

**EPA Grants Training for EPA Pass-Through Grant Applicants, Recipients, and
Subrecipients, June 27, 2024
Frequently Asked Questions (FAQ)**

- Q1: If you are working on a grant now that will start on October 1st or later, can you incorporate the 2 CFR 200 updates now?
- A1: The updates are not legally effective until October 1, 2024. 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 you would comply with the regulations in effect at the time of award. If the grant is awarded after October 1, 2024, you would comply with the updated regulations.
- Q2: Will EPA be providing a template for subaward agreements specific to Solar for All (SFA) that is more specific than Appendix D?
- A2: This is a question you should raise with your program contact since it is program specific to SFA.
- Q3: Would a Council of Government assisting a city on a grant be considered a subaward?
- A3: The definition of *Local government* in 2 CFR 200.1, provides that Councils of Governments are classified as local governments even if they are incorporated as nonprofits under state law. Transactions between legally distinct units of government (e.g. a state providing funds to a local government) will, in almost all cases, be either subawards or intergovernmental agreements under 2 CFR 200.318(e) rather than procurement contracts since governmental units do not provide services on commercial terms. See Appendix A of EPA's [Subaward Policy](#).
- Q4: Are contractors required to have a Unique Entity Identifier (UEI)?
- A4: Federal regulations do not require that recipient contractors have UEIs.
- Q5: I know that grants awarded after September 30th can't increase their *de minimus* rate from 10% to 15%. Is that the only updated regulation that won't apply to grants awarded this summer? Or will the Modified Total Direct Cost (MTDC) subaward threshold also not be increased from \$25K to \$50K when an unrelated amendment is processed?
- A5: Grants awarded **before** September 30th are not subject to the updated regulations, including the updated *de minimus* rate. Grants awarded after October 1st will be subject to the updated 2 CFR 200 requirements.
- Q6: If a state grantee is contracting out to a separate branch of their government, like an IT office, for work related to their project that needs to be funded separately, should this be considered as a contract or as a subaward?
- A6: Transfers of funds between agencies of the same unit of government are typically not procurement contracts for the purposes of the Uniform Grant Guidance (UGG) unless state law provides otherwise. EPA also does not consider intragovernmental transfers to be subawards subject to the UGG's management and monitoring requirements of 2 CFR 200.332 unless state law provides otherwise.
- Q7: Do the state's own laws go into the subrecipient/contractor analysis?

- A7: The legal status of an organization is an important factor to consider when determining whether a transaction is a subaward or procurement contract. However, it is not necessarily determinative of whether the transaction at issue is a subaward or procurement contract. As provided in 2 CFR 200.331, recipients must exercise sound judgment in deciding whether a transaction is a procurement contract or subaward. The substance of the agreement between the State and subrecipient/contract is also an important factor to determine whether a transaction is a subaward or contract. See Appendix A of EPA's [Subaward Policy](#).
- Q8: In general, how is the line drawn between a contract and a subaward?
- A8: Pass-through entities make subawards to other organizations to carry out a portion of the Federal award under terms that establish a financial assistance relationship to accomplish a public purpose that is authorized under a Federal program. Subrecipients only receive reimbursement for their actual direct or approved indirect costs such that they do not "profit" from the transaction and subrecipients are subject to the same Federal requirements as the pass-through entity. Procurement contractors typically provide goods and services on commercial terms, operate in a competitive environment and a reasonable profit is allowable. [Appendix A](#) of the subaward policy provides helpful guidance for distinguishing between contractors and subawardees. Generally, transactions with for-profit firms are NOT subawards.
- Q9: What about grants that were notified in 2023, but we haven't actually received our award, and at the pace EPA is distributing the competitive awards, it may be after October 1, 2024. Will the new 2 CFR updates apply?
- A9: The updates are not legally effective until October 1, 2024. 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 you would comply with the regulations in effect at the time of award. If the grant is awarded after October 1, 2024, you would comply with the updated regulations.
- Q10: We are proposing to hire a community liaison through the environmental consultant hired to manage our grant. Would this be considered a subaward or just a contract with the consultant? Any special requirements doing it this way?
- A10: It depends on the nature of the relationship between your organization and the environmental consultant. Subrecipients can provide subawards or contracts to other entities. Contractors can only provide subcontracts to other entities.
- Q11: May subrecipients use DBA's, e.g., "Columbus Solar for All Demonstration Program"?
- A11: More information is needed to answer this question.
- Q12: We set up a task order under an existing agreement for our state university to help us. Would that be considered "interagency" and not a subaward or are all universities considered subawardees to states?
- A12: If state law provides that state universities are legally separate from other components of the state for the purposes of financial transactions, then EPA would consider the transaction to be a subaward for the purposes of the UGG. Please refer to [Appendix A](#) to the EPA Subaward Policy. There may be unique situations in which state law

characterizes transfers of funds between state agencies and state universities as Interagency Service Agreements or a similar designation for an internal financial transaction because state universities are instrumentalities of state government. If that is the case, the governing regulation would be 2 CFR 200.417. There may also be other unique situations in which state law provides that transactions between state universities and other components of the state government are procurement contracts in all cases. As provided at 2 CFR 200.317, states follow their own procurement procedures.

Q13: Is one local government who has an ILA and work assignment to assist funding another local government, would that be an intergovernmental transfer?

A13: Transactions between legally distinct units of government will in almost all cases be either subawards or intergovernmental agreements under 2 CFR 200.318(e). Intergovernmental agreements are recognized at 2 CFR 200.318(e) as mechanisms for two different units of government (e.g. a state and local government or a city government and a county government) to use to procure or use common goods and services.

Q14: If participant costs aren't subawards, how are they allocated?

A14: *Participant Support Costs* (PSCs) are defined 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 PSCs to include subsidies, rebates and other payments to program beneficiaries to encourage participation in statutorily authorized environmental stewardship programs. PSCs are allowable with prior EPA approval as provided at 2 CFR 200.456. Recipients of EPA awards should include estimated costs for direct PSC payments in a separate line item in the “Other” budget object class category on their Standard Form (SF) 424A, Application for Federal Assistance and budget detail narrative. Recipients track and report on PSC expenditures under this category. For more information, see [EPA Guidance on Participant Support Costs](#).

Q15: If we submit an application this summer and are awarded after 10/1/24, will we be able to revise our indirect cost from 10% to 15% per the new CFR 200 guidelines?

A15: The updates are not legally effective until October 1, 2024. 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 you would comply with the regulations in effect at the time of award. If the grant is awarded after October 1, 2024, you would comply with the updated regulations.

Q16: Just to clarify, the application should include copies of the subaward agreements?

A16: Copies of subaward agreements are not always required to be submitted with a grant application. Check the requirements for the specific grant you are applying for. However, grant applications must include information on the types of subawards you plan to make.

Q17: What is an “infrastructure” project under the Build America, Buy America Act (BABA)?

- A17: This is a very complicated and nuanced question. EPA provides additional guidance on the [Build America, Buy America \(BABA\) Webpage](#).
- Q18: Can you clarify what you mean when you say, “prevailing wage determination must be included in solicitation documents?” Can EPA program officers provide review and feedback on solicitations prior to them going public?
- A18: EPA grant recipients, subrecipients, prime contractors, and subcontractors must include the link to the [Contract Provisions for Davis-Bacon and Related Acts](#) in all contracts that are subject to DBRA requirements.
- Q19: Does Davis-Bacon only apply to construction projects?
- A19: Davis-Bacon applies when required by Federal program legislation (e.g., the grant statute such as the Clean Air Act or Clean Water Act). The Federal program legislation will define construction project for the purposes of Davis-Bacon.
- Q20: Is there a way for interested contractors to find project opportunities?
- A20: EPA does not have a system for contractors to find project opportunities.
- Q21: Does EPA have guidance for posting of civil rights information within remote organizations?
- A21: The notice of nondiscrimination, for example, needs to be posted in a prominent location. As a best practice, recipients/subrecipients could post their civil rights information on a webpage on their websites.
- Q22: Can you describe the process for using the services of a tribally-owned and staffed public benefit corporation for contracted work in excess of \$10,000? Is there any way to give points in the contracting process to this kind of entity? If this organization is facilitating training events, can they be hired as a subawardee?
- A22: You would follow the competitive procurement requirements in 2 CFR 200.317-200.327. Subawards can go to for-profit entities under limited circumstances. See [Appendix A](#) of the EPA Subaward Policy.
- Q23: For tax purposes, there are certain exceptions to BABA and DBRE from Treasury (such as building a renewable energy project less than 1 MW). But that wasn't mentioned on your slides. Do subawardees and contractors just follow Treasury's guidance?
- A23: No, EPA grantees and subrecipient follow EPA's interpretation of BABA and DBRA. Treasury's interpretation of BABA or DBRA are not binding on EPA. EPA does not provide tax advice.
- Q24: Are the civil rights requirements only for organizations with 15 or more employees?
- A24: Applicants for and recipients of EPA financial assistance (including any subrecipients) must adopt certain required procedural safeguards, including:
- (1) If recipient has 15 or more employees:
 - Designate at least one person to coordinate efforts to comply with federal civil rights laws

- Adopt grievance procedures that assure the prompt and fair resolution of complaints alleging federal civil rights violations

(2) For all recipients:

- Provide initial and continuing notice of nondiscrimination
- Collect, maintain, and provide civil rights compliance information
- Take reasonable steps to provide meaningful access for persons with limited English proficiency (LEP)
- Provide persons with disabilities the opportunity for full participation in the recipient's programs and activities
- Implement public participation policies and processes that ensure meaningful public involvement

More generally, all recipients and subrecipients should review their programs and activities to ensure they comply with civil rights statutes that prohibit discrimination on the basis of race, color, national origin, sex, age, and disability, and retaliation.

Q25: Is there any sample language EPA can provide to communities to work from to meet these compliance requirements?

A25: The [Subaward Policy](#) with appendices is a good start as well as the document pertaining to flow-down requirements for recipients/subrecipients which are all linked in the presentation.

Q26: Could you clarify if there is a cap in the amount of money a sub-awardee can receive from the lead applicant or pass-through entity?

A26: There is no cap. However, pass-through entities cannot use subawards to transfer or delegate their responsibility for successful completion of their EPA assistance agreement.

Q27: Regarding when prior approval is needed or not needed for subawards, the information in this presentation seems to be different from what I've been told in the past. In situations where recipients plan to subaward, we have asked for detailed budgets, milestones, and timelines for subrecipient activities before that money can be drawn. Grants are conditionally awarded until recipients submit workplan amendments with this information. Is this unnecessary?

A27: You should follow the instructions provided to you by your Project Officer. Some Programs may have specific program requirements for pass-through entities and their subrecipients.

Q28: Is there a specific list of subaward grant opportunities online?

A28: No - the grant recipient is the one who would make the subaward (not EPA).

Q29: In regard to 2 CFR 2020 Updates-200.33-Monetary Cap, does this pertain to Statutory Partners in the grant that would be receiving the funds through the pass-through entity?

A29: 2 CFR 200.333 applies to fixed amount subawards.

Q30: Is a subawardee the same thing as a subrecipient?

- A30: Yes.
- Q31: Who is the entity that would be responsible to comply with this reporting requirement “EPA’s Terms and Conditions reference the requirement in 2 CFR 170, Appendix A, which requires pass-through entities to report subawards of \$30,000 or more to the Federal Funding Accountability and Transparency Act Subaward Reporting System?” Is it the Awardee, Subawardee, or EPA reporting on behalf of the Awardee?
- A31: The grant recipient is responsible for this reporting requirement. Please see [General Term & Condition 15. Reporting Subawards and Executive Compensation](#) for more information.
- Q32: If a line item for subawards is included in the approved award budget, would a second approval be needed when selecting the specific subaward entities?
- A32: For most programs no. Some programs may have different requirements so you should check with your Project Officer.
- Q33: Does a subawardee need to have competitive procurement for contracts or regardless of the cost can they just pick any entity they'd like without any competition?
- A33: The competitive procurement requirements flow-down to subawardees. Subawardees must use competitive procurement methods that comply with the requirements in 2 CFR 200.317-327.
- Q34: Are state universities always considered eligible for non-competitive subawards (vs. a competitive contract) for grants received by state government agencies?
- A34: If state law provides that state universities are legally separate from other components of the state for the purposes of financial transactions, then EPA would consider the transaction to be a subaward for the purposes of the UGG. Please refer to [Appendix A](#) to the EPA Subaward Policy. There may be unique situations in which state law characterizes transfers of funds between state agencies and state universities as Interagency Service Agreements or a similar designation for an internal financial transaction because state universities are instrumentalities of state government. If that is the case, the governing regulation would be 2 CFR 200.417. There may also be other unique situations in which state law provides that transactions between state universities and other components of the state government are procurement contracts in all cases. As provided at 2 CFR 200.317, states follow their own procurement procedures.
- Q35: For loans to subawards does the loan get reported every month in Federal Subaward Reporting System (FSRS) until loan paid off?
- A35: More information is needed to answer this question.
- Q36: Can sick days or vacation days be charged to fringe benefits for one grant, or must that be divided across the programs that employees charge to?
- A36: It should be divided across the programs that the employee charges to.
- Q37: Are the payroll records for both the lead and subrecipient?
- A37: Yes.

- Q38: Is prior EPA approval required for participant support costs that a subaward plans to incur?
A38: Yes.
- Q39: Can you send more information on subawards for non-profit organizations, is the fixed-amount the only option?
A39: More information is available in EPA's [Subaward Policy](#) and Appendices. Subawards to non-profits are usually made on an actual cost incurred reimbursement basis. Fixed-amount awards require approval by EPA.
- Q40: Do municipalities use the Automated Standard Application for Payments (ASAP) system for reimbursements?
A40: Yes. See [EPA Requirements for Enrolling in the Automated Standard Application for Payments \(ASAP\) System and Disbursing EPA Funds Within 5 business Days of Drawdown](#).
- Q41: If a subrecipient submits invoices and as the state we draw down funds, then once the funds are received, we reimburse the subrecipient, is this considered an "advance" or "reimbursement" to the state?
A41: It is a reimbursement.
- Q42: Would a federal agency assisting a nonprofit recipient with the competitive procurement of a contractor through their federal contracting vehicle be considered a subaward?
A42: More information is needed to answer this question.
- Q43: Can there be more information given or a webinar on Federal Funding Accountability and Transparency Act (FFATA) reporting?
A43: Visit the [FFATA Subaward Reporting System \(FSRS\)](#) website for more information.
- Q44: Can you talk about the difference between interagency agreements and subawards?
A44: Intergovernmental agreements are recognized at 2 CFR 200.318(e) as mechanisms for two different units of government (e.g. a state and local government or a city government and a county government) to use or procure common goods and services. Determining whether something is or is not a subaward depends on the nature of the transaction.
- Q45: Should we be preparing budgets with the new uniform guidance in place?
A45: If your award date is October 1, 2024 or later, you will follow the updated 2 CFR 200.
- Q46: Does EPA have guidance for negotiating an alternative indirect cost rate?
A46: Please visit the EPA's Indirect Cost Guidance for Recipients is available [here](#).
- Q47: If we have a 3 year grant starting in June 2024 and ending in 2027, are we stuck with the 10% for 3 years?
A47: The updates to 2 CFR 200 are not effective until Oct. 1, 2024. If your award date is before that, you will comply with the version of 2 CFR 200 in place on the date of your award.

Q48: Under the timely disbursement section of the slides, it stated that draw downs should be based on the actual costs incurred but under the section about what happens if a subrecipient doesn't follow the rules, it stated that you could do payments as a reimbursement rather than as an advance payment. Can you explain what you mean by "advance payment," do they still have to incur the cost?

A48: See A41.

Q49: What is the process to perform a Suspension & Debarment check of a potential subawardee?

A49: Suspension and debarment information is available in [SAM.gov](https://sam.gov).

Q50: Does EPA have suggested best practices for ensuring that subawardees comply with Civil Rights requirements?

A50: Pass-through entities should actively monitor their subawardees, institute procedures to investigate complaints, and promptly investigate complaints.

Q51: Does the Clean Water Act (CWA) statute require a competitive process to select subawards or can subawards be selected without a competitive process?

A51: It depends on the specific grant program. Notice of Funding Opportunities should mention if the program requires a competitive process for subawards.

Q52: Are subawardees supposed to be paid in advance?

A52: Yes, see 2 CFR 200.305(b)(1).

Q53: Is there a resource to guide us on which costs can specifically be counted as a direct vs. indirect costs for EPA grants?

A53: EPA's Indirect Cost Guidance is available [here](#).

Q54: How can a subaward be submitted with a proposal application if it can't be funded until the PTE receives the award from EPA?

A54: EPA awards must include a number of provisions related to subawards, including the National Term and Condition for Subawards. If your application does not include information about your plans to award subawards, it may delay your receipt of EPA funds.

Q55: Does the recipient submit the subaward agreements to EPA, or keep for our records?

A55: Some programs require pass-through entities to submit subaward agreements to EPA, but pass-through entities should always keep copies for their records. Check with your Project Officer.

Q56: If the grant application didn't name contractors, but they've been identified, how can they get authorized by EPA?

A56: Your Project Officer will ask for documentation that shows the contracts meet the procurement standards at 2 CFR 200.317-327.

Q57: Can you list the information that needs to be included in a subaward?

- A57: Subaward agreements must include the information required in 2 CFR 200.332(a). See [Appendix D](#) of EPA's Subaward Policy for a subaward agreement template. EPA does not mandate use of the template.
- Q58: Can you explain more about what are the uniform guidelines, would this determine if the grant is cost reimbursement or cash advance?
- A58: The Uniform Grant Guidelines are regulations that apply to any federal financial assistance agreement. Payment of federal financial assistance funds is covered by 2 CFR 200.305.
- Q59: To clarify, we follow the 2 CFR 200 for our grant award term? We don't continue to update our grant to the new annual 2 CFR 200 updates?
- A59: You follow the laws and regulations in effect at the time the grant was awarded. The updates to 2 CFR 200 are not effective until Oct. 1, 2024. If your award date is before that, you will comply with the version of 2 CFR 200 in place on the date of your award.
- Q60: Can the EPA provide more support to subrecipients, for example identifying a Project Officer for subawardees?
- A60: The pass-through entity is responsible for supporting their subawardees. EPA's relationship is with the pass-through entity.
- Q61: Can you please describe the defining difference between a subaward and participant support costs? Particularly regarding the procurement of electric vehicles.
- A61: EPA considers rebates and similar subsidies for the purchase of commercially available "off the shelf" pollution control equipment or to encourage participation in environmental stewardship programs by companies and individuals to be participant support costs. These payments to program beneficiaries are not subawards. See [EPA's Guidance on Participant Support Costs](#) for more information.
- Q62: How are the requirements for intergovernmental agreements different from subawards?
- A62: Intergovernmental agreements are recognized at 2 CFR 200.318(e) as mechanisms for two different units of government (e.g. a state and local government or a city government and a county government) to use or procure common goods and services. Determining whether something is or is not a subaward depends on the nature of the transaction.
- Q63: So, for current grants, we cannot apply the higher de minimis rate? This higher rate can only be used on grants awarded October 1, 2024 or after?
- A63: Yes. The updates to 2 CFR 200 are not effective until October 1, 2024. If your award date is before that, you will comply with the version of 2 CFR 200 in place on the date of your award.
- Q64: When will the updated 2 CFR guidance be publicly released?
- A64: The updates to 2 CFR 200 are effective October 1, 2024. OMB's Federal Register Notice explaining the updates is available on the [Guidance for Federal Financial Assistance Webpage](#).

Q65: Can a for-profit entity be a subrecipient if the work they are performing fits the direct purpose of the grant program, the recipient is closely monitoring their performance, and the activity is directly abating environmental pollution?

A65: If the for-profit entity is profiting from the subaward, no they cannot be a subrecipient. If the for-profit entity does not realize a profit for their work, they may be allowed to receive a subaward. Check with your Project Officer.

Q66: But to clarify, 305(b)(1) applies to non-state entities, correct?

A66: Yes.

Q67: If payment is supposed to reflect actual costs (and not estimates) then how can we pay subawardees in advance?

A67: Payment to pass-through entities is based on actual costs. Payment to subrecipients is on advance.

Q68: Is the award date the date the contract was signed?

A68: It is the date you are awarded your EPA grant.

Q69: These subawards are new to our Tribal Government. These were always set up as contracts and followed our procurement policy and compliance. Recently we converted a couple contracts and grant funding to a subaward agreement. The expense line we use is still coded in contracts and/or consultants. Where are entities posting their expenses?

A69: EPA policy requires that pass-through entities include the aggregate amount for subawards in the "Other" budget category of their Standard Form (SF) 424A, "Budget Information for Non-Construction Programs" or equivalent forms for construction agreements unless OMB revises the budget categories in the SF-424A to include one for subawards.