does not lobby within the meaning of the Lobbying Disclosure Act 2 U.S.C. 1601 et. seq. eligible for Brownfield Grant funding?**

Yes. EPA's General Term and Condition on Lobbying Restrictions states that “By accepting this award, the recipient affirms that it is not a nonprofit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986 as required by Section 18 of the Lobbying Disclosure Act; or that it is a nonprofit organization described in Section 501(c)(4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.” An applicant/recipient that is exempt from Federal taxation under Section 501(4) must provide EPA (via the submitted application or the EPA Project Officer) with a legal opinion that states that the organization does not engage in lobbying activities within the meaning of the Lobbying Disclosure Act 2 U.S.C. 1601 et. seq. in order for that organization to be eligible for a Brownfield Grant. The EPA Brownfields Program representative will then advise the applicant/recipient if the statement is acceptable or not.

**11. Can we issue a subaward to a nonprofit organization that is exempt from Federal taxation under section 501(c)(4) of the Internal Revenue Code?**

It depends. EPA's General Term and Condition on Lobbying Restrictions states that “...Nonprofit organizations exempt from taxation under section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are ineligible for EPA subawards.” This term and condition is based on EPA's interpretation of the Lobbying Disclosure Act (LDA) as specified in [EPA's Subaward Policy](#), which is incorporated by reference in Term and Condition. The subrecipient must provide the applicant/grant recipient with a legal opinion that states that the organization does not engage in lobbying activities within the meaning of the Lobbying

Disclosure Act 2 U.S.C. 1601 et. seq. in order for that organization to be eligible for a subaward that is funded through Brownfield Grant. The applicant/recipient must provide the legal opinion to the EPA Brownfields Program representative. The EPA Brownfields Program representative will then advise the pass-through entity if the statement is acceptable or not.

**12. Does the applicant have to be available to provide technical assistance nationally to all potential and existing RLF CARs?**

Yes. Applicants must be able to provide technical assistance nationwide to existing RLF CARs, as well as entities nationwide who are eligible to receive a Brownfields RLF Grant.

**13. Can applicants provide technical assistance beyond the five subject areas?**

Yes. Applications must, at minimum, include technical assistance in each of the five general subject areas described in the NOFO. Applicants may, but are not required to, also propose additional technical assistance beyond the five areas EPA has described in the FY24 NOFO as long as the technical assistance is an eligible activity described in CERCLA § 104(k)(7).

**14. What is the closing date of the NOFO?**

The closing date and time for receipt of applications is **March 1, 2024** at 11:59 pm EST.

**15. What is the total maximum award amount?**

The maximum award for this competitive opportunity is \$3,000,000. EPA anticipates awarding one cooperative agreement.

**16. Criterion 2.a on pg 34 of the NOFO says “Applicants who demonstrate in-house expertise and knowledge of at least two of the five subject areas will be evaluated more favorably.” How is “in-house expertise” defined?**

In-house expertise is defined by your employees or if applicable, employees of any non-lead member of a coalition. Employees are on the payroll for tax purposes and receive W2s from their employer. Contractors, including individual consultants, are not employees of the applicant and/or non-lead coalition members. That is, “in-house expertise” is expertise that the applicant and if applicable, any non-lead member of a coalition, has which relates to the five subject areas described in Section I.A. of the NOFO. Subgrantees who are not part of a coalition and contractors are not considered to be in-house.

**17. Regarding the Online Toolkit and Training on the Toolkit subject area in the RFA: Is there more information on who is developing the RLF Handbook, how much progress has been made to date, the target date for completion, and responsibilities of the EPA, EPA Contractor and RLF TA provider?**

EPA will develop the RLF Handbook with help from an EPA Contractor (EMS Inc.) and the selected RLF TA provider. EPA’s plan is to base the new, external-facing RLF Handbook (created for public) on a revised version of the existing, internal-facing RLF Program Manual which is currently used by EPA RLF project officers. EPA is in the process of updating the internal 2022 RLF Program Manual and hopes to have that completed by Fall 2024. Around that time, EPA intends to begin work on the external RLF Handbook, with the goal of releasing it to the public in 2025. As far as roles and responsibilities, the external RLF Handbook will be an EPA document, and EPA will take the lead in developing the Handbook with contractor support. However, EPA will rely on the RLF TA provider (and perhaps an RLF Advisory Council if the



RLF TA provider chooses to create one) to review drafts and provide supplemental information that goes beyond EPA's areas of expertise (e.g., marketing tips, loan management strategies, etc. that organizations who manage RLFs and other subject matter experts would know best).

## **II. GENERAL BUDGET QUESTIONS AND INFORMATION ON PARTNERS**

### **18. What activities cannot be paid for with funds for Technical Assistance to Existing and Potential Brownfields RLF Grant Recipients (i.e., RLF TA grant funds)?**

Funds cannot be used for the payment of:

- Conducting site assessments or cleanups;
- Construction and land acquisition;
- Foreign travel;
- Direct costs for Federal, state or private grant application preparation with the exception of incidental use of data or guidance materials by grant applicants;
- Writing or reviewing grant applications;
- A penalty or fine;
- A federal cost share requirement (for example, a cost share required by other federal funds unless there is authority in another Federal statute to use Federal funds for cost share);
- Administrative costs, including all indirect costs and direct costs for cooperative agreement administration, in excess of five (5) percent of the total amount of EPA cooperative agreement funding, with the exception of financial and performance reporting costs (which are considered allowable programmatic costs and not subject to the 5% limitation);
- Surveys or other collections of information that require that EPA comply with Information Collection Request requirements in 5 CFR § 1320.3(d)
- A cost of compliance with any federal law, excluding the cost of compliance with laws applicable to environmental cleanup; or
- Unallowable costs (e.g., lobbying) under 2 CFR Part 200, Subpart E.

### **19. Would it be acceptable to EPA for an applicant to work with another agency or organization as partners?**

It depends. EPA awards funds to one eligible applicant as the "recipient" even if other eligible applicants are named as 'partners,' 'co-applicants,' members of a 'coalition,' or 'consortium.' The recipient is accountable to EPA for the proper expenditure of funds. Generally, applicants may work with another agency or organization as a partner. If cooperative agreement funding is to be used to provide a subaward to the partner organization, the recipient must comply with applicable requirements for subawards including those contained in 2 CFR Part 200. Note that EPA does not recognize the "fiscal sponsor" concept for the reasons explained in Questions A-49 through A-51 of the [EPA Subaward Frequent Questions](#).

### **20. Can coalition members be added or removed after the award?**

Usually no, non-lead coalition members may not be substituted after the deadline for submitting applications has passed. If the application is selected for funding, the lead member must partner with the other coalition members that were named in the application

unless EPA approves a post-award change to these arrangements pursuant to 2 CFR § 200.308(c).

**21. Can consultants and other contractors providing technical assistance funded under this grant receive sole source contracts funded by Federal grants?**

No, if the amount of the contract is more than \$10,000 or an otherwise authorized micro-purchase threshold under 2 CFR § 200.320(a). The recipient must also ensure that eligible technical assistance services provided under this award are performed in a manner that prevents conflicts of interest from tainting procurements financed with EPA funding. For example, if a consultant hired by the recipient provides technical assistance in the development of specifications for procurements of services, that consultant may not submit a bid or offer on that procurement. Consultants and other contractors providing technical assistance funded under this grant may not receive sole source contracts based on their role in providing technical assistance. Recipients must include restrictions in their contracts that prevent consultants or other contractors from marketing their services or those of affiliated firms while providing EPA funded technical assistance.

**22. Are applicants required to procure a consultant before submitting an application?**

No. Applicants are not required to procure a consultant before submitting an application. Consultants, regardless of when they are procured, must be selected in compliance with the fair and open competition requirements in 2 CFR Part 200 and 2 CFR Part 1500. EPA provides guidance on complying with the competition requirements in the [Best Practice Guide for Procuring Services, Supplies, and Equipment Under EPA Assistance Agreements](#) and the [Brownfields Grants: Guidance on Competitively Procuring a Contractor](#).

**23. Can I receive sample Requests for Proposals (RFPs)/Requests for Quotes (RFQs) or other forms of assistance in developing RFPs/RFQs from potential contractors that will then be allowed to bid on the procurement that will be made under the RFP?**

No. If you seek any assistance from a contractor, including obtaining sample RFPs/RFQs, that contractor is not allowed to submit a proposal in response to your RFP/RFQ. If the contractor submits a proposal, you must reject the proposal. Accepting the proposal will be in violation of [2 CFR § 200.319](#). You may, however, seek assistance from a contractor that will not submit a proposal in response to your RFP/RFQ.

**24. What are the potential consequences for an applicant/recipient that does not conduct a fair and open competition for the procurement of a contractor?**

If an applicant/recipient fails to comply with the competitive procurement requirements in 2 CFR Parts 200 and 1500 or 40 CFR Part 33, EPA may impose additional conditions, as described in [2 CFR § 200.208](#) which may include re-issuing an RFP. If EPA determines that noncompliance cannot be remedied by imposing additional conditions, EPA may take one or more of the following actions, as outlined in [2 CFR § 200.339 Remedies for noncompliance](#), as appropriate in the circumstances:

- a. Temporarily withhold cash payments pending correction of the deficiency.
- b. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- c. Wholly or partly suspend or terminate the Federal award.

- d. Initiate suspension or debarment proceedings as authorized under [2 CFR Part 180](#) and Federal awarding agency regulations.
- e. Withhold further Federal awards for the project or program.
- f. Take other remedies that may be legally available.

**25. Can the same contractor that assists me with preparing the grant application also submit a proposal in response to an RFP/RFQ for consulting services?**

Yes. EPA does not prohibit consultants who prepare grant applications from competing for contracts that will be funded under the grant as long as the competition is conducted fairly and openly. The contractor may not assist with drafting specifications, requirements, statements of work, or invitations for bids or requests for proposals and also be allowed to compete for the services or products that will be procured as indicated in 2 CFR § 200.319(b).

**26. How must recipients handle contracts for micro-purchases?**

As required by 2 CFR § 200.320(a)(1), for contracts that do not exceed the \$10,000 micro-purchase threshold (or a higher threshold as authorized in [2 CFR § 200.320\(a\)\(1\)](#)) recipients must distribute non-competitive micro-purchases equitably among qualified suppliers and the price must be reasonable. Recipients' practices for distributing micro-purchases are also subject to requirements in [40 CFR Part 33](#) for the participation of disadvantaged business enterprises in EPA financial assistance programs.

**27. If we are a successful applicant, will EPA reimburse us for the costs of paying a consultant to prepare our grant application?**

No. Proposal preparation costs of the applicant are not an eligible cost under this grant program.

**28. If our application is successful, will EPA reimburse us for eligible programmatic costs we incurred prior to the award?**

It depends. Under [2 CFR § 1500.9](#), EPA may reimburse successful applicants for eligible programmatic pre-award costs incurred up to 90 days prior to award, even if the applicant did not request prior approval to incur pre-award costs provided the costs are eligible and allowable. 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). EPA's term and condition on pre-award costs provides:

*PRE-AWARD COSTS*

In accordance with 2 CFR § 1500.9, the recipient may charge pre-award costs (both Federal and non-Federal matching shares) incurred from ***{INSERT START DATE}*** to the actual award date provided that such costs were contained in the approved application and all costs are incurred within the approved budget period.

Costs incurred more than 90 days prior to award require specific approval of an EPA award official. Under 2 CFR § 200.458 pre-award costs must be incurred "...pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work." EPA interprets this provision to require that eligible pre-award costs be incurred after applicants for competitive funding receive notification of selection.

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.

**29. CONFLICTS OF INTEREST - Can a grant recipient (and/or its coalition members, consultants, and subrecipients) provide technical assistance to potential applicants on a funding competition (Federal, state, local or private foundation) and also apply for funding under THAT competition or be identified as a funded partner on another organization's application for funding under that same competition?**

Generally, no, absent an approved Conflict of Interest mitigation Plan or measures that neutralize conflicts of interest. Such situations would be a conflict of interest (COI), or at a minimum create the appearance of a COI, and also create unfair competitive advantage concerns. EPA intends to add terms and conditions to the cooperative agreements requiring the grant recipient to provide, for EPA approval, a COI Management/Mitigation Plan within a specified period after the award addressing certain conflict of interest situations and how the recipient will respond to them and proposed mitigation strategies for potential situations. EPA believes that there may be possible mitigation measures for specific situations and that is something that will be addressed post-award. The term and condition will also indicate that to the extent the recipient's Conflict of Interest Management/Mitigation Plan does not address specific cases that may arise during grant performance the recipient will notify the EPA Project Officer of the issue and propose a mitigation strategy for resolving it subject to EPA Project Officer approval.

**III. PARTICIPANT SUPPORT COSTS AND ADVISORY COUNCIL COSTS**

**30. What are participant support costs?**

The Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (Uniform Grants Guidance or UGG) define Participant Support Costs at 2 CFR § 200.1 as: "...direct costs for items such as stipends or subsistence allowances, travel allowances and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences or training projects." EPA regulations at 2 CFR § 1500.1 expand the definition of Participant Support Costs to include subsidies, rebates, and other payments to program beneficiaries to encourage participation in statutorily authorized environmental stewardship programs.

**Participant support costs are allowable under Technical Assistance Grants with prior approval by the EPA Award Official or Grants Management Officer as provided at 2 CFR § 200.456.** An applicant may obtain that approval by clearly stating in the application budget justification that the organization intends to use EPA funds for the specific participant support costs (e.g., travel costs and food for annual RLF meetings, etc.). Participant support costs may also be approved in response to a post-award written request for approval from a recipient.

Participant support costs must be necessary to the goals of the project, for a reasonable amount,

and be adequately documented through receipts. Note that the same costs must not duplicate support provided through other Federal, state, Tribal or local programs. Additional information is available in [EPA's Guidance on Participant Support Costs](#).

### **31. Are participant support costs allowable under this grant?**

Yes, participant support costs are allowable under this grant with prior approval by the EPA Award Official or Grants Management Officer as provided at 2 CFR § 200.456.

An applicant may obtain that approval by clearly stating in the application budget justification that the organization intends to use EPA funds for the specific participant support costs (e.g., travel costs and food for annual RLF meetings, etc.). Participant support costs may also be approved in response to a post-award written request for approval from a recipient.

Participant support costs must be necessary to the goals of the project, for a reasonable amount, and be adequately documented through receipts. Note that the same costs must not duplicate support provided through other Federal, state, Tribal or local programs. Additional information is available in [EPA's Guidance on Participant Support Costs](#).

Use of grant funds for eligible participant support costs include:

- Reasonable stipends to compensate beneficiaries and/or subject matter experts for participating in technical assistance events. Note that stipends may only be paid for actual time spent at the technical assistance events and must not duplicate training support provided through other Federal, state, Tribal or local programs.
- Transportation for beneficiaries to and from technical assistance events in the form of partial or full stipends, meals, or other allowable direct costs are allowable only if the program participant does not charge the cost to an existing RLF Grant or other Federal grant.

The applicant should consider the use of participant support costs to encourage attendance at annual RLF meetings. Note that although travel costs for training are an eligible cost under RLF Grants, RLF CARs with an open RLF cooperative agreement may want to avoid charging these costs to their grant since they count as non-loan costs in the 50/50 split calculation. For more information on the 50/50 split calculation and related RLF Grant policy, see the [Brownfields RLF Program FAQs](#) (as of May 18, 2023).

### **32. Can grant funds be used to pay for food provided at annual RLF meetings?**

Yes. As provided in 2 CFR § 200.432, recipients may use EPA funds to provide food (light refreshments and/or meals) to participants at RLF meetings subject to the requirements of the General Terms and Conditions "Light Refreshments and/or Meals." However, where to place the estimated costs in the budget depends on how the applicant intends to provide the food. If an applicant intends to hire a caterer to supply the food, the costs would be placed in the "Contractual" category. If the meeting venue provides the food as part of the lease for the facility the costs are included in the "Other" category.

### **33. What are advisory councils?**

EPA interprets the term “advisory council” to include groups of individuals who are not employees of the recipient that provide strategic and policy advice to the organization.

Under this grant, a primary mechanism for facilitating national peer-to-peer networking could be developing an RLF Advisory Council that would consist of subject matter experts and experienced RLF CARs from geographically diverse locations across EPA Regions who would provide feedback and input to the RLF TA provider on all subject areas included in this grant.

Examples of ways the RLF Advisory Council could assist the RLF TA provider are as follows: provide input on meeting agenda topics, help with presentations for annual meetings and webinars, review and provide material for the online toolkit to include the RLF Handbook, and act as an advisory board or working group in regularly scheduled webinars where RLF CARs could “call in” with questions or issues they are facing with their RLF Program.

#### **34. Are advisory council costs allowable under this grant?**

Yes, advisory council costs are allowable under this grant. Advisory councils must meet the following requirements:

- a. Costs for advisory councils that are integrated into the recipient’s ongoing operations to provide advice on the overall direction of the organization should be classified as indirect costs since these activities benefit the recipient organization generally.
- b. If a recipient establishes an advisory council that provides advice solely on an EPA funded activity such as a training program or research project, the costs may be allocable to the EPA agreement and charged directly to the EPA award with AEO prior approval. The scope of work and related budget narrative must describe the advisory council’s membership, functions, and costs and explain why the advisory council is necessary to carry out the EPA funded project.
- c. Allowable direct advisory council costs include reasonable stipends and travel support for council members while providing advice on the EPA funded project. Stipends that are structured as “retainer fees” that do not compensate the council member for actual work on an EPA funded project are not allowable as direct costs. Costs for meals and light refreshments for advisory council meetings are subject to the allowability criteria in Section 3, Entertainment and Section 5, Meals and light refreshments at conferences, of this guidance document.

Please review [EPA’s Guidance on Selected Items of Cost for Recipients](#) for more information.

#### **35. What is the maximum amount in stipends that can be paid to program participants and advisory council members?**

As provided in 2 CFR § 200.403, participant support costs and advisory council member costs must be reasonable and conform to any limitations applicable to the EPA award. EPA considers stipends that exceed the amount allowable for individual consultants described in 2 CFR § 1500.10(a) to be unreasonable. Recipients must explain how they determined that the amounts for stipends are reasonable and reflect the benefit of the program.

#### **36. What is the maximum participant support cost amount? What is the maximum advisory council cost amount?**

Participant support costs and advisory council costs are allowable costs under this grant and combined will be capped at 35% of grant funds. The 35% cap encompasses both participant support costs and advisory council costs.

#### **IV. ADMINISTRATIVE COSTS**

##### **37. Does the term “administrative cost” include both direct and indirect costs?**

Yes. Administrative costs include certain direct costs of grants administration and all indirect costs.

- Direct Administrative Costs, including those in the form of salaries, benefits, contractual costs, supplies, and data processing charges, are costs that are not included in the recipient’s indirect cost pool and are necessary to comply with the provisions of the Uniform Administrative Requirements for Cost Principles and Audit Requirements for Federal Awards at 2 CFR Parts 200.
- Indirect Costs are those that are not specifically related to implementing the EPA award and are not readily identified with a specific project or organizational activity but incurred for the joint benefit of both projects and other activities. Overhead costs are a typical example of an indirect cost. Indirect costs are usually grouped into common pools and charged to benefiting objectives through an allocation process/indirect cost rate; 2 CFR § 200.414 and other provisions of the Uniform Guidance.

EPA’s interpretation of the term “Administrative Cost” in CERCLA § 104(k)(5)(B) is based on similar limitations on administrative costs contained in sections 119(a)(1), (d)(4) and (d) and 319(h)(12) on the Clean Water Act.

##### **38. Are there limits on administrative costs for Brownfield Grants?**

Yes. Under CERCLA § 104(k)(5)(E), recipients may use only use up to 5% of the amounts of EPA funds made available under a Brownfields Grant to pay an administrative cost.

##### **39. Our organization’s federally negotiated rate is greater than 5%. Can we charge more than 5% for indirect costs?**

No. EPA understands that many entities have negotiated indirect rates. However, the statutory authority for the competitive Brownfields Grants caps the **amount** of grant funds that can be spent on administrative costs to 5%. The 5% cap of administrative costs is for all administrative costs, including indirect rates and other administrative expenses. For example, if an entity wants to charge their indirect rate to the grant, and their negotiated indirect rate is 15%, then they may charge their full negotiated rate (15%) but the total **amount** of allowable indirect costs is limited to 5% of the amount of the total award amount (EPA funds plus, if applicable, the recipient’s cost share). No other administrative expenses may be charged to the grant.

##### **40. Does the limit on administrative costs for Brownfield Grants conflict with the requirement in 2 CFR § 200.414(c) for EPA to accept a recipient’s negotiated indirect cost rate?**

No. The regulation states that “[A] Federal awarding agency may use a rate different from the negotiated rate for a class of Federal awards or a single Federal award only when required by Federal statute . . . “. By statute, administrative costs for Brownfield Grants are limited to 5% of the amount of funds made available under a Brownfields Grant.

#### **41. What is the difference between a direct administrative cost and a programmatic cost?**

##### *Direct Administrative Costs.*

- Direct administrative costs are direct costs, including those in the form of salaries, benefits, contractual costs, supplies, and data processing charges, incurred to comply with most provisions of the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* contained in 2 CFR Part 200 and 2 CFR Part 200, Subpart E.
- Direct administrative costs are defined in the applicable OMB Cost Principles Circular.
- As required by [2 CFR § 200.403\(d\)](#), recipients must classify administrative costs as direct or indirect consistently and may not classify the same types of cost in both categories. Please review [2 CFR § 200.412](#), *Classifications of Costs*, for more information.

##### *Programmatic Costs.*

- EPA has determined that costs for activities that are integral to achieving the purpose of the cooperative agreement are considered as “programmatic” costs, not administrative costs.

#### **42. What are examples of allowable programmatic costs that are not subject to the 5% administrative cap?**

EPA has determined that direct costs for activities that are integral to achieving the purpose of the cooperative agreement are considered as “programmatic” costs, not administrative costs. Direct costs are defined at [2 CFR § 200.413](#). As required by 2 CFR § 200.403(d), recipients must classify administrative costs as direct or indirect consistently and may not classify the same types of cost in both categories. Please review 2 CFR § 200.412, *Classifications of Costs*, for more information.

The following are examples of eligible programmatic costs:

- In the case of a cooperative agreement for the implementation of Brownfields Programs under CERCLA §104(k)(7), expenses for providing training, research, and technical assistance.
- Costs incurred for complying with the procurement standards of 2 CFR § 200.317 through 200.326 are considered eligible programmatic costs only if the procurement contract is for services or products that are direct costs for performing eligible programmatic activities under the cooperative agreement.
- Costs for performance and financial reporting required under 2 CFR § 200.328 and 2 CFR § 200.328 are eligible programmatic costs. Performance and financial reporting are essential programmatic tools for both the recipient and EPA to ensure that cooperative agreements are carried out in accordance with statutory and regulatory requirements.
- Other examples of programmatic costs include:
  - Expenses for travel, training, equipment, supplies, reference materials, and contractual support if those costs are reasonable and allocable to tasks specified in a grant recipient’s EPA-approved workplan.
  - Salaries and fringe benefits of employees working on eligible activities under the EPA award.



- Operation of a public repository associated with the remediation of a site.
- Maintenance of the brownfields project website. (This is an allowable community involvement cost.)
- Title search. For example, in an RLF Grant, post-award costs for title searches the recipient incurs in connection with making a loan or a subaward.
- Legal services. For example, post-award legal services such as reviewing contracts under all types of grants, or subaward agreements (loans or subgrants) or CERCLA § 107 (hazardous substances)/petroleum liability analyses in the RLF Grants. For further information on these prohibitions, contact your Regional Brownfields Contact.

## **V. INFORMATION ON SUBMITTING THE APPLICATION IN GRANTS.GOV**

### **43. How do we submit our application?**

Applications must be submitted electronically through [www.grants.gov](http://www.grants.gov) by the organization's Authorized Organization Representative (AOR) and be successfully received by 11:59 p.m. Eastern Time on **March 1, 2024**. This is the only method EPA will accept applications, unless the applicant has an approved waiver to submit the application by mail under the Limited Exception Procedure policy (outlined in Appendix 1 of the NOFO).

Occasionally, technical and other issues arise when using [www.grants.gov](http://www.grants.gov). EPA encourages applicants to submit their application early. Refer to Appendix 1 in the NOFO for specific instructions on the use of [www.grants.gov](http://www.grants.gov) and guidance on how to navigate common difficulties experienced when transmitting the application(s) through [www.grants.gov](http://www.grants.gov).

### **44. I know my organization is registered in [www.sam.gov](http://www.sam.gov). Should we check to make sure the account is active?**

Yes! You can only successfully submit an application package if your organization has an active account in [www.sam.gov](http://www.sam.gov). The registration must be renewed annually by the E-Business Point of Contact, so make sure the account does not expire before the application submission deadline.

### **45. How do we know if our application was received by the deadline?**

The grant application and the required federal forms comprise your application package. Your organization's Authorized Organization Representative (AOR) must submit the application package electronically through [www.grants.gov](http://www.grants.gov). If submitted successfully, the AOR will receive a ***Submission Receipt*** email confirming the application package was initially received. Note, you can track the status of your application package anytime by using the link provided at the bottom of the email.

Next, [www.grants.gov](http://www.grants.gov) will process the application package to ensure it is error-free. If the application package passes this step, the AOR will receive a ***Submission Validation Receipt for Application*** email. Alternatively, if the application package has an error, the AOR will receive an email indicating the application package was "rejected with errors" and what those errors are. This gives you the opportunity to resolve the error and for the AOR to re-submit the application package before the submission deadline.

If you did not receive a confirmation email, need assistance with submitting your application package, or have questions, contact the [www.grants.gov](http://www.grants.gov) Help Desk at 1-800-518-4726 or [support@grants.gov](mailto:support@grants.gov). The Support Center is open 24 hours a day, 7 days a week; closed on federal holidays.

Additionally, the [www.grants.gov](http://www.grants.gov) website has training documents and videos to assist applicants at [www.grants.gov/web/grants/applicants/applicant-training.html](http://www.grants.gov/web/grants/applicants/applicant-training.html).

**46. Can we use another organization’s UEI number to submit the application package?**

No. You must use the UEI number assigned to the organization that is submitting the application package.

**47. What is the “Catalog of Federal Domestic Assistance Number” and the “CFDA Title” that should be used on the Application for Federal Assistance (SF-424)?**

The “Catalog of Federal Domestic Assistance (CFDA) Number” is 66.814 and the “CFDA Title” is Technical Assistance to Existing and Potential Brownfields Revolving Loan Fund Grant Recipients.

**48. If the title of the person responsible for submitting the application does not have Executive Director as their official title, is some other designation ok?**

Yes, another title is okay. What's most important is that the person who submits the application is officially designated as an AOR in grants.gov. Only the E-business point (as listed in sam.gov) can designate an AOR in grants.gov.

**49. What documents do we need to include with our application?**

The following documents must be included and are available in the Grants.gov Workspace:

1. Application for Federal Assistance (SF-424)
2. Budget Information for Non-Construction Programs (SF-424A)
3. EPA Key Contacts Form 5700-54
4. Pre-award Compliance Review Report (EPA Form 4700-4) [Guidance on how to complete this form is available at [www.epa.gov/grants/tips-completing-epa-form-4700-4](http://www.epa.gov/grants/tips-completing-epa-form-4700-4).]
5. Project Narrative Attachment Form – attach the Narrative Information Sheet, the Narrative, and required attachments (including responses to the threshold criteria) as one file, if possible.

The following documents are optional to upload in Grants.gov:

6. Grants.gov Lobbying Form – To be submitted by applicants requesting **more than** \$100,000 of EPA grant funding.
7. Negotiated/Proposed Indirect Cost Rate Agreement – To be submitted using the Project Narrative Attachment Form by applicants proposing to charge indirect costs to the EPA grant. Please note that applicants may budget for indirect costs pending approval of their Indirect Cost Rate Agreement by the cognizant Federal agency or an exception granted by EPA under section 6.3 or 6.4 of [EPA’s Indirect Cost Policy for Recipients of EPA Assistance Agreements](#). However, recipients may not draw down indirect costs until their rate is approved or EPA grants an exception.

## **50. What do we attach to the Project Narrative Attachment Form?**

In addition to the documents listed in FAQ #47 above, you should prepare the following attachments as applicable:

1. **Narrative Information Sheet** (3-page limit, single-spaced)
2. Responses to the **threshold** criteria
  - a. Attach documentation of applicant eligibility (and non-lead member, if applicable).
    1. A statement of applicant (and non-lead member, if applicable) eligibility if a county, state, or Tribe.
    2. Documentation of applicant eligibility (and non-lead member, if applicable) if other than a city, county, state, or Tribe; e.g., resolutions, statutes, Intertribal Consortium documentation, or documentation of 501(c)(3) tax-exempt status or qualified community development entity. Please refer to FAQ #4 for the list of eligible nonprofit entities.
    3. A statement of the applicant's (and non-lead member's, if applicable) 501(c)(4) tax-exempt status and, if applicable, legal opinion regarding lobbying activities.
  - b. If applying as a coalition, attach a signed letter of commitment from each coalition member or an active Memorandum of Agreement.
  - c. Attach a discussion on contractors and named subrecipients, or an affirmative statement that a contractor has not been procured and a subrecipient has not been /named.
  - d. If a contractor has been procured, attach a copy of (or link to) the solicitation documents and the signed executed contract.
3. The Narrative, which includes the responses to all **ranking** criteria (20-page limit, single-spaced)
  - a. Attach a milestones schedule. The milestones must indicate the start and completion dates of significant tasks under your program. [Note, the milestones schedule will not count against the 20-page narrative limit and does not have an individual page limitation.]

## **51. How should we upload the Narrative Information Sheet, the Narrative, and associated attachments (Project Narrative Attachment Form) in [www.grants.gov](http://www.grants.gov)?**

EPA recommends combining the Narrative Information Sheet, the Narrative, and associated attachments (including responses to the threshold criteria) into a single file and uploading the single file to the "Project Narrative Attachment Form". This ensures that EPA receives your entire submission, and the submission is in the order that you intended. Please review the [Grants.gov Tip Sheet](#) for additional application submission tips.

## **52. Can we include letters of support or commitment (e.g., to document leveraging) in the attachments even though they are not required?**

EPA will not review support or commitment letters even if you include them. The only attachments that will be reviewed are documentation of applicant eligibility, attachments related to contractor procurement or a memorandum of agreement for a coalition, and the milestones schedule. Extraneous materials, including photos, graphics, and attachments not listed, will not be considered.

**53. How should I respond to Question 19 on the SF-424 “Application for Federal Assistance”?**

Question 19 on the SF-424 references Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs. Applicants must choose one of three options:

- a. This application was made available to the State under the Executive Order 12372 Process for review on (enter date).*
- b. Program is subject to E.O. 12372 but has not been selected by the State for review.*
- c. Program is not covered by E.O. 12372.*

Applicants must answer Question 19 in order to complete the SF-424 and submit the application package. **All applicants should select option c.**