

Programmatic Requirements for Community Grants Recipients Webinar, June 2024 Questions and Answers

1. When can I submit a grant application?

Recipients are encouraged to review the Implementation Guidance and reach out to their Regional Points of Contact to ensure development of complete application packages and discuss any pre-award compliance, ensuring any prior procurement adheres to procurement procedures and requirements, and that an environmental review has been completed for the project.

2. Will an old environmental review still be viable to use for this grant application?

Possibly. There is no expiration date on NEPA documents. The mere passage of time does not trigger the need for a supplement to a NEPA document. The Council on Environmental Quality (CEQ) notes that documents more than five years old should be carefully scrutinized to determine if a supplement should be prepared. Typically, if there has been a substantial change in a proposed action that is relevant to environmental concerns, or if there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts, a supplemental NEPA document should be prepared.

3. What if our contract bids are more expensive than the amount of funding we have in the Appropriations Act?

Recipients should discuss options for costs and work that may be covered under the grant agreement and reflected in the workplan with your respective EPA Regional Point of Contact or Project Officer, but EPA will not be able to increase the grant amount. We are only authorized to provide funds up to the amount listed in the Appropriations Act.

4. How do we utilize the amended BABA waiver?

Under the [Amended Public Interest Waiver of Section 70914\(a\) of P.L. 117-58, Build America, Buy](#), Community grants projects are eligible for coverage if they are funded with appropriations from federal fiscal years 2022 or 2023 and have documentation of completing of one of eight design planning milestones prior to the effective date of BABA, May 14, 2022. Recipients should work with their project officer to confirm eligibility. BABA-OW@epa.gov is also available for questions.

5. We have a contractor who helped prepare the RFP for our project. Will there be any issue if we hire that firm as our contractor?

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 it. 2 CFR § 200.319 prohibits accepting such a proposal.

6. There is a mistake in the Appropriations Act, and my project isn't listed correctly. Can I still use the funds?

If a project purpose or recipient needs to be changed, you'll want to reach out to your regional POC or PO to discuss requesting a Technical Correction. The Technical Correction will need to be approved before the award can be made. See here to learn who your Regional contact is:

<https://www.epa.gov/sustainable-water-infrastructure/epa-community-grants-points-contact>

7. We've reviewed the guidance, but we weren't sure how to prepare a grant application so we hired a contractor to help us. Can that contractor also bid on the work for the project?

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. However, that 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).

Additionally, EPA offers training to assist recipients with the application: see EPA's grant [Recipient Training Opportunities](#) page, including the [Grants Management Training for Applicants and Recipients](#).

8. My project is for construction. Am I still supposed to use the non-construction form (SF424A) when I submit my application?

Yes, recipients should use the SF-424A form, Budget Information for Non-Construction Programs forms for Community Grants applications. Appendix D of the Implementation Guidance provides information on how to categorize costs, and the use of this form.

9. Our project is co-funded with SRF funding, so we've already completed a SERP. Do we still have to have a CATEX from EPA?

Even if a State has completed a SERP for your project, EPA must still conduct its own environmental analysis. But EPA will review the SERP document and incorporate by reference any pertinent part of that document into its own environmental document. EPA may need to request additional information from the recipient if necessary for EPA to conduct its own environmental analysis. Recipients should submit SERP documents to regional Points of Contact or Project Officer so that EPA can begin its environmental review.

10. On the undocumented CATEX for design: If the CDS grant is only funding final design, but the recipient is using their own funds for the construction, does the CDS grant (which is only funding the design, no construction) still qualify for an undocumented CATEX?

Yes, the undocumented CATEX will apply in this scenario. The CATEX applies to EPA's funding of planning and design ONLY. If EPA will be funding the construction component, then the undocumented CATEX will be not applicable.

11. What happens if I only receive one bid in response to my request for qualifications/request for proposals?

Assuming you conducted a federally compliant competition, this scenario would be an example of an acceptable sole source justification. See 2 CFR 200.320(c). However, because there is no price competition, consistent with 2 CFR 200.324 currently in effect, profit must be negotiated as a separate element of the contract.

12. Our project is already receiving SRF money, is there anything else I need to do for compliance with the Community Grants program?

The Community Grants program is separate from SRF. Community Grants recipients must apply separately through Grants.gov and adhere to each of the applicable regulations as well as Terms and Conditions outlined in the grant award agreement.

13. How long will it take to receive our grant funds?

To receive actual dollars, grant recipients will need to submit a payment request and supporting documentation in accordance with instructions provided in the grant award terms and conditions. Once payment requests are reviewed and approved by EPA recipients will be allowed to drawdown funds. EPA's goal is to review all payment requests as quickly as possible.

14. For procurement of construction services, greater than \$250K, our State allows alternative delivery such as Construction Manager at Risk (CMAR), which is selection based on qualifications only. Are these costs eligible under the EPA's Community Grants program?

This CMAR practice is a bit tricky and does not mesh well with the full/open competition requirements in 2 CFR Part 200. More specifics will be needed to answer this question and whether these would be eligible costs; please reach out to your [Regional Point of Contact](#) and/or assigned Project Officer to discuss.

15. Our community has already done the work to develop the construction bid documents (7 years ago). Can the engineer who developed those documents bid on the engineering portion of the project or must he be excluded?

No. If the engineer provided any assistance in drafting specifications, requirements, statements of work, or invitations for bids or requests for proposals, they must be excluded from competing for the resultant contract. Otherwise, this practice would violate the full and open competition requirements.

16. Another federal agency has a CATEX determination that fits my project's activities. Can it be used for the Community Grants program funding?

Possibly. An agency may adopt another agency's determination that a categorical exclusion applies to a particular proposed action if the action covered by that determination and the adopting agency's proposed action are substantially the same. This requires identifying the CATEX, its applicability to the project's activities, consultation between the agencies, and notifying the public of the adoption. Once the EPA has adopted a CATEX, it can then be used for projects that fall within the applicable activities. Recipients should discuss this option with their [Regional Point of Contact](#) and/or assigned Project

Officer.

17. For sole source procurement, is there a specific form we use when submitting for a sole source?

No there is not a specific form for recipients to fill out and you will need to work with your [Regional Point of Contact](#) and/or assigned Project Officer. However, please note, there is a very high burden for sole source justifications to be approved by the EPA.

18. Does BABA and AIS apply? Wouldn't BABA cover AIS?

The AIS provision requires recipients to use iron and steel products that are produced in the United States for the construction, alteration, maintenance, or repair of a public water system or treatment works. Compliance with AIS requirements correspond to for iron and steel products will satisfy a subset of BABA requirements, (e.g., those pertaining to iron and steel), however BABA also includes requirements pertaining to manufactured goods and construction materials, which must also be met. Projects that are in compliance with BABA are in compliance with AIS.

19. During the Administrative Requirements webinar on 6/4 we were instructed to use EPA-CEP-01 and opportunity number PKG00214047 to access the application on Grants.gov. When clicking 'apply' the application is not available. It also does not show an 'Opening Date'. Is this application available and if so, how do we access it?

The application is currently available and it is correct that there is no associated "Opening Date."

Recipients should follow the [steps in the application instructions](#) in order to access the application package.

20. If an existing EA is in place for larger projects, will it be sufficient or does this process require a stand-alone EA for this funding?

An agency may adopt another agency's environmental assessment, or portion thereof, if the actions covered by the original environmental assessment and the proposed action are substantially the same, and the assessment meets the standards for an adequate environmental assessment under the CEQ NEPA regulations and the adopting agency's NEPA procedures.

21. Does EPA require a certain level of design, such as 30%, be completed before NEPA can be submitted?

EPA is recommending, as a guideline, that preliminary planning and design is completed up to 30%. Under a Phase approach, if EPA is funding planning and design under the undocumented CATEX [40 CFR 6.204(a)(2)(iii)] before final design activities (i.e., design over 30%) and construction commences under "Phase 2." This would allow the NEPA review under "Phase 2" to analyze the environmental impacts associated with the preparation of final design plans, construction plans, and detailed specifications for construction work to be performed.

22. Can the NEPA process begin while working on the grant application?

Recipients are encouraged to submit documentation to inform the environmental review before

submitting the grant application. The NEPA review must be completed before EPA can award the grant. Recipients should reach out to their [Regional Point of Contact](#) to discuss.

23. If our project has some WIFIA funding and already went through the environmental review process for that funding, do we need to do it again?

We may be able to adopt WIFIA's environmental review if the action is substantially the same or incorporate by reference the relevant portions into the environmental review for the Community Grants award.

24. Can Community Grants funds be used to pay for an Environmental Assessment (EA)?

Grant funds may be used to prepare the Environmental Information Document (EID), which is used by EPA to prepare the EA. Grant funds cannot be used to pay for the EA itself.

25. In general, does Engineering and Design projects eligible for a CATEX?

Yes, Engineering and Design activities are typically covered under an undocumented CATEX.

26. If this project is in conjunction with several other federal funding sources, will there be a "lead" federal agency administering the EA process?

The participating Federal agencies will determine which agency will be the lead agency.

27. If we followed state procurement laws but did not complete the steps for federal procurement, can the pre-award cost be eligible?

Recipients with projects identified in the FY 2024 or prior (i.e., FY 2022 and FY 2023) Appropriations Acts are not subject to compliance with Federal procurement requirements for competition and methods of procurement applicable to Federal financial assistance (including those associated with allowable pre-award costs) if the recipient has:

- a. procured services or products through contracts entered into prior to March 9, 2024; and
- b. complied with state and/or local laws governing competition (including laws/policies relating to participation by disadvantaged business enterprises or equivalent, as applicable, and method of procurement).

Recipients seeking coverage under this flexibility must provide a written statement to the EPA Project Officer or [Regional Point of Contact](#) affirming any contracts entered into prior to March 9, 2024, complied with state and/or local laws governing competition (including laws/policies relating to participation by disadvantaged business enterprises or equivalent as applicable, and method of procurement). The statement must also include the date the contracts were entered into. Projects that are covered under this flexibility must also comply with BABA, AIS, and Davis Bacon.

All other recipients who do not qualify for the procurement flexibilities discussed above must procure all services (professional, construction, etc.), supplies, and equipment awarded under this grant in accordance with all applicable federal requirements, including: [40 U.S.C. 1101 et seq. \(the Brooks Act\)](#) or an equivalent State qualifications-based procurement requirement, as applicable; [2 CFR Part 200](#); [2 CFR](#)

[Part 1500](#); and/or [40 CFR Part 33](#). This includes all services (professional, construction, etc.), supplies, and equipment for which costs are approved as pre-award costs.

28. The procurement form I have for costs pertains to bid contracts. What about materials procurement? We have done some work pre-award and purchased pipes, concrete, and grates.

There are going to be several factors at play in determining a path forward (e.g., what you are procuring; could the FY 2024 procurement flexibility apply; compliance with BABA, AIS, Davis Bacon). You should reach out to your [Regional Point of Contact](#) so that EPA can review the information specific to your project.

29. If costs are incurred prior to receiving the award, can those dollars be used as the match rather than reimbursable?

Possibly. Costs incurred by recipients prior to receiving grant awards will be assessed on a case-by-case basis, including costs associated with EPA's share of the funds as well as the recipient's cost share. Costs incurred prior to grant awards may be allowable if the costs are in conformance with applicable federal and EPA regulations and if they are incurred on or after the start of the federal fiscal year in which funds were appropriated, to be considered for eligibility.

30. Can we use State Agency funds for the Cost Share requirement?

Public sources of funding can be used to meet the cost share requirement, including state appropriations, local government match to the grant project, and more. The [Final Implementation Guidance](#) discusses options for sources of cost share in more detail.

31. What percent is considered primarily served disadvantaged? Meaning, part of our District serves disadvantaged (51-63% depending on the determination source). Is that primarily disadvantaged?

EPA will consider the Cost Share Waiver Criteria identified in the [Cost Share Waiver Implementation Guidance](#), in defining disadvantaged communities for the purposes of Community Grants. Projects identified in Appropriations Acts whose primary benefits are to communities that meet at least one of these criteria may request a waiver of the non-federal cost share requirement under the Community Grants Program.

32. Do you have to meet all 5 criteria or one of the criteria to qualify? Also, if you had an income survey of the service area that was recently conducted that establishes MHI, can that be used as supporting documentation?

Communities who meet one or more of the Cost Share Waiver Criteria identified in the [Cost Share Waiver Implementation Guidance](#) may request a waiver from the cost sharing requirement. Waiver requests should include applicable Cost Share Waiver Criteria and any related supporting documentation including source data retrieved from the websites noted in the [Cost Share Waiver Implementation Guidance](#).

33. Can you confirm if we are to abide by the implementation guide that was active in the funding year we were selected or the current edition? I've received mixed instructions.

The most recently available Implementation Guidance generally provides the most recent available information for the program. The main differences between the Implementation Guidance Documents are:

- Each Guidance Document contains the list of projects specific to the relevant year of appropriation (e.g., the FY 2023 Community Grants Program Final Implementation Guidance document contains the list of projects identifies in FY 2023). Individual lists of projects are also available [online](#).
- Comprehensive instructions for accessing the Application Package are included in the FY 2024 Community Grants Program Final Implementation Guidance.
- The availability of the Procurement flexibility discussed in Question 27 above went into effect with the passage of the FY 2024 Appropriations Act and is reflected in the FY 2024 Community Grants Program Final Implementation Guidance document.
- Effective March 1, 2024, the [Cost Share Waiver Implementation Guidance](#) replaces all previous guidance on waivers to cost share requirements including those provided in the Fiscal Year (FY) 2022 and FY 2023 Community Grants Program Final Implementation Guidance documents.

34. Our project cost is \$326,250 (\$261,000 grant and \$65,250 match). If a cost share waiver is approved, can we submit costs up to \$261,000 without considering the 08/20 split or do we need to demonstrate the total cost of \$326,250?

The maximum amount of funding that will be provided via a grant award is the amount identified in the Appropriations Act. If the cost share requirement is waived and the recipient is not providing any voluntary cost share funding, the recipient is not required to submit payment requests that reflect any cost sharing.

35. If the project is using SRF funds as well along with the grant funds, can we use these the SRF funds to cover the 20% cost share? What if the SRF funds have federal \$? If the SRF funds don't include federal funding can they be used for the cost share portion?

The CWSRF and DWSRF program funds may be used if those funds are: non-federal funds such as loan repayments, interest earnings, bond proceeds, and fees, or a state contribution to the SRF above the statutorily required 20% match.

Note: EPA has issued a [class deviation](#) document pertaining to CWSRF and a [policy memo](#) pertaining to DWSRF that allow Community Grant recipients to use certain sources of funds from the two SRF programs as the non-federal cost share. The class deviation and policy documents allow SRF programs to use the non-federal and nonstate match share of SRF funds to provide loans that Community Grant recipients can use as the cost share for community projects.

36. Just making sure I understood - if we use a state approved cooperative or master agreement, then it automatically complies with competition requirements, and then we just make sure we are compliant with DB, BABA, AIS, etc. Right?

Projects are not subject to Federal procurement requirements for competition and methods of procurement if the recipient has:

- Procured services or products through contracts entered into prior to March 9, 2024; and
- Complied with state and/or local laws governing competition (including laws/policies relating to participation by disadvantaged business enterprises or equivalent, as applicable, and method of procurement).

Recipients request coverage by providing written statement to EPA PO affirming: any contracts entered into prior to March 9, 2024 (include date of executed contract(s)); and compliance with state and/or local laws governing competition, including: laws/policies relating to participation by disadvantaged business enterprises or equivalent, as applicable, and method of procurement. The contract will be considered covered by the provision upon receipt of written confirmation from the EPA.

All projects, including those that qualify for the procurement flexibilities discussed above must comply with the requirements in the Davis-Bacon Act, American Iron and Steel (AIS), and Build America, Buy America (BABA) in any procurements and resulting contracts as applicable; these requirements are not waived by this provision and include incorporation of prevailing wage determinations and AIS/BABA in solicitation documents.

37. If a community has formally standardized equipment and there is only one vendor (sole source) that provides the equipment in the region, how should the expenditure be handled as there would be no competitive bidding?

Please reach out to your [Regional Point of Contact](#) or Project Officer to discuss. Recipients must, to the maximum extent practicable, ensure open and free competition in your purchasing. Sole-source contracts in excess of the micro-purchase threshold should be rare. Potential justifications are described at 2 CFR 200.320(c) and include such factors as only one source has the goods or is able to perform the service, an emergency, EPA approval, or after soliciting a number of sources the recipient reasonably decided competition was inadequate. Sole source contracts with consulting firms on retainer are an improperly restrictive procurement practice as provided in 2 CFR 200.319(b)(4).

38. What is an example of "getting assistance from a contractor" that would prevent them from being able to bid on the project?

If the terms of the contract for application preparation services require the recipient to hire the consultant to provide environmental services necessary to perform the grant if EPA selects the application for funding or pay the consultant a \$5,000 application preparation fee if the recipient were to hire a different consultant, EPA may consider this practice to be a violation of the procurement requirements in the grant regulations because it may provide the consultant who prepared the application an unfair competitive advantage. The grant regulations require recipients to fully and openly compete professional services contracts when the amount of the contract will exceed the general \$10,000 micro-purchase threshold (or a higher threshold as authorized in [2 CFR § 200.320\(a\)\(1\)](#)). Additional information regarding EPA policies on procurements under EPA financial assistance programs is available in our [Best Practice Guide for Procuring Services, Supplies, and Equipment Under EPA Assistance Agreements](#). Additionally, if your organization did conduct a competition to procure environmental services, and the consultant that prepared the application won the bid/contract, EPA may question whether the decision to select the consultant was based on an improper factor such as the requirement to pay the consultant the \$5,000 application fee otherwise.

39. What is the process for getting SHPO/NHPA concurrence?

Projects receiving grant funding from the EPA through the Community Grants Program are subject to compliance with [Section 106 of the National Historic Preservation Act \(NHPA\)](#). The EPA is responsible for reviewing Community Grant projects for Section 106 NHPA compliance and requesting project details and supporting information from the grant recipient when needed. If Section 106 NHPA compliance is outstanding, the EPA is responsible for making effects determinations; consulting with the State Historic Preservation Office (SHPO), Native American tribes, and representatives of local governments; ensuring mitigation measures from the consultation are included in grant conditions; and—in the case of actions with adverse effects— consulting further to resolve the adverse effects. The EPA may designate a non-federal representative to initiate consultation with the SHPO/Tribal Historic Preservation Office (THPO) by issuing a nonfederal designation letter; however, the ultimate responsibility for compliance with Section 106 remains with the EPA.

40. If our application for a Community Project Funding grant was accepted by the Congresswoman's Office as a part of the appropriations request, are you saying that an additional application needs to be submitted in order for the grant to move forward?

Yes, inclusion of a project in an Appropriations Act does not constitute a grant award; all recipients with projects identified in an Appropriations Act must submit an application and receive a grant award in order to receive funding. The lists of projects identified in Appropriations Acts is available online at <https://www.epa.gov/sustainable-water-infrastructure/epa-community-grants-program-basics>.

41. Will the applicant be required to perform any Environmental Impact Reviews? or will the EPA perform the environmental reviews?

The National Environmental Policy Act (NEPA) requires evaluation of how federal grant actions may affect the quality of the environment. Under NEPA, environmental impacts must be considered before the EPA can award the grant. The EPA is responsible for the environmental review. However, the EPA may request that an applicant submit sufficient information to enable the EPA to determine whether a categorical exclusion applies to the applicant's proposed action or have the applicant prepare an Environmental Information Document (EID), provide supporting documents, or enter into a third-party agreement with the applicant.

42. What about FEMA BRIC funding for the cost share sources?

In most cases, cost share contributions need to originate from non-Federal sources. Recipients can use any or a mix of the following as long as the requirements in 2 CFR § 200.306 are met:

- Public sources. These include state appropriations or local government match to the grant project. The following federal funding sources will be treated as non-federal funds and can be used to meet the cost share requirement:
 - U.S. Department of Housing and Urban Development, Community Development Block funds.
 - U.S. Department of Agriculture, Rural Development funds.
 - Appalachian Regional Commission funds; and
 - Delta Regional Authority grants can be used to meet the cost share requirement for projects identified in the FY 24 Appropriations Act.

- The CWSRF and DWSRF programs are eligible sources for the cost share if those funds are: non-federal funds such as loan repayments, interest earnings, bond proceeds, and fees, or a state contribution to the SRF above the statutorily required 20 percent match.
- Private sources. These include funding from a local business or nonprofit contributing to the project.
- In-kind services. These may include the applicant’s administrative expenses for managing and overseeing the grant and projects can provided that the expenses are not being reimbursed by the federal share of the grant award. In-kind services contributed by other entities may also be allowable as cost share.

43. Our private funding partner wants to be a part of the grants management team and have access to the application portal. Is this permitted?

Applications must be submitted electronically through Grants.gov by the recipient organization’s Authorized Organization Representative (AOR) and each recipient organization must have an active account in SAM.gov in order to apply. More information on the process for submitting an application as well as grants.gov and sam.gov registration is available in Section 2 of the [Community Grants FAQs](#).

44. Does EPA provide the waived match back into the project?

If cost share requirements are waived, the recipient does not have to provide cost share contributions to the project. EPA is only authorized to provide the funding amount identified in the Appropriations Acts for each project.

45. Is there an official list of those communities included in the 2023/24 FY Budget?

The lists of projects identified in each Appropriation Act are available online: <https://www.epa.gov/sustainable-water-infrastructure/epa-community-grants-program-basics>.

46. Is the entire project reviewed for NEPA or only the portion of the item(s) being funded?

It depends. EPA may focus the review on the items that it is funding. However, the environmental review will look at the potentially significant environmental impacts on the environment individually and cumulatively over time.

47. What is the Funding Opportunity Number to submit an application in grants.gov?

The Funding Opportunity Number for the program is EPA-CEP-01. Here is a [step-by-step](#) guide on accessing the application package on Grants.gov.

48. Are the changes to the UGG applicable to all federal grants/funding or just the EPA Community Project Funding?

Changes to the UGG will not be limited to the Community Grants program, UGG revisions will be applicable to other federal grants as well; however other agencies may adopt the UGG changes earlier than the EPA. More information about the UGG is available online: <https://www.epa.gov/grants/uniform-requirements-managing-grants-apply-all-federal-executive-agencies>.

Please refer to the Community Grants Program’s full set of [Frequently Asked Questions](#) for more information.