

QUESTIONS AND ANSWERS FROM JANUARY 2023 RLF ACRES TRAINING

On January 12, 2023, EPA's Office of Brownfields & Land Revitalization (OBLR) held a webinar to train EPA project officers and cooperative agreement recipients (CARs) on upcoming changes in ACRES for Revolving Loan Fund (RLF) grants. In addition to an ACRES demonstration, the training included information on EPA's new Fiscal Year 2022 (FY22) Closeout Agreement (COA) Template, annual COA monitoring process, and Draft Sample Post-Closeout Report. The recording and training materials are available on the [Brownfields Program website](#).

Below is a transcript of the substantive questions submitted by participants and the presenters' responses. Similar questions are only included once. Questions are provided as they were written in the Teams chat, with the exception of minor editing for clarity. Responses below may include additional information than what was provided during the webinar.

Notes:

- *Although it was not provided during the training, EPA has included a table as an attachment to this Q&A that provides a crosswalk of what types of RLF funding (federal grant funds, cost share, and different types of program income) can be used for various requirements and activities while the cooperative agreement is open and after it closes under a COA. The attachment is based on the FY22 cooperative agreement terms and conditions (T&Cs) and the FY22 COA Template; if the CAR is operating under older T&Cs or an older COA, the table will not be accurate. In addition, this table is not meant to be all-inclusive (see your individual cooperative agreement approved workplans, T&Cs, and COA for all requirements and allowable activities).*
- *All responses below assume the CAR is referring to a COA based on the FY22 COA Template.*
- *The primary regulatory basis for our responses is [2 CFR 200.307\(f\)](#) and [2 CFR 1500.8\(c\)](#).*

1. With respect to 6(b) in the COA - can the CAR contract with another agency to carry out the cleanup utilizing that other agency's ability to task order the work?

Yes.

2. Do site and subaward recipient eligibility requirements apply to COA PCPI use?

Yes, see Terms 6(a), 8, and 9 in the FY22 COA Template. Sites must still meet the statutory definition of a brownfield which brings in the CERCLA §107 requirements. However, as indicated in Term 9, the COA recipient can make those determinations independent of EPA and maintain the documentation in the CAR's records. If the CAR wants to include a site under CERCLA §101(39)(C), the CAR must request that EPA make a site-specific determination. In addition, subgrantees must be eligible entities under CERCLA § 104(k)(1) and/or other nonprofit organizations (other than organizations exempt from taxation under Section 501(c)(4) of the Internal Revenue Code that lobby).

3. 6(b) allow CAR to assess? 6(h) limit?

The question on 6(b) in the COA is unclear. It is presumed to mean can the CAR conduct an assessment on a Brownfields site prior to direct cleanup? The answer to that question is yes. 6(h) in the COA covers programmatic costs to manage and oversee the work being performed. Those costs must be reasonable with respect to the other expended costs, but administrative costs are not limited to 5% under the FY22 COA.

4. Can you confirm whether or not closeout income under a COA is considered non-federal and local funds?

Post-closeout program income (PCPI) is considered federal funds to the extent specified under the COA. All federal requirements of the cooperative agreement are not applicable (e.g., Davis-Bacon), only those specified in the COA.

5. Is the committed and uncommitted analysis including the use of the funds for staffing - which is essentially a "commitment" by the CAR?

Funds to maintain the RLF program, including personnel, are eligible, and could fall into "committed" funds". See Slide 21 for the definition of Committed PCPI Balance.

6. Could you provide clarity as to why the amount is \$500k and not \$750K or \$1M?

The FY18 COA Template, which was developed in response to the first Office of Inspector General (OIG) audit, used \$500,000 as the threshold for the COA term regarding revocation of the COA. Therefore, due to that previous FY18 policy, the FY22 COA Template used the same \$500,000 amount.

7. Are the activities under G limited to COAs?

Yes, the [area-wide planning activities](#) in 6(g) of the FY22 COA are one of the additional flexibilities that is available for use of PCPI only. These activities are not allowable under an open RLF cooperative agreement.

8. Can you speak to how federal-cross cutting requirements are no longer required?

Federal cross-cutting requirements for PCPI-funded projects are applicable to the extent outlined in the COA. Davis-Bacon Act, Endangered Species Act, Uniform Relocation Act, National Historic Preservation Act, Minority Business Enterprises/Women Business Enterprises, and Build America, Buy America Act are not applicable to projects funded with PCPI because they are not included in the FY22 COA.

9. Is there a timespan within which the program income is deemed idle and therefore can be terminated?

There is not an exact timespan, but EPA will be expecting the CAR to have expended PCPI during each annual reporting period, unless justification is provided in the Post-Closeout Report to explain why no funds were spent. Remember, 2 CFR § 1500.8(c) allows RLF CARs to keep program income at the end of the cooperative agreement only if they use those funds for continued operation of the RLF or for other brownfields purposes, as allowed by

their COAs. EPA does not want to see \$0 in PCPI expended year after year, especially when the FY22 COA provides many new uses for that funding.

10. Is the 100-mile radius for work that is eligible to be done only within 100 miles of the site of the previous loan recipient's site?

It's 100 miles out of the CAR's defined geographical boundaries as described in the scope of work for the cooperative agreement(s) covered by the COA. Generally, the original RLF application defined a target area (a City, a multi-County area, etc.) which was incorporated in the scope of work when EPA awarded the cooperative agreement. The 100-mile extension would apply to an extension of the entire project area specified in the scope of work, not just the location of your first site.

11. For Item 6b, is there a minimum-maximum cost for cleanup project?

No, there is no minimum or maximum cleanup cost.

12. Will the Q&A in the chat be sent out to participants with the webinar recording?

We will post an organized transcript of Q&A to our website along with the recording of this webinar. You can also reach out to us at OBLRComments@epa.gov or contact your EPA Project Officer.

13. What defines "committed" in the PCPI balance?

See Slide 21 in the [presentation slides](#).

14. How long can a post-closeout RLF operate - receiving supplemental funding and continued PCPI?

It can remain open as long as you have funding and are using the funding for eligible activities. Note, however, that only open cooperative agreements are eligible for RLF supplemental funding (see question 18 below).

15. Will work completed during the post closeout period remain subject to the Davis-Bacon Act?

Probably not. Davis-Bacon requirements are not specified in the COA and are not applicable to expenditures of post-closeout funds. However, if a remediation project is carried out with both COA funding and cooperative agreement funding Davis Bacon will apply to the entire remediation project if the "purpose, time and place" test for Davis Bacon applicability is met. Davis Bacon applies to construction, alteration or repair work funded "in whole or in part" with Brownfields grants as required by CERCLA 104(g).

16. If we are a state agency where the entire state is our jurisdiction. Can we just say that we can do projects in our entire state, rather than use the 100 mile radius rule?

Yes, if the entire state was the geographic boundary defined in the scope of work for the RLF when it was an open cooperative agreement.

17. Can you please speak to Section 14. community involvement activities...must solicit input on cleanup alternatives and proposed actions from local communities? Does EPA have a sense of how to interpret this? For example, how should an ABCA be implemented under a COA?

Term 14 in the FY22 COA speaks to the requirement to notify the community of cleanup activities and solicit input, similar to when the cooperative agreement was open. Use of an Analysis of Brownfields Cleanup Alternatives (ABCA) is encouraged and an easy way to meet this requirement under the FY22 COA. An ABCA is an eligible expense under the FY22 COA (see 1c in the COA Addendum).

18. Is supplemental funding considered PCPI?

No, supplemental funding awarded as a result of the annual RLF supplemental funding process is not PCPI since supplemental funding is not awarded to post-closeout grants operating under a COA. Supplemental funding awards are only made to CARs with an open RLF cooperative agreement and are subject to the terms and conditions of the cooperative agreement.

19. Since the PCPI earned is constantly shifting over the year of the COA - is there a way that payoff of a loan during the period can be noted - especially as the payoff may be large, or may occur close to end of the reporting period and thus trigger that \$500,000 threshold. Absolutely. That is the intent of allowing a narrative response as shown in Section 1 of the optional [Draft Sample Post-Closeout Report](#) that was provided during the training.

20. Is PCPI considered federal grant funds? If not, is that why laws and regs applicable to federal grant funds do not apply to PCPI? This would help clarify a lot about how to manage PCPI.

PCPI is considered federal funds to the extent federal requirements are specified under the COA. See previous responses regarding applicability of federal cross-cutting requirements.

21. So supplemental will not be awarded to a post closeout RLF? We must apply for a new grant?

Supplemental funding is for open cooperative agreements, so only CARs who have open cooperative agreements are eligible for supplemental funding. If you do not have an open RLF grant and want to be eligible for supplemental funding in the future, you must apply for a new RLF cooperative agreement through the competition.

22. So do CARs have to complete an annual report in both hard copy (emailed to PO) and in ACRES? It seems like we're submitting the same information twice which is doubling the work load.

CARs must submit an annual Post-Closeout Report and complete ACRES reporting. Note that ACRES does not allow for narrative text on activities completed over the past year and what you intend to do with funds over the next year (e.g., see #1 in the optional [Draft Sample Post-Closeout Report](#)), hence the need for both. The Post-Closeout Report also

provides more detailed information that backs up the numbers that are entered in the ACRES database (e.g., what was included in coming up with the Committed PCPI Balance).

23. Table 4 shows interest rate field for loans - does the system allow variable rate loans that tier up interest rate. i.e., initial rate of 0% tier up 0.50% every two years until term maturity

Yes, the variable rate loan condition can be documented in the text field.

24. Sorry, clarity please - the COA is for PCPI that is being earned from previous loans - does the list of projects reflect those projects from beginning and ongoing?

It appears you are asking about the site list at the bottom (Section 4) of the [Draft Sample Post-Closeout Report](#). That is an example, but the idea is to be sure that all site-specific work is captured in ACRES, regardless of when it occurred.

25. Do the requirements of 2 CFR Part 200.317 - 200.326 and 2 CFR 1500 apply for work completed during the post-closeout period?

No, these requirements do not apply under the FY22 COA. The only federal requirements that apply are those listed in the COA. On the other hand, federal procurement standards do apply while the cooperative agreement is open but only to procurements by the CARs and under subgrants, not to loans.

26. If only one of your RLFs is closed but others are open, you will need to report separately for both the open and closed RLF agreements, correct?

Correct. However, note that when you state that “one of your RLFs is closed,” it is assumed you mean one of your RLFs is in post-closeout status because if the RLF was closed (i.e., no existing or expected program income), there would be no reporting (see Slide 10 in the presentation slides for RLF grant status definitions). So, if one of your RLF grants is in post-closeout status, and two others are open, you will need to report separately for each (annually for the post-closeout grant and quarterly for the two open grants) and you will need to have a separate interest-bearing bank account for each.

27. Can you please confirm whether or not 2 CFR 200.320 Methods of Procurement is required under a COA?

No, the procurement requirements of 2 CFR 200.320 are not applicable to work conducted under the FY22 COA.

28. Can we use ACRES to find PCPI from other closed COAs available within a 100 mi radius that might be available for a project?

You can only see the PCPI from your own COAs, and they have to have been updated in ACRES. This is a new data field so it has not been populated previously.

29. Can you define the three different sources of funding? specifically "epa funds" and "cost share"?

EPA funds are funds awarded for the grant by EPA. Cost share is the cash and in-kind contributions of labor, material, and services for expenses that are eligible and allowable under the cooperative agreement. There are no cost share requirements under a COA. See Slide 9 for the definitions of program income.

30. Is that discount amount reflected as a "grant" then when calculating the loan / grant balance in the cooperative agreement?

Yes, the discounted amount (i.e., principal forgiven) in a discounted loan is counted toward the non-loan portion of the 50/50 split. That is, under a cooperative agreement, at least 50% of the total award amount must be spent on loans and associated eligible programmatic costs. Note that this question is applicable to an open RLF cooperative agreement, but not a COA, since the 50/50 split rule is not applicable under COAs (i.e., 100% of PCPI can be spent on non-loan costs if they are eligible expenses under the COA).

31. I also would like more definition and explanation on loan discount.

See the previous question and answer. Discounted loans are explained in the [2005 discounted loan policy](#) but some updates were made to this policy through the FY22 cooperative agreement T&Cs. Please contact your RLF project officer or regional RLF Lead to get help with understanding discounted loans.

32. For the loan amount, do you want us to enter that when the loan agreement is signed for the maximum amount (not to exceed amount) or when the cleanup is complete (actual loan amount that will be repaid)?

Enter the loan/subgrant amount when the documents are signed. If the funding amount has changed when the cleanup is complete, you would then change the amount in ACRES accordingly.

33. Will there be a session at the National Brownfield Conference to go over this again? Maybe as part of a pre-conference "all things BCRLF" workshop? This is a lot of information and changes and it would be helpful to have another opportunity to go through this with the ability to ask interactive questions (as opposed to just watching a recording and emailing questions).

Great suggestion - we will consider it.

34. Is the CAR required to acquire the services of an environmental professional to coordinate, direct, and oversee brownfield site cleanup activities under a COA?

For the purpose of All Appropriate Inquiries (AAI) investigations, many AAI-required activities must be conducted by, or under the supervision or responsible charge of, an individual defined under the AAI rule as an "environmental professional" (sometimes referred to as a "qualified environmental professional"). However, a CAR is not required to retain the services of an environmental professional to coordinate, direct, and oversee brownfield site cleanup activities under a COA. Rather, a person/entity experienced in the

type of cleanup being conducted should be available to oversee the cleanup process. If the CAR does not have the requisite technical knowledge within their organization, they must acquire it elsewhere. Hiring an experienced private contractor or enrolling in the State Voluntary Cleanup Program are available mechanisms to comply with this requirement.

35. Sorry - why is the start date after the anticipated repayment end date - is this not reversed?

EPA is unclear on what you are referring to. Note that dates for the ACRES demo were picked randomly just for a quick example so they may not have been in the proper order during the demonstration. Please contact the ACRES Help Desk if you have further questions on this.

36. Can the direct cleanup funds be for a site owned by the CAR?

See 6(b) in the FY22 COA which says: the property can be owned by the CAR provided the CAR is not potentially liable under CERCLA § 107, but cannot be owned by a private, for-profit entity.

37. An open CA automatically goes into post closeout at the end of the project period. So, to be eligible for supplemental we must apply and compete for a new CA in order to continue operating?

You must have an open grant to add supplemental funding to a cooperative agreement. A cooperative agreement may be extended if work is on-going which will enable the open grant to remain eligible. Extensions may be awarded, generally, up to 15 years.

38. Does the amount or percentage of loan/grant funds received in open [cooperative agreement] need to remain similar in [post-]close out?

No, see previous answer explaining that the 50/50 split does not apply under a COA.

39. Can program income that is principal [be] used for personnel cost in COA?

Yes.

40. Can these slides be sent to us?

The presentation slides for today's training are located here:

https://www.epa.gov/system/files/documents/2023-01/Slides_January%202023%20ACRES%20Training%20for%20RLFs.pdf

41. What if we are using PCPI for a project that was previously funded with a loan or subgrant during an open cooperative agreement?

There is no reason you could not finish a project with PCPI that was started while the cooperative agreement was open. But remember that if funding from an open cooperative agreement is combined with PCPI while the cooperative agreement is still open, the terms and conditions of the open cooperative agreement (e.g., federal cross-cutters like Davis-Bacon) apply to the expenditures of PCPI as well.

42. Can program income be used to be pay CAR QEP on COA projects?

Yes. Costs incurred to carry out the terms of the COA are allowable costs.

43. So the only Federal Labor Standard requirement that apply to the COA is that the borrower or subgrantee is not currently suspended, debarred or other ineligible under 2 CFR Part 180? No Davis-Bacon, correct?

Correct to both questions.

44. Will we be able to add info to ACRES for older projects that were done with program income? I have a post closeout pilot RLF where I had not been able to do that previously.

Yes for work conducted under grants awarded after 2002. Pilot RLF grants are unique since information was not collected site-specifically. Please contact the ACRES help desk with the specifics of your grant.

45. Can we add other activities to ACRES besides cleanup? That was the only thing shown during the demonstration but we have used program income for assessment work.

Yes, you can always add information on previous sites or new sites to include information on assessments completed with PCPI.

46. The reporting period for post close out is annual right? not quarterly?

Correct, the post-closeout reporting period is annual and under the FY22 COA, all reporting is due by October 31st with information accurate as of September 30th.

47. Can these PCPI dollars be used to match other federal funds that would normally not count EPA Brownfields Funds as match?

Program income when the cooperative agreement is open and PCPI under a COA can both be used to meet federal match requirements for Brownfields grant cost share, as long as it is program income generated from interest and fees, not principal repayment [see Term 6(i) in the FY22 COA]. The same applies to using program income and PCPI for match for other federal grants besides Brownfields grants, as long as the eligible uses of funds for the other federal grant program aligns with the eligible uses of funds in the COA.

48. Is PCPI considered federal funds or local funds?

PCPI can be both. PCPI is federal funds to the extent it is governed by the COA. No federal requirements apply except those that are in the COA. Also, PCPI is considered federal funds for the purpose of the Single Audit Act, but again to the extent of auditing compliance with the federal requirements specified in the COA.

49. Are PED Requests required for activities conducted with Program Income if that's not indicated in the Closeout Agreement? Would they be required if a CAR upgraded to the new FY22 COA?

See Terms 8 and 9 in the FY22 COA. Although the COA does not specifically name "Property Eligibility Determination (PED)" requests, Term 9 states that the CAR must make and retain a certification of property eligibility in their records. The CAR may consult with the

state/tribal response program and/or EPA for assistance with this matter, but this consultation is not required unless the CAR wants to include a site under CERCLA §101(39)(C).

50. If the closeout agreement says the grantee only has to track the funding for 10 years, do they still need to send in an annual report to EPA after the 10 years?

The CAR is required to account for the use of their funds as long as they retain unexpended and/or revolving PCPI. If the older COA only required 10 years of tracking of PCPI, that would likely become a case where EPA would contact the CAR to monitor (get an update) on the status of their PCPI since it must continue to be used for the types of activities specified in the relevant COA. However, once you sign the FY22 COA, you will report on the PCPI until you expend all funds or return the funds to EPA and the COA is terminated.

51. Is it ok for CAR to use PCPI all for eligible cost and not do any loans/grant or must a percentage of PCPI be used for loans/grants?

Yes. 100% of PCPI can be spent on non-loan costs as long as they are eligible expenses under the COA. When all of the PCPI has been expended the CAR may request termination of the COA.

52. To confirm, the annual reporting is only for post-closeout income, whereas retained program income (from currently open RLF's) is reported quarterly?

This would be correct if "retained" was removed from the question. See slide 9 for definitions of program income. Remember, program income is governed by the cooperative agreement, and retained program income and post-closeout program income are governed by the COA. Quarterly reporting is required for a cooperative agreement and annual reporting is required under the FY22 COA.

53. Can PCPI be used for staffing (full or part time) position to carry out reporting, outreach, and other duties to manage the PCPI and is there a % limit for programmatic or administrative costs?

Yes. There is no % limit on administrative costs under the FY22 COA, as long as they are reasonable.

54. How is the PCPI reflected with those projects that were previously entered - I feel like I missed that or am misunderstanding it was "leverage"?

There is an option to select Program Income as a funding source in ACRES.

55. Need to do a SF-425?

An SF-425 is the Federal Financial Reporting (FFR) form. It is done annually with a Final FFR submitted when the cooperative agreement ends. It is not required under a COA.

56. Are projects funding through Program Income subject to FSRs reporting?

Yes, under an open cooperative agreement, but not under the FY22 COA. The only Federal requirements that apply to projects funded under the COA are those specified in the COA

itself, and Funding Accountability and Transparency Act (FFATA) Subaward Reporting System (FSRS) reporting under 2 CFR Part 170 is not among the Federal requirements specified in the COA.

57. Are the newer Supplemental RLF CAs eligible for Supplemental RLF awards in future years?

Yes, if they meet the supplemental funding criteria.

58. Can you split a project between CAR agreements and PI?

A project can be split using funds from an open grant and PCPI, but when doing that, Davis-Bacon and other federal requirements become applicable (i.e., all the requirements for an open cooperative agreement apply to the jointly funded project).

59. When will the updated entry options on ACRES be visible?

We are hoping soon, but waiting for approvals. Optimistically we would like to think by Spring 2023.

60. With the SF 425 for an Open CA - the section regarding Program Income asks for PI Earned, expended etc. If the PI is transferred to a COA - how is this reflected on the SF 425 for the open CA?

Program income is only “transferred” to a COA when the open RLF cooperative agreement expires or otherwise closes. You would reflect the amount of program income to be transferred to a COA as “unexpended program income” in the final SF-425.

**ATTACHMENT:
Key Requirements or Allowed Activities when Using Different Types of RLF Funding
(based on FY22 T&Cs and FY22 COA)**

RLF Requirements or Allowed Activities when using →	While Cooperative Agreement is Open ¹		After Cooperative Agreement Closes ¹
	Federal Funds + Cost Share or Combination with Program Income	Program Income Only	Post-Closeout Program Income ²
Cleanups completed via loan or subgrant	X	X	X
Direct cleanups (as defined in FY22 COA)			X
Health monitoring of vulnerable populations near sites cleaned up or assessed	X (up to 10% for local governments only)		X
Institutional control and engineering control monitoring to ensure continued protection of public health	X (up to 10% for local governments only)		X
Phase I and II Environmental Site Assessments			X
Area-wide planning for the assessment, cleanup and/or re-use of brownfield sites			X
Cost share for other Brownfields grants		X ³	X ³
Eligible work under the COA at brownfield sites within 100 miles of the geographic boundary described in the scope of work			X
Eligible and allowable programmatic costs	X	X	X
50/50 split rule ⁴	X		
Subgrant limit of \$500,000 per site ⁴	X		
Principal forgiveness limit of \$500,000 or 50% of discounted loan per site ⁴	X		
Use of pre-FY2018 funding based on designation as hazardous substances or petroleum	X		
Use of FY2018 or later funding for both hazardous substances or petroleum	X	X	X
Quarterly reporting to EPA	X	X	
Annual Post-Closeout reporting to EPA			X
Reporting in ACRES	X	X	X
Funding Accountability and Transparency Act (FFATA) Subaward Reporting System (FSRS) reporting	X	X	
SF-425 Federal Financial Reporting (FFR)	X	X	
Funds deposited in interest-bearing account ⁵	X	X	X

RLF Requirements or Allowed Activities when using →	While Cooperative Agreement is Open ¹		After Cooperative Agreement Closes ¹
	Federal Funds + Cost Share or Combination with Program Income	Program Income Only	Post-Closeout Program Income ²
Cleanups meet all federal/state/tribal requirements, as applicable, and be protective of human health and the environment	X	X	X
Cleanups conducted through state or tribal response program or in consultation with EPA	X	X	X
Community Involvement	X	X	X
ABCA, CIP, Administrative Record, QAPP	X	X	Eligible use of funds, but not required
Administrative costs limited to 5%	X	X	
Davis-Bacon, ESA, URA, NHPA, MBE/WBE, BABA ⁶	X	X	
Procurement requirements for CARs/subgrantees	X	X	

¹ If the CAR has T&Cs from FY21 or earlier and/or does not have the FY22 COA, consult the CAR's applicable T&Cs and COA since information in this table will not always be accurate for that grant.

² After the performance period for the cooperative agreement ends, retained program income is subject to the COA and gets combined with program income earned after the cooperative agreement performance period ends. The sum is then referred to as post-closeout program income.

³ Only program income generated from interest and fees, not principal repayments.

⁴ On a very limited basis, EPA may approve a waiver for this requirement.

⁵ RLF funds must be kept in an interest-bearing account unique to each cooperative agreement and separate from post-closeout program income governed under a COA unless a state recipient is subject to a different requirement under a Cash Management Improvement Act Agreement with the U.S. Treasury.

⁶BABA applies if the CAR has this requirement in its T&Cs (e.g., FY22 or later T&Cs for both Infrastructure Investment and Jobs Act and regular EPA appropriations).