

Impacts to Tribes as Federal Award Recipients

2024 Revisions to 2 CFR 200

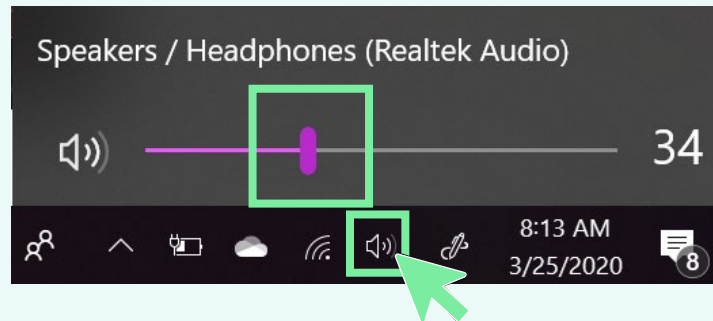
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- ✓ Presenter Audio Only (like a TV broadcast)
- ✓ If you cannot hear, ensure your system/device audio is turned up and not muted and that you have not paused the broadcast

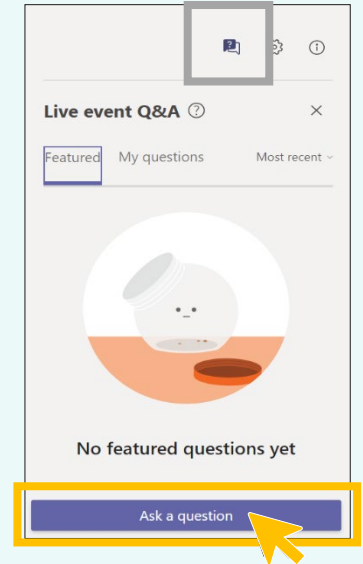
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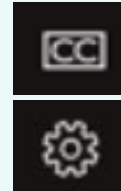
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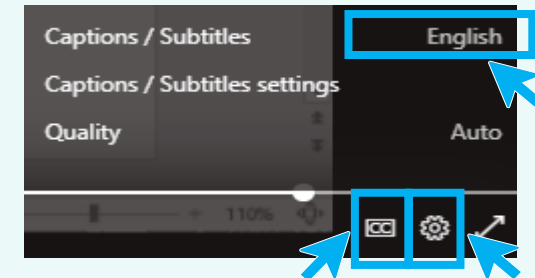


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EPA's National Policy, Training, and Compliance Division

- The National Policy, Training, and Compliance Division supports applicants, recipients, and subrecipients by providing national compliance support, training resources and tools, ensures national grants policies and regulations are accessible to the public, and provides general grant support.
- Some of the areas of support:
 - Overview for Applicants and Recipients
 - Grant Forms
 - Training and Webinars
 - Competition
 - EPA Grants Policy Resources
 - Terms and Conditions (T&Cs)
 - Suspension and Debarment
 - EPA Policies and Guidance



Relevant Reminders

- This webinar is focused on the 2 CFR 200 Uniform Grants Guidance (UGG) revisions that became effective October 1, 2024.
- The topics shared today were selected based on their importance and impact specifically to Tribes.
- Some topics have minimal changes, whereas others have extensive changes that impact the applicant, recipient/subrecipient, and the Agency.
- The slide deck is broken down into three subsections:
 - 2 CFR 200 Revisions
 - Notes of Importance
 - Resources and Tools

Blanket Changes

- Language Changes
 - “Cost sharing or matching” is now only “cost sharing”, matching has been removed.
 - “Federal awarding agency” is now only “Federal agency.”
 - “For-profit organization” is now included within “private entity.”
 - “Non-Federal Entity” is now referred to as “recipient.” and/or “subrecipient.”
- Revised Definitions of Key Terms:
 - Improper Payment
 - Indian Tribe
 - Indirect (F&A) Cost
 - Participant
 - Questioned Cost
 - Supplies

2 CFR 200.1 Indian Tribes

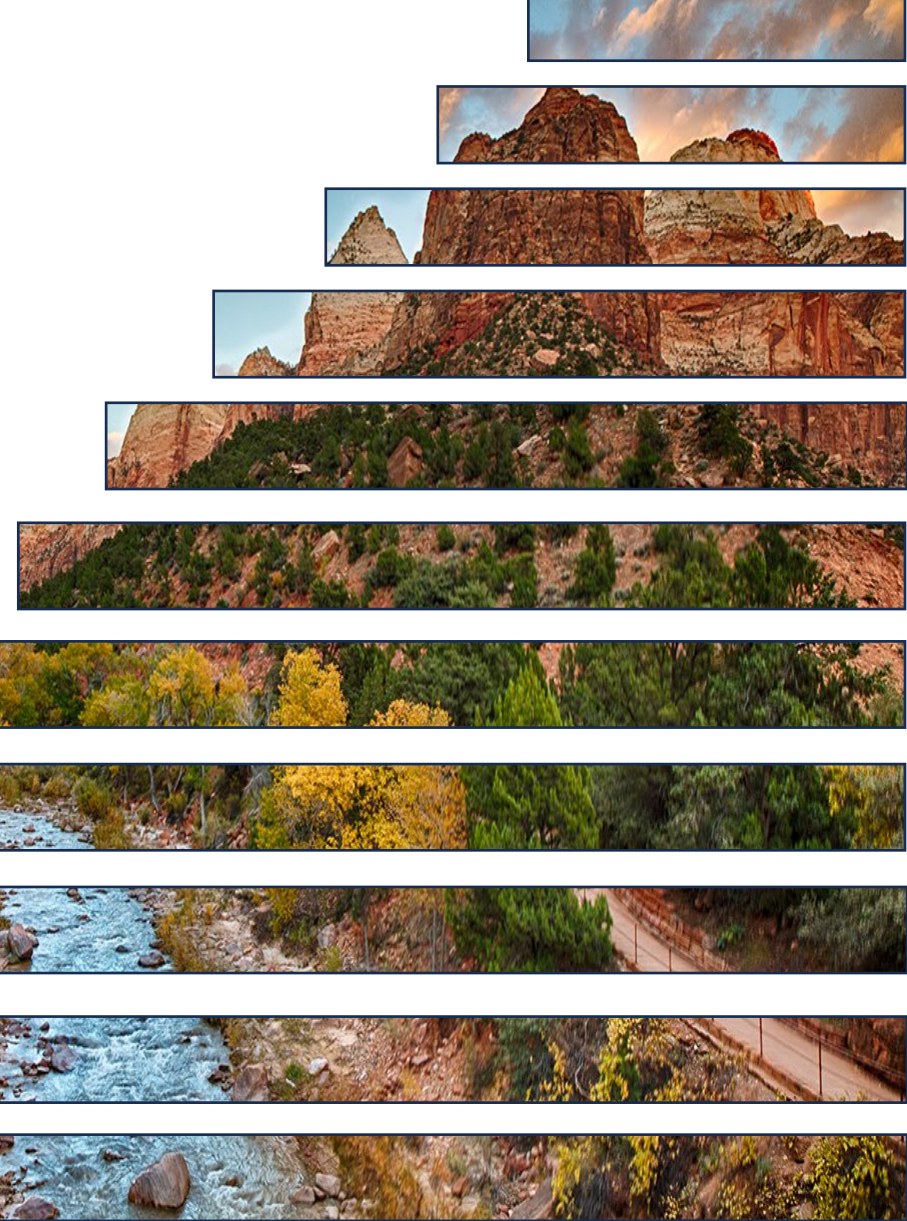
Indian Tribe means any Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act ([43 U.S.C. Chapter 33](#)), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. See [25 U.S.C. 5304\(e\)](#).

This includes any Indian Tribe identified in the annually published Bureau of Indian Affairs list of “*Indian Entities Recognized and Eligible to Receive Services*” and other entities that qualify as an Alaska Native village or regional village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act.

200.414

Indirect Costs

- Federal agencies must accept a recipient's Negotiated Indirect Cost Rate Agreement unless a different rate is required by Federal statute or regulation for a class of Federal awards or a single Federal award, or when approved by a Federal awarding agency head or delegate through the deviation process detailed in 2 CFR 200.414(c).
- A Pass-Through Entity must accept a subrecipient's Federally negotiated indirect cost rate unless a different rate is required by Federal statute, regulation, or by a deviation approved in accordance with 2 CFR 200.414(c).



200.414

Indirect Costs

- The de minimis rate was increased to allow recipients to recover up to 15% of their Modified Total Direct Costs for indirect costs.
- Up to the first \$50,000 of each Subaward will be included in the Modified Total Direct Cost base.
- The capitalization threshold for equipment increased from \$5,000 to \$10,000, so items costing \$9,999 or less can be treated as supplies and material and included in the Modified Total Direct Cost.
- The de minimis rate cannot be used on cost-reimbursement procurement contracts under the Federal Acquisition Regulation.



Procurements by States and Indian Tribes

- States and Indian Tribes must follow the same policies and procedures used for procurements with non-Federal funds, with the exception of any statutory procurement requirements that would supersede the procurement standards in the regulations.
- If such policies do not exist, States and Indian Tribes, along with their subrecipients, must follow the procurement standards outlined within 200.318 through 200.327.

Procurements by States and Indian Tribes

- Removed the prohibition on geographic preference when evaluating bids or proposals
- States and Indian Tribes must also comply with the below sections:
 - 200.321 – Contracting with Small Businesses, Minority Businesses, Women’s Business Enterprises, Veteran-Owned Businesses, and Labor Surplus Area Firms
 - 200.322 – Domestic Preferences for Procurements
 - 200.323 – Procurement of Recovered Materials
 - 200.327/Appendix II – Contract Provisions

Procurements by States and Indian Tribes

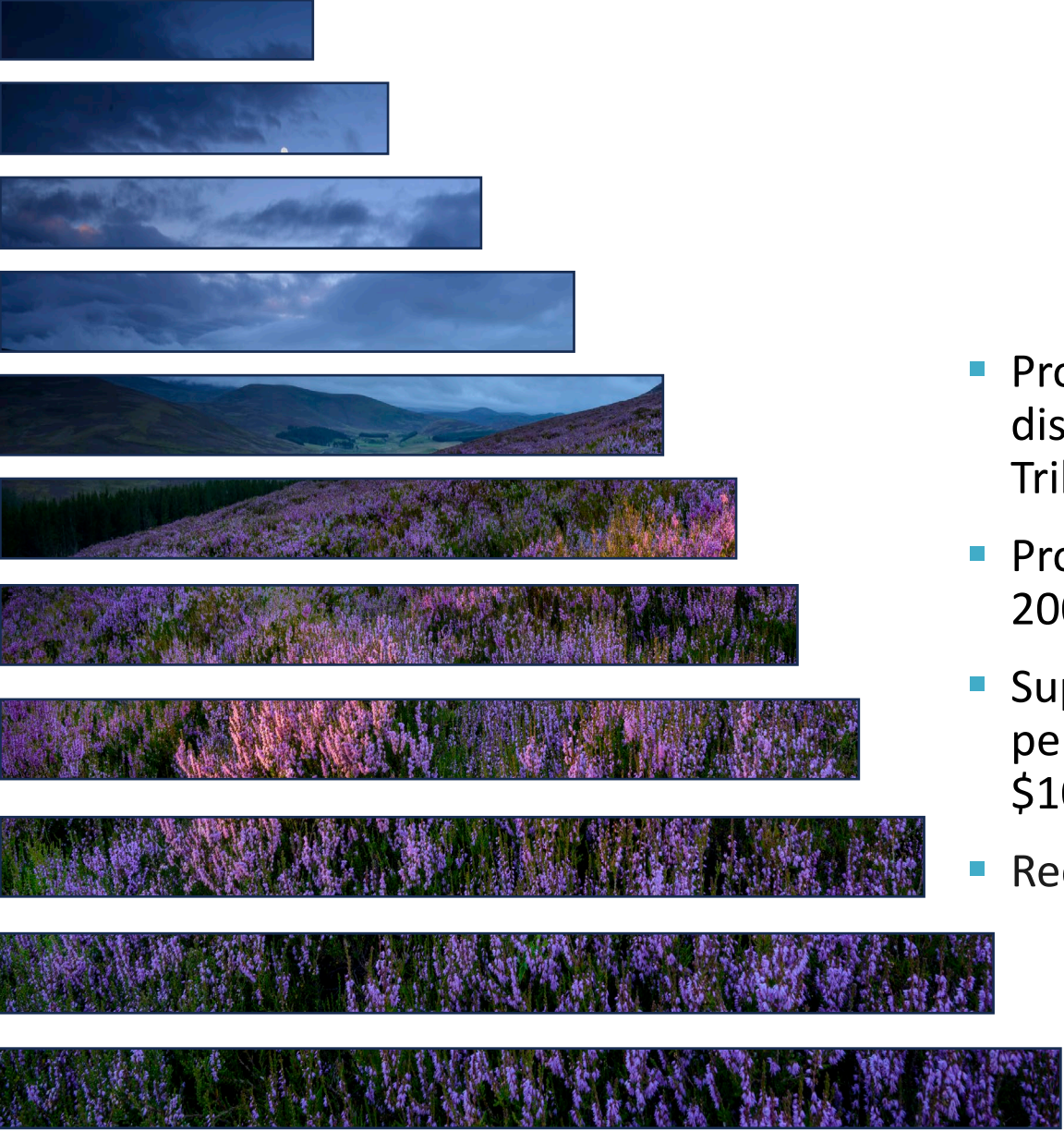
- Something to be aware of is that Indian Tribes still must follow the requirements in EPA's Disadvantaged Business Enterprise (DBE) Rule at 40 CFR Part 33 and 2 CFR Part 1500 including the consultant fee cap at 2 CFR 1500.10 which implements a statutory requirement and cannot be waived by EPA.
- Additionally, if Davis-Bacon, American Iron and Steel, and/or Build America, Buy America (BABA) applies, those requirements must be dealt with appropriately in solicitation documents and resulting contracts.

200.320

Procurement Methods

- Has now removed the requirement that Tribal governments open sealed bids in public.
- The procurement methods at 200.320 are only triggered if the Tribal recipient does not have their own procurement policies/procedures consistent with 2 CFR 200.317.



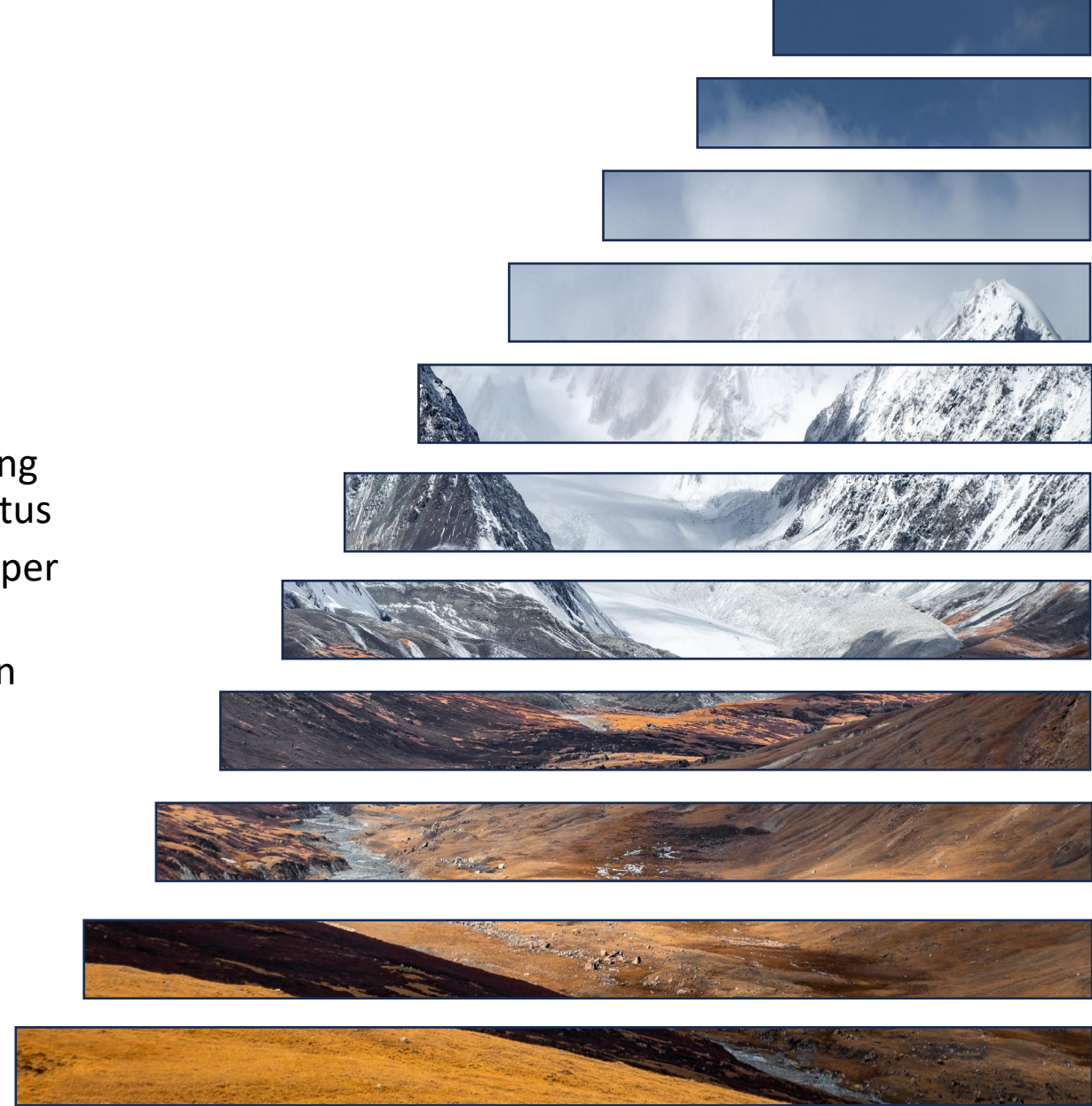


Post-Award (Subpart D)

- Property: Tribes may follow their own use, management, and disposition of equipment requirements in accordance with Tribal laws and procedures.
- Property: Tribes must follow the Federal requirements in 2 CFR 200.313 if they do not have their own laws and procedures.
- Supplies: Recipients are required to sell at the end of the grant period unused supplies that exceed an aggregate value of \$10,000.
- Recipients have additional responsibilities when closing a grant.

Equipment and Supplies

- [200.313](#) – Equipment:
 - Have added a new clause that the recipient and subrecipient are responsible for maintaining and updating property records when there is a change in property status
 - Increased the fair market value from \$5,000 to \$10,000 per unit of disposition by recipient or subrecipient
 - Changed the amount that a recipient or subrecipient can retain from \$500 or 10% to \$1,000 of the proceeds
- [200.314](#) – Supplies:
 - The values of residual inventory of unused supplies has now been increased from \$5,000 to \$10,000.
 - Expanded the definition of unused supplies
 - New compensation clause to the agency



Thresholds

2 CFR Section*	Threshold	New Amount – As of October 1, 2024	Previous Amount
200.439	Equipment & Other Capital Expenditures	\$10,000 or More	\$5,000
200.313(e)(1)	Equipment	\$10,000	\$5,000
200.313(e)(2)	Fair Market Value Disposition	Can retain \$1,000	\$500 to 10% of proceeds
200.314	Supplies	\$10,000	\$5,000
200.333	Fixed Amount Subawards	\$500,000	Simplified Acquisition Threshold
200.501(a)	Audit Requirements	\$1,000,000	\$750,000
200.414(f)	Indirect Cost <i>de minimis</i> Rate	up to 15%	10%
200.1	Modified Total Direct Cost (MTDC)	Means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$50,000 (increased from \$25,000) of each subaward. MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs, and the portion of each subaward more than \$50,000 (increased from \$25,000).	
* The eCFR will reflect the updated guidance beginning on October 1, 2024, after the updates take effect.			

Revision of Budget/Program Plans

- When requesting approval for budget revisions, the recipient must use the same format that was used in their application – alternative formats may include the use of electronic systems, email, or other EPA approved mechanisms.
- EPA or the pass-through entity must review the request for revision and notify the recipient on if it has been approved within 30 days of receiving the request in writing AND or if the decision will take longer than 30 days to review.
- Recipients must request prior written approval from the EPA or pass-through entity if there is a change in key personnel, changes in total approval of the cost-sharing amount, transferring funds between construction and non-construction work under a Federal award, and no-cost extensions (with specific caveats).
- Pre-award costs must be charged to the initial budget period unless otherwise specified by the Federal agency.

Cost Allocation Plans and Indirect Cost Proposals

- Has now included Tribes in the central service cost allocation plan process
- This now authorizes Indian Tribes to establish central cost allocation plans when the Tribe has multiple departments.
- A separate Indirect Cost Rate (IDC) proposal for each operating department is usually necessary to claim IDC costs under Federal Awards, these include:
 - The IDC originating in each department of the State, local government, or Indian Tribe carrying out Federal awards; and
 - The costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

200.344

Closeout

- If recipients or subrecipients fail to complete all necessary administrative actions or the required work for the award, the Federal Agency or pass-through entity will still proceed with the close-out based on the information available.
- If the recipient does not have a final Indirect Cost Rate covering the period of performance, a financial report must still be submitted.
- The recipient must liquidate all financial obligations incurred under a subaward no later than 90 calendar days after the conclusion of the period of performance of the subaward.
- All reports, including financial, performance, and other reports required by the Federal award, are to be submitted no later than 120 days after the conclusion of the period of performance.

A desert landscape at sunset. In the foreground, a large saguaro cactus stands prominently on the right side. The middle ground is filled with various desert plants, including smaller cacti and shrubs. In the background, a range of mountains is visible under a sky with scattered clouds, illuminated by the warm light of the setting sun.

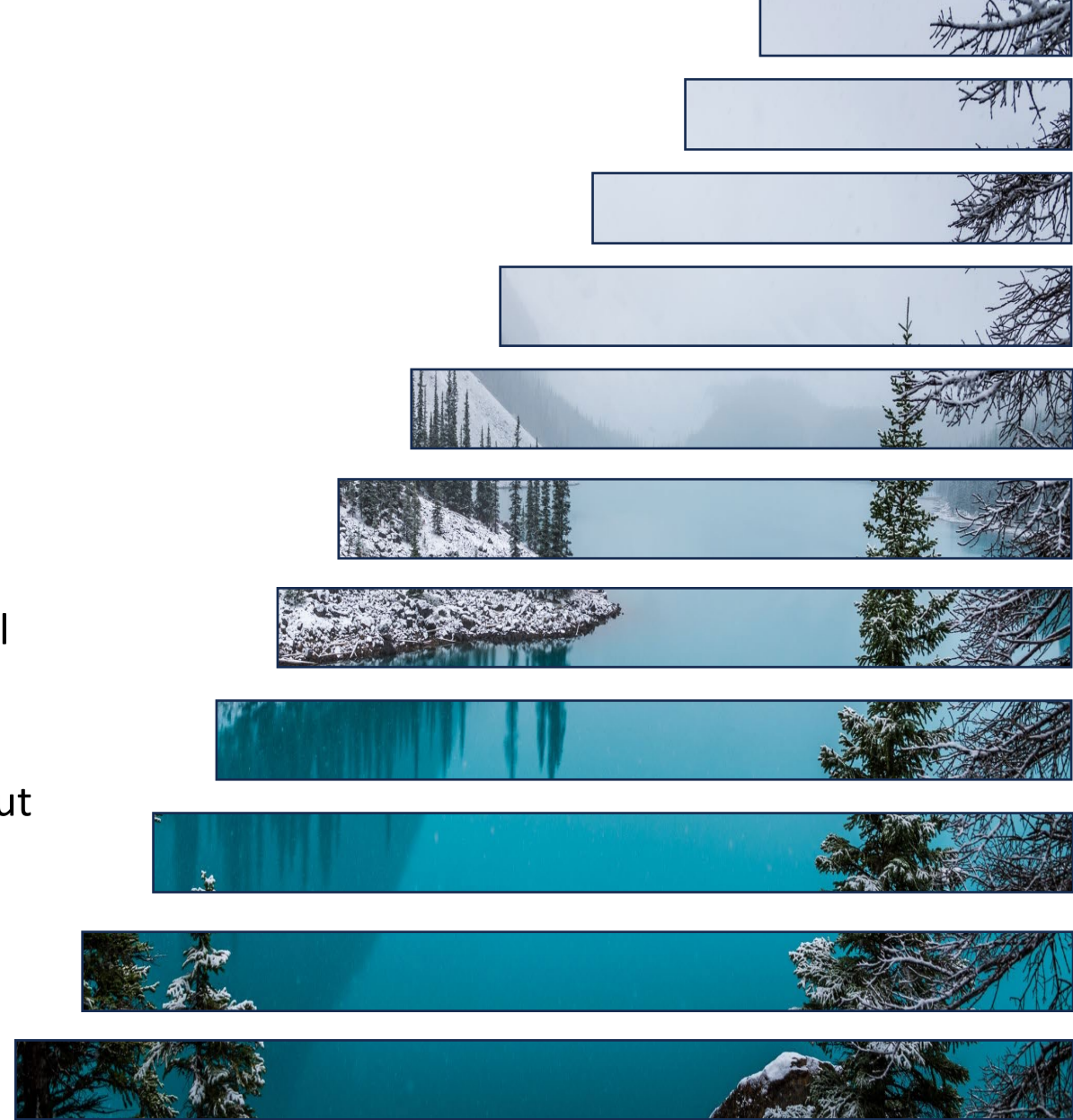
Additional Notes of Importance

Fixed Amount Subawards

- [200.333](#) – Fixed Amount Subawards:
 - Fixed amount subaward cap was increased from the Simplified Acquisition Threshold (\$250,000) to \$500,000.
 - With prior written approval from the EPA, the recipient may provide subawards based on fixed amounts up to \$500,000.
 - Must still follow the requirements within 200.201(b)(1).
- [200.201\(b\)\(1\)](#) – Use of Grants, Cooperative Agreements, Fixed Amount Awards, and Contracts:
 - Program Income rules are not applicable to fixed amount awards.
 - Now explicitly states that the recipient may retain unexpended funds when the required activities were completed in accordance with the terms and conditions of the Federal award.
 - Accountability now must be based on performance and results which can be communicated in performance reports or through routine monitoring.
 - There is no financial reporting required, BUT the recipient/subrecipient must still meet record retention requirements.

Thresholds for Competition

- Purchases up to the micro purchase level, generally \$10,000, may be made without competition, provided the recipient distributes purchases equitably among qualified suppliers to the extent “practicable” and the prices are reasonable.
- Generally, for purchases of supplies (including computing devices) but recipients may obtain consulting or instructional services PROVIDED the equitable distribution requirement is met.
- A series of micro purchases with the same consultant, without using other sources, will raise compliance issues.



Thresholds for Competition

- Recipients may use small purchase procedures for contracts up to the simplified acquisition threshold (\$250,000) by obtaining price or rate quotes from an adequate number of qualified sources.
- EPA expects recipients to obtain prices/quotes from at least 3 sources, which can be by email.
- Recipients must document their efforts:
 - For professional services, the email soliciting prices/quotes may be used for documentation.
 - For equipment, internet searches of price catalogues documented by “screenshots” are acceptable.





Intertribal Consortia

- EPA will now treat Intertribal Consortia as Tribes for the purposes 2 CFR 200.317 and 2 CFR 200.313(b) even if they are incorporated as nonprofit organizations and apply for funding under Notices of Funding Opportunities (NOFOs) as nonprofits when Tribes are not eligible.
- This policy only applies to intertribal consortia that meet the requirements described in 40 CFR 35.504.
- EPA made this determination based on EPA's policy of recognizing that intertribal consortia represent the interests of their sovereign Tribal Government members.
- EPA will defer to the intertribal consortia policies and procedures on procurement and equipment management to the same extent as those of Indian Tribes.

Consultant Fee Cap

- Limits the amount of compensation for individual consultants that recipients may charge to EPA agreements to Level IV of the Federal Executive Level (does NOT include consultant's overhead or travel costs).
- It is statutory, and EPA cannot waive requirements at 2 CFR 1500.10.
- When the cap applies is based on whether the recipient selects, directs, or controls the consultant along the same lines as an employee.
- Contracts with multi-employee consulting firms rarely trigger consultant fee cap but terms of the contract are important.
- Consultants are contractors even if they receive an IRS 1099 form from the recipient – competitive procurement rules apply.





EPA's DBE Rule

- Make good faith efforts to solicit quotes from Disadvantaged Business Enterprises (DBE) as required by 40 CFR Part 33.
- Recipients must negotiate with the appropriate EPA Award Official or their designee to establish fair share objectives/goals for MBE and WBE participation in procurement under financial assistance agreements.
- Recipients can be exempted from this if the agreement meets one or more of the exemptions outlined in 40 CFR 33.411.
- EPA's DBE rule applies if the total dollar amount of the agreement or all of the recipient's EPA agreements within the fiscal year is \$250,000 or more.

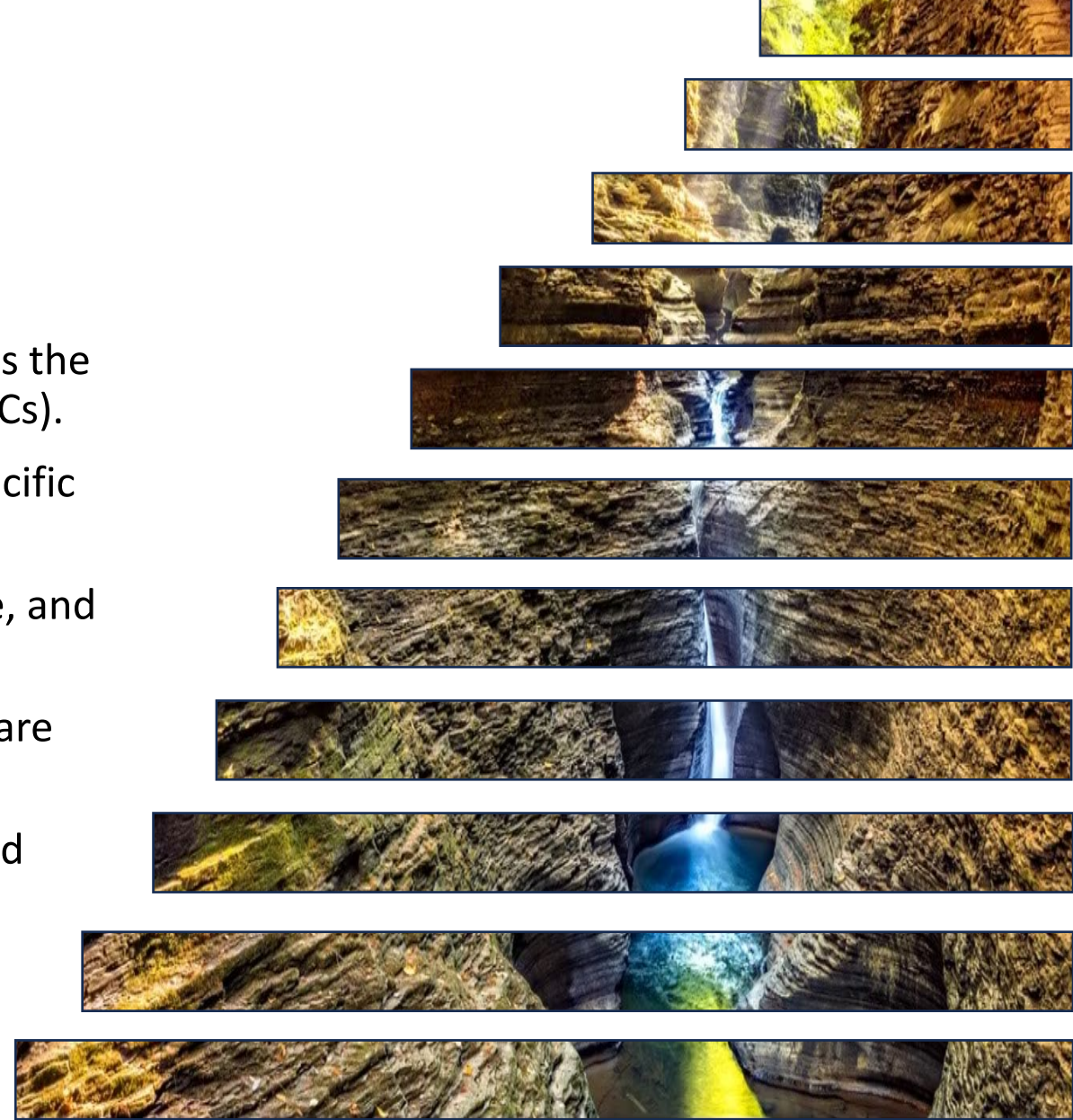


EPA's DBE Rule

- EPA recommends checking with the Small Business Administration, Department of Transportation, or the state in which your organization intends to do business for a directory or list of certified Minority Owned Business Enterprises (MBE)/Women Owned Business Enterprises (WBE).
- EPA also recommends publicly advertising Requests For Proposals/Request For Quotations and keeping the bidding period open for at least 30 days for full and open competition.
- Consistent with 40 CFR 33.304, Tribal Nations ARE allowed to “solicit and recruit Indian organizations and Indian-owned economic enterprises and give them preference in the award process prior to undertaking the six good faith efforts.”

EPA Terms and Conditions

- Every recipient will receive a grant agreement, which outlines the requirements of the grant through terms and conditions (T&Cs).
- It is the recipient's responsibility to be familiar with their specific T&Cs and comply with them.
- EPA grants have three kinds of T&Cs; General, Administrative, and Programmatic.
- The General T&Cs are arranged online by effective date and are updated every Fiscal Year (FY).
- EPA may revise the General T&Cs during the current FY to add provisions or to clarify requirements.



- Recipients and subrecipients are required to have a Unique Entity ID (UEI), which are assigned to an entity through the System for Award Management (SAM.gov).
- SAM.gov is the Federal system for assistance listings, Entity information and reporting, contract data, and contract opportunities.
- Things to note:
 - Entities with a .gov email address do not have the same secondary verification requirements as those with .com email addresses
 - Tribes can generate .gov email addresses without it being connected to a specific individual for example; the Navajo Nation could create an email that is grantsadministrator@navajonation.gov.

Impact on Existing Grants

- The set of regulations that will apply to your project is based on the award date of your grant.
- If the grant is awarded before October 1, 2024, then it would comply with the regulations in effect at the time of award.
- For subrecipients, the regulations trickle down from the Prime, so if the EPA grant was awarded before October 1, 2024, the previous regulations still apply.
- If a recipient is interested in amending their Federal award to point to the 2024 revisions, they will need to formally request this change and be approved by the Award Official.
- As the 2024 revisions may impact certain aspects of the grant budget, the recipient must also decide whether they want to request a budget modification.
- For more information, please see [RAIN-2025-G01](#), *Allowing Assistance Agreement Recipients to Request No-Cost Amendments to Fully Funded Assistance Agreements to Reference the October 1, 2024, Revisions to 2 CFR 200 Uniform Grant Guidance*



Resources and Tools

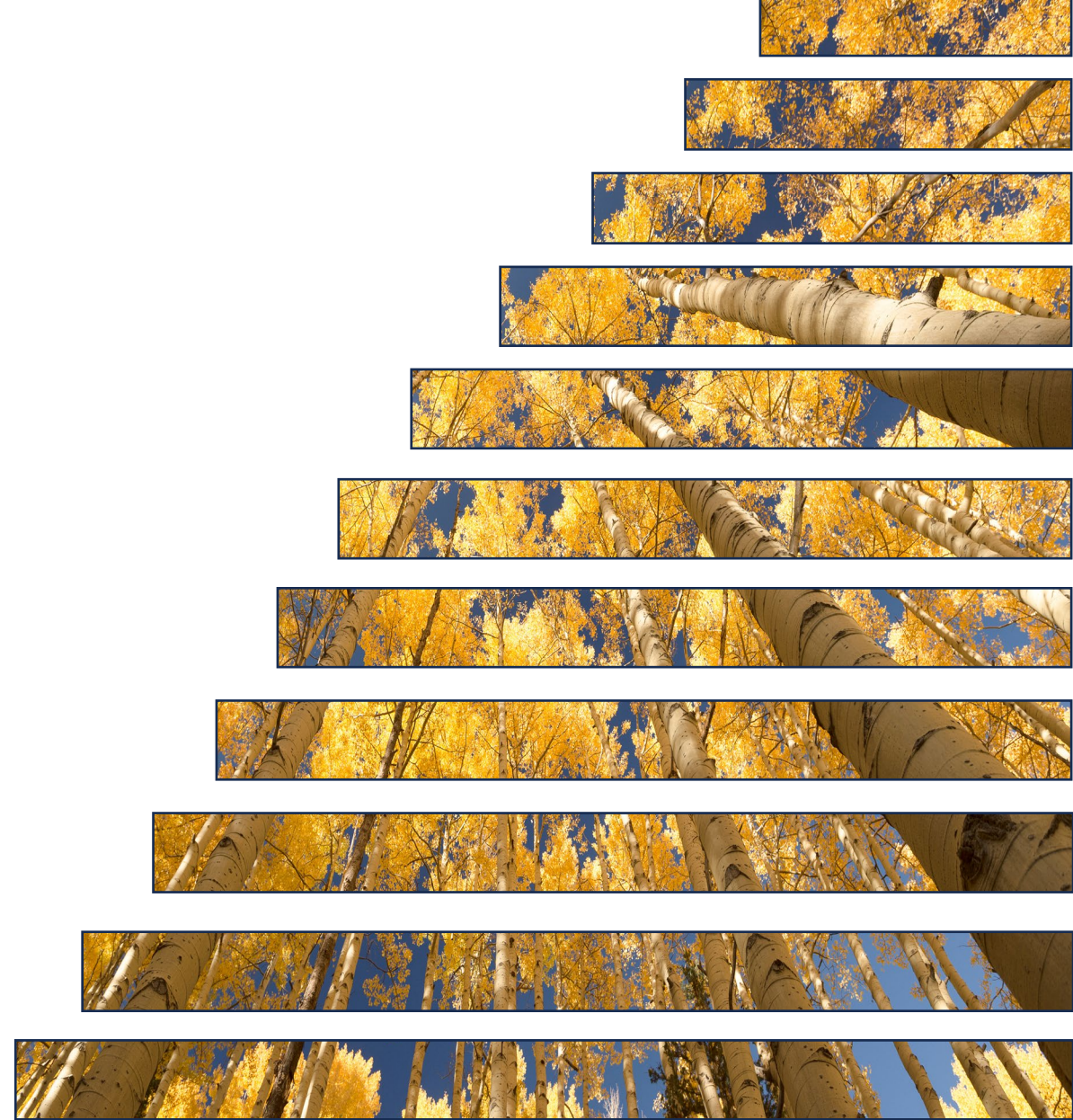


Trainings and Webinars

- EPA provides a multitude of training resources and webinars that are accessible to applicants, recipients, and subrecipients.
- These are designed to help from the very start of the grant process through close-out of a grant.
- Some examples of resources and webinars that are available are:
 - Procurement, Subawards, and Participant Support Costs Webinar
 - Developing a Budget Webinar
 - Complying with EPA Assistance Agreements Webinar
 - Indirect Costs Rates Webinar
 - The Competition Process Webinar
 - Terms and Conditions for Fiscal Year 2025 Webinar
 - EPA Grants Community of Frequently Asked Questions
 - EPA Grants Overview for Applicants and Recipients

Helpful Links

- [Uniform Grants Guidance](#)
- [EPA Grants Homepage](#)
- [Environmental Protection in Indian Country](#)
- [EPA “What’s New in the Uniform Guidance”](#)
- [EPA Grants Webinars](#)
- [EPA Grants Community Library of Frequently Asked Questions](#)
- [EPA Terms and Conditions](#)
- [Grant Forms](#)
- [Support and Resources for .gov Domain](#)
- [Recipient Training Opportunities](#)
- [SAM.gov](#)
- [Environmental Protection Network](#)
- [Regional Office Directory](#)
- [EPA Indirect Cost Policy for Recipients](#)



Thank You!

Contact Us: EPA_Grants_Info@epa.gov