

**REQUEST FOR QUALIFICATIONS/PROPOSALS (RFQ/P)**

**USEPA FY24 BROWNFIELDS MULTIPURPOSE GRANT PROJECT**

**For:**

**UPTOWN CONSORTIUM, INC.**

221 East Fourth Street, Suite 200  
Cincinnati, OH 45202  
513.621.3000

<https://www.cincinnatiport.org/rfq-rfp-multipurpose-grant-project/>

Issued:

**August 19, 2025**

**REQUEST FOR QUALIFICATIONS/PROPOSALS (RFQ/P)  
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Attachment A – Cooperative Agreement



**UPTOWN CONSORTIUM, INC.**  
**USEPA FY24 Brownfields Multipurpose Grant**  
**Request for Qualifications/Proposals (RFQ/P)**

**Issue Date:** August 19, 2025

**Submission Deadline:** **UPDATED September 4, 2025**, no later than 11:00 am EST

**RFQ/P Title:** Environmental Consulting Services for Uptown Consortium, Inc. ("UCI") Fiscal Year 2024 Brownfields Multipurpose (MP) Grant Cooperative Agreement with the U. S. Environmental Protection Agency (USEPA).

## **1.0 Introduction**

UCI is soliciting a Request for Qualifications/Proposals (RFQ/P) and intends to contract for environmental consulting services in connection with the Brownfields MP Grant Initiative that is being funded through a Cooperative Agreement with the USEPA. Firms interested in being considered should reply with a statement of qualifications and proposal no later than 11:00 am (EST) on **UPDATED September 4, 2025**. Statements received after this deadline will not be considered.

Responding firms will be evaluated based on the qualifications and proposal. Following this internal evaluation, UCI may invite up to 3 firms for interviews. UCI will award a contract to one of the most highly qualified firms.

## **2.0 Qualifications**

UCI will consider the firm's experience in each of the items listed below when evaluating and selecting a consultant. Familiarity with Ohio Environmental Protection Agency (OEPA) Voluntary Action Program (VAP) and Ohio's Bureau of Underground Storage Tank Regulations (BUSTR) is beneficial, including having a VAP Certified Professional (CP) on staff which meets the requirements of Ohio administrative Code 3745-300-05. Responding firms may not subcontract or partner with other firms for personnel with VAP and/or BUSTR qualifications and experience.

- Demonstration of familiarity with USEPA Quality Assurance Project Plans (QAPPs), Health and Safety Plans (HASPs), Site Specific Sampling & Analysis Plans (SAPs) for Phase II environmental site assessment activities, Analysis of Brownfields Cleanup Alternatives (ABCAs) and Remedial Action Plans (RAPs) for cleanup activities.
- Demonstration of the familiarity with BUSTR and the process to obtain No Further Action (NFA) status.
- Demonstration of the familiarity with OEPA VAP and the process to obtain Covenant Not to Sue (CNS).
- Demonstration of the firm's ability to conduct community engagement activities with a favorable outcome on at least two project sites.
- Demonstration of at least two previous projects that were completed for public agencies.



### **3.0 Project Overview**

The USEPA has awarded UCI a Brownfields Multipurpose Grant of \$1 Million for the assessment and cleanup of properties which may be contaminated with petroleum products and/or hazardous substances in Uptown in the city of Cincinnati, Hamilton County, Ohio (the "Target Area"). UCI has prioritized focus areas at Martin Luther King Drive and Reading Road and on Burnet Avenue.

UCI will hire an environmental consultant to complete inventory, characterize, assess, conduct cleanup, plan reuse of brownfields properties, remediate, and conduct planning and community involvement activities to encourage revitalization and reuse of brownfields sites. The project period is five years.

UCI will select up to two firms to complete all these activities. It will be at the discretion of UCI to choose the consultant(s). The selected firm(s) will be asked to enter into a contract with UCI to provide environmental consulting services. The contract(s) will be based upon a professional services agreement and is contingent upon receipt of EPA grant funding in Award No. 4B-00E03895.

All work will be completed under the direction of an OEPA VAP CP. All Phase I assessments will conform to ASTM 1527-21. All Phase II assessments will be completed in accordance with ASTM E1903-11. If requested, Phase I and Phase II assessments may also conform to the standards set forth under the OEPA VAP (Ohio Administrative Code rule 3745-300-01 through 3745-300-15). Any petroleum underground storage tank assessments completed for sites selected by UCI will be conducted using ASTM industry accepted protocol and must adhere to the regulatory standards of the State of Ohio's Department of Commerce, Division of State Fire Marshall, and BUSTR.

The following activities and minimum project deliverables are to be completed with the grant funds:

- Solidify prioritized sites,
- Prepare Community Outreach Plan,
- Prepare QAPP, HASPs, and Phase I Environmental Assessments,
- Prepare Site-Specific Sampling Plans (SAPs) and Phase II Environmental Assessments,
- Conduct BUSTR Tier 1 and Tier 2 assessments,
- Prepare ABCA and RAP for the Priority Site,
- Assist with Community Outreach, and
- ACRES reporting, draft quarterly reporting, and annual financial reporting to USEPA for UCI approval and submittal to USEPA.

### **4.0 Compliance with Unified Grant Guidance (2 CFR 200 & 2 CFR 1500)**

UCI encourages qualified Disadvantaged Business Enterprises (DBEs) (i.e., Minority Business Enterprise [MBE] or Women Business Enterprise [WBE]) to respond to this RFQ/P. UCI also encourages RFQ/P respondents to identify and include qualified DBE subcontractors in submittal documents.



Respondents shall clearly identify status as a DBE or non-DBE in submittal documents. If the respondent is claiming DBE status, it shall submit a valid certification as part of the submittal documents.

If the respondent solicits subcontractors for work as part of the response, the solicitation must comply with the requirements of the Unified Grant Guidance contained in 2 CFR Part 200 and 2 CFR Part 1500. The response shall include supporting documentation to demonstrate that the solicitation(s) for subcontractor work was completed in compliance with 2 CFR Part 200 and 2 CFR Part 1500.

The selected firms will be subject to Federal contract requirements, including, but not limited to, Minority Business Enterprise/Women's Business Enterprise (MBE/WBE) program, project certification process, and minimum Federal (Davis-Bacon) wage rates, where applicable.

## 5.0 Scope of Services

Please provide cost information for the following scope of work. Please include hourly rates, subcontractor markup rates and any applicable flat rates. A full list of work items with cost ranges should be provided.

### **Scope of Work:**

Outreach  
Site Inventory & Assessment  
Remediation / Reuse Planning  
Cleanup  
Environmental Consultant Support

## 6.0 Timeline for Selecting Firm

<u>Activities</u>	<u>To Be Completed By</u>
Deadline for Submitting RFQ/P Questions	August 22, 2025
Responses to Questions	August 26, 2025
Submissions Due	UPDATED: September 4, 2025
Notify Consultants of Selections	UPDATED: September 11, 2025
Contract with Consultant	UPDATED: September 18, 2025

After review of submitted qualifications, UCI may request additional information from one or more respondents.



## **7.0 Selection Criteria**

Firms will be rated on the following criteria (**100 points total**):

- Documentation supports strong background of firm and personnel in environmental consulting – **10 points**
- Experience of firm's key project personnel supports strong background and knowledge of environmental consulting in the State of Ohio – **10 points**
- Positive past performance on environmental projects, based on provided references and/or previous UCI or Port projects – **10 points**
- Inclusion of Minority, Women, Small Business Enterprises (MBE/WBE/SBE) and explanation of how MBE/WBE/SBEs will be utilized – **5 points**
- Documentation supports strong background, understanding, and/or experience of firm and key project personnel with USEPA and OEPA Brownfields projects, OEPA VAP projects, and BUSTR – **10 points**
- Description of previous projects that reflect the capabilities and experience of the project team to carry out the required services – **10 points**
- Documentation demonstrates firm's experience with public outreach and the community involvement processes – **10 points**
- Documentation demonstrates firm's capacity to perform work and meet the project schedule – **10 points**
- Documentation demonstrates firm's capacity to control costs and meet project budget – **25 points**

## **8.0 RFQ/P Submission Procedures**

Applicants must submit one (1) electronic copy by email by 11:00 a.m. (ET) on **UPDATED September 4, 2025**, to Brooke Rapp at the following address: [brapp@cincinnatiport.org](mailto:brapp@cincinnatiport.org). Qualifications/Proposals submitted after the deadline will not be considered.

## **9.0 Questions**

UCI will not respond to oral inquiries regarding the clarification of this RFQ/P. Questions concerning this RFQ/P must be submitted in writing and will be accepted via e-mail to Brooke Rapp at [brapp@cincinnatiport.org](mailto:brapp@cincinnatiport.org). UCI must receive all questions by August 22, 2025. On or before August 26, 2025, questions and responses will be provided via email to all firms that have formally requested the RFQ/P.

## **10.0 Statement of Qualifications (SOQ)**

The Statement of Qualifications (SOQ) information is required in the order listed below. Each SOQ should be submitted as an 8.5" x 11" PDF document. Respondents that do not follow these guidelines or do not provide comprehensive information may not be considered. The SOQ will be the primary materials used by UCI to evaluate firms against the Qualifications and Selection Criteria.



## **I. Firm Identification and Background Information**

1. Firm's name, website address, business postal address, contact name, e-mail address, telephone, and fax numbers.
2. Federal Employer Identification Number (EIN) or Taxpayer I.D. number
3. Ohio Tax I.D. number
4. The firm's legal form (e.g., corporation, limited liability company, sole proprietor, etc.) and state of formation, if applicable.
5. Provide a concise history of the firm, its main partners/officers and largest shareholder.
6. Company brochure and promotional materials, if available. Please include these materials at the end of the SOQ.
7. State the firm's status as a DBE or non-DBE, and if a DBE subcontractor is included as part of the response.

## **II. Qualifications and Experience of the Firm**

1. Provide a detailed description of no more than three Phase I and Phase II environmental assessments of various scopes and size, completed by the firm in the previous three years. Include project dates, project titles, community location, employees involved, and originally estimated and final costs.
2. Provide three examples of experience with grants and other funding sources.
3. Demonstrate familiarity or experience in preparing QAPPs.
4. Demonstrate familiarity with ACRES to create and maintain Property Profile Forms (PPF) as required by USEPA.
5. A description of the firm's resources, including staff and equipment available for project use.
6. Detail efforts made on three previous projects to control costs.
7. Provide details on economic inclusion on projects completed in the past 3 years.
8. Provide details on whether the firm has filed for bankruptcy in the past 10 years.
9. Provide details on whether the firm has ever defaulted on a contract.
10. List of OSHA or other jurisdictional safety violations or citations issued to the company within the last 10 years.
11. Certify that the firm and CP have not had a professional license revoked within the past 5 years in Ohio or any other state.
12. Certify that the firm has not been debarred from any public contract federal, state, or local in the past 5 years.
13. Provide any additional information that would support selection.

## **III. Personnel**

Identify the Certified Professional, if applicable, and Project Manager (if different) who will be assigned to and key to the success of the contract.



Provide a description of the firm's personnel with the qualifications necessary to complete the work in the contract program. *The firm may not subcontract or partner with other firms for personnel with VAP qualifications and experience; however, firms may subcontract for VAP certified laboratory services.* Include personnel name, title, years of experience, education, hourly rate, as well as the number and title of projects assigned to the individual in the last three years.

#### **IV. References**

Provide the names of two (2) clients (not including UCI or The Port) for whom the firm has provided Phase I and Phase II environmental assessments in the past three years. Provide the name, telephone number, and e-mail address of a contact for each client and a brief description of the services provided. In addition, provide a reference for a client of previous USEPA grant work.

#### **V. Required Attachments**

1. Certified Professional's name and certificate number
2. Standard billable rates for project personnel and other billable items
3. Current certificate of professional liability, malpractice, and errors omissions insurance (If awarded respondent must name Redevelopment Authority, as additional insured.)
4. Current certificate of general liability insurance
5. Workers Compensation Certificate
6. DBE documentation, if applicable
7. List of OEPA VAP project experience with successful CNS (within last three years)
8. List of USEPA project experience (within last three years)
9. List of BUSTR project experience with successful NFA (within last three years)
10. Two examples of coordination and implementation of public outreach and community involvement process.

### **11.0 Proposal**

#### **I. Methods and Strategic Plan**

Provide a clear outline and description of how the consultant would effectively assist UCI in implementing the Multipurpose Grant in a cost effective and timely manner consistent with all USEPA requirements. Include in this section a project schedule as detailed as you see fit and is consistent with the RFQ/P schedule and process previously outlined.

#### **II. Project Cost**

With the submittal of the proposal, representative costs are to be provided to address the following:

- Costs estimates for performing project tasks
- Provide preliminary fee schedule for the project





### III. Submittal Form

#### Cover Page:

Environmental Consulting Services for Uptown Consortium, Inc. Fiscal Year 2024 Brownfields  
Multipurpose Grant Cooperative Agreement with the U.S. Environmental Protection Agency

Request for Qualifications/Proposals for:

(Name of individual or firm submitting the RFQ/P, address, telephone, and e-mail information)

Date of submittal

#### Body:

##### Statement of Qualifications

- I. Firm Identification and Background
- II. Qualifications and Experience of Firm
- III. Personnel
- IV. References
- V. Required Attachments

##### Proposal

- I. Methods and Strategic Plan
- II. Project Cost

#### **12.0 SOQ/P Submission Deadline:**


Applicants must submit one (1) electronic copy by email by 11:00 a.m. (ET) on **UPDATED September 4, 2025**, to Brooke Rapp at the following address: [brapp@cincinnatiport.org](mailto:brapp@cincinnatiport.org). Qualifications/Proposals submitted after the deadline will not be considered. UCI reserves the right to waive any irregularities, technicalities, or informalities in any submittal documents, and to reject all SOQs without cause. UCI reserves the right to reject the submittal of any respondent that has failed to faithfully perform any previous contract with UCI or other governmental jurisdiction or agency.

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**ATTACHMENT A**  
**COOPERATIVE AGREEMENT**



	<b>U.S. ENVIRONMENTAL PROTECTION AGENCY</b>  <b>Assistance Amendment</b>	<b>GRANT NUMBER (FAIN):</b> 00E03895 <b>MODIFICATION NUMBER:</b> 1 <b>PROGRAM CODE:</b> 4B	<b>DATE OF AWARD</b> 04/14/2025
		<b>TYPE OF ACTION</b> Augmentation: Increase	<b>MAILING DATE</b> 04/17/2025
		<b>PAYMENT METHOD:</b> ASAP	<b>ACH#</b>
<b>RECIPIENT TYPE:</b> Not for Profit		<b>Send Payment Request to:</b> Contact EPA RTPFC at: rtpfc-grants@epa.gov	
<b>RECIPIENT:</b> UPTOWN CONSORTIUM INC 3440 Burnet Ave Cincinnati, OH 45229-2843 <b>EIN:</b> 20-0688727		<b>PAYEE:</b> Uptown Consortium, Inc. 3440 Burnet Ave Suite 130 Cincinnati, OH 45229	
<b>PROJECT MANAGER</b> Melissa Johnson 3 East Fourth Street Suite 300 CINCINNATI, OH 45202 <b>Email:</b> mjohnson@cincinnatiport.org <b>Phone:</b> 513-632-3760	<b>EPA PROJECT OFFICER</b> Torre Ippolito 77. West Jackson Blvd., L-17J Chicago, IL 60604-3507 <b>Email:</b> ippolito.torre@epa.gov <b>Phone:</b> 312-353-6556	<b>EPA GRANT SPECIALIST</b> Lawrence Crowley Assistance Section I, MA-10J 77 W. Jackson Blvd. Chicago, IL 60604 <b>Email:</b> Crowley.Lawrence@epa.gov <b>Phone:</b> 312-353-8222	
<b>PROJECT TITLE AND EXPLANATION OF CHANGES</b> FY24 Multipurpose Grant - Uptown, OH <p>Brownfields are real property, the expansion, development or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. This agreement provides funding under the Infrastructure Investment and Jobs Act (IIJA) to Uptown Consortium, Inc. The recipient will conduct eligible planning, assessment, and remediation activities as authorized by CERCLA 104(k)(4) in Cincinnati, Ohio.</p> <p>This incremental amendment obligates federal funding in the amount of \$250,000 to fully fund this award. These funds will support the continuance of Uptown Consortium, Inc. aforementioned workplan activities in accordance with CERCLA: Sec. 104(d)(1) guidelines.</p>			
<b>BUDGET PERIOD</b> 10/01/2024 - 09/30/2029	<b>PROJECT PERIOD</b> 10/01/2024 - 09/30/2029	<b>TOTAL BUDGET PERIOD COST</b> \$ 1,000,000.00	<b>TOTAL PROJECT PERIOD COST</b> \$ 1,000,000.00
<p style="text-align: center;"><b>NOTICE OF AWARD</b></p> <p>Based on your Application dated 07/22/2024 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$ 250,000.00. EPA agrees to cost-share 100.00% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$ 1,000,000.00. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.</p>			
<b>ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)</b>		<b>AWARD APPROVAL OFFICE</b>	
<b>ORGANIZATION / ADDRESS</b> U.S. EPA, Region 5, U.S. EPA Region 5 Mail Code MCG10J 77 West Jackson Blvd. Chicago, IL 60604-3507		<b>ORGANIZATION / ADDRESS</b> U.S. EPA, Region 5, Land, Chemicals and Redevelopment Division R5 - Region 5 77 W. Jackson Blvd. L-17J Chicago, IL 60604-3507	
<p style="text-align: center;"><b>THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY</b></p>			
Digital signature applied by EPA Award Official for Sheila Dolan - Branch Manager by Robert Fields - Award Official Delegate			<b>DATE</b> 04/14/2025



## Budget Summary Page

Table A - Object Class Category (Non-Construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$ 0
2. Fringe Benefits	\$ 0
3. Travel	\$ 6,000
4. Equipment	\$ 0
5. Supplies	\$ 1,700
6. Contractual	\$ 292,300
7. Construction	\$ 700,000
8. Other	\$ 0
9. Total Direct Charges	\$ 1,000,000
10. Indirect Costs: 0.00 % Base	\$ 0
11. Total (Share: Recipient <u>0.00</u> % Federal <u>100.00</u> %)	\$ 1,000,000
12. Total Approved Assistance Amount	\$ 1,000,000
13. Program Income	\$ 0
14. Total EPA Amount Awarded This Action	\$ 250,000
15. Total EPA Amount Awarded To Date	\$ 1,000,000

## **Administrative Conditions**

**The Following Administrative Term and Conditions are Fulfilled and Therefore no Longer Applies:**

D. Pre-award Administrative Capability

**All Other Administrative Terms and Conditions Remain the Same**

## Programmatic Conditions

### FY24 Brownfields Multipurpose Cooperative Agreement Terms and Conditions Infrastructure Investment and Jobs Act Funds Terms and Conditions

Please note that these Terms and Conditions (T&Cs) apply to Brownfield Multipurpose Cooperative Agreements awarded under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) § 104(k) and the Infrastructure Investment and Jobs Act (IIJA).

#### I. GENERAL FEDERAL REQUIREMENTS

**NOTE:** For the purposes of these Terms and Conditions, the term “assessment” includes eligible activities under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) § 104(k)(2)(A)(i) such as activities involving the inventory, characterization, assessment, and planning relating to brownfield sites as described in the EPA-approved workplan.

##### A. Federal Policy and Guidance

1. Cooperative Agreement Recipients: By awarding this cooperative agreement, the Environmental Protection Agency (EPA) has approved the application for the Cooperative Agreement Recipient (CAR) submitted in the Fiscal Year 2024 competition for Brownfield Multipurpose cooperative agreements.

2. In implementing this agreement, the CAR shall ensure that work done with cooperative agreement funds complies with the requirements of CERCLA § 104(k). The CAR shall also ensure that assessment and cleanup activities supported with cooperative agreement funding comply with all applicable federal and state laws and regulations. The CAR must ensure cleanups are protective of human health and the environment.

3. The CAR must consider whether it is required to conduct cleanups through a State or Tribal response program. If the CAR chooses not to participate in a State or Tribal response program, then the CAR is required to consult with the EPA Project Officer to ensure the proposed cleanup is protective of human health and the environment.

If the State or Tribe does not have a promulgated response program that is applicable to the planned brownfield activity, then the CAR is required to consult with the EPA Project Officer to ensure the protectiveness of human health and the environment.

4. A term and condition or other legally binding provision shall be included in all subawards entered into with the funds awarded under this agreement, or when funds awarded under this agreement are used in combination with non-federal sources of funds, to ensure that the CAR complies with all applicable federal and state laws and requirements. In addition to CERCLA § 104(k), applicable federal laws and requirements include 2 CFR Part 200.

5. The CAR must comply with federal cross-cutting requirements. These requirements include, but are not limited to, DBE requirements found at 40 CFR Part 33; OSHA Worker Health & Safety Standard 29 CFR § 1910.120; Uniform Relocation Act (40 USC § 61); National Historic Preservation Act (16 USC § 470); Endangered Species Act (P.L. 93-205); Permits required by Section 404 of the Clean Water Act; Executive Order 11246, Equal Employment Opportunity, and implementing regulations at 41 CFR § 60-4; Contract Work Hours and Safety Standards Act, as amended (40 USC §§ 327-333); the Anti-Kickback Act (40 USC § 3145); and Section 504 of the Rehabilitation Act of 1973 as implemented by Executive Orders 11914 and 11250. For additional information on cross-cutting requirements visit <https://www.epa.gov/grants/epa-subaward-cross-cutter-requirements>.

6. The CAR must comply with Davis-Bacon Act prevailing wage requirements and associated U.S. Department of Labor (DOL) regulations for all construction, alteration, and repair contracts and subcontracts awarded with funds provided under this agreement by operation of CERCLA § 104(g). Assessment activities generally do not involve construction, alteration, and repair within the meaning of the Davis-Bacon Act. However, the recipient must contact the EPA Project Officer if there are unique circumstances (e.g., removal of an underground storage tank or another structure and restoration of the site) that indicate that the Davis-Bacon Act applies to an activity the CAR intends to carry out with funds provided under this agreement. EPA will provide guidance on Davis-Bacon Act compliance if necessary. Cleanup activities are likely to require Davis-Bacon compliance. For more detailed information on complying with Davis-Bacon, please see the [Contract Provisions for Davis-](#)

[Bacon and Related Acts](#) and the Brownfields Davis-Bacon terms and conditions.

7. Refer to the General Term & Conditions for Buy America Sourcing requirements under the Build America, Buy America (BABA) provisions of the Infrastructure Investment and Jobs Act (IIJA; also known as Bipartisan Infrastructure Law or BIL) (P. L. 117-58, §§70911-70917). The CAR can also refer to EPA's [Frequently Asked Questions for BABA](#) for more information.

8. The recipient agrees to have financial management and programmatic management systems in place to:

- a. Track and report on expenditures of IIJA funds.
- b. Track and report outputs and outcomes achieved with IIJA funds.

## II. SITE ELIGIBILITY REQUIREMENTS

All brownfield sites that will be addressed using funds from the cooperative agreement must be located within the geographic boundary (i.e., the target area discussed in the FY24 application) described in the scope of work for this cooperative agreement (i.e., the EPA-approved workplan).

### A. Eligible Brownfield Site Determinations

1. Prior to performing site work, the CAR must provide information to the EPA Project Officer about each site that will be addressed under this cooperative agreement. The CAR may use cooperative agreement funds to prepare information that is provided to the EPA Project Officer. The information that must be provided includes whether the site meets the definition of a brownfield site as defined in CERCLA § 101(39), and whether the CAR is the potentially responsible party under CERCLA § 107, is exempt from CERCLA liability and/or has defenses to CERCLA liability, and documentation that the CAR owns the site it intends to clean up.

2. The CAR may only clean up sites it solely owns that are within the target area specified in the workplan for this cooperative agreement. The CAR must retain ownership of the site(s) while Brownfield Multipurpose Grant funds are disbursed for the cleanup of the site(s) and must consult with the EPA Project Officer prior to transferring title or otherwise conveying the real property comprising the site. For the purposes of this agreement, the term “owns” means fee simple title unless EPA approved a different ownership arrangement at the time of award or the EPA Project Officer advises the CAR that a different ownership is acceptable to EPA for a site after the award.

3. If the site is excluded from the general definition of a brownfield, but is eligible for a property-specific funding determination, then the CAR may request a property-specific funding determination from the EPA Project Officer. In its request, the CAR must provide information sufficient for EPA to make a property-specific funding determination on how financial assistance will protect human health and the environment, and either promote economic development or enable the creation of, preservation of, or addition to parks, greenways, undeveloped property, other recreational property, or other property used for nonprofit purposes. The CAR must not incur costs for assessing sites requiring a property-specific funding determination by EPA until the EPA Project Officer has advised the CAR that EPA has determined that the property is eligible.

### 4. Brownfield Sites Contaminated with Petroleum

a. For any petroleum-contaminated brownfield site that is not included in the CAR's EPA-approved workplan, the CAR shall provide sufficient documentation to EPA prior to incurring costs under this cooperative agreement which documents that:

- i. the State determines there is “no viable responsible party” for the site;
- ii. the State determines that the person addressing the site is a person who is not potentially liable for cleaning up the site; and
- iii. the site is not subject to any order issued under Section 9003(h) of the Solid Waste Disposal Act.



This documentation must be prepared by the CAR or the State, following contact and discussion with the appropriate state petroleum program official. Please contact the EPA Project Officer for additional information.

**b. Documentation must include:**

- i. the identity of the State program official contacted;
- ii. the State official's telephone number;
- iii. the date of the contact; and
- iv. a summary of the discussion relating to the State's determination that there is no viable responsible party and that the person addressing the site is not potentially liable for cleaning up the site.

Other documentation provided by a State to the recipient relevant to any of the determinations by the State must also be provided to the EPA Project Officer.

c. If the State chooses not to make the determinations described in Section II.A.4. above, the CAR must contact the EPA Project Officer and provide the necessary information for EPA to make the requisite determinations.

d. EPA will make all determinations on the eligibility of petroleum-contaminated brownfield sites located on tribal lands (i.e., reservation lands or lands otherwise in Indian country, as defined at 18 U.S.C. § 1151). Before incurring costs for these sites, the CAR must contact the EPA Project Officer and provide the necessary information for EPA to make the determinations.

**B. Continuing Obligations for CARs**

1. The CAR shall not use cooperative agreement funds to pay for a response cost at the site for which the CAR was potentially liable under CERCLA § 107. The CAR must demonstrate that it meets the requirements for one of the Landowner Liability Protections as either a Bona Fide Prospective Purchaser (BFPP), Contiguous Property Owner (CPO), or Innocent Landowner (ILO). These requirements include certain threshold criteria and continuing obligations that must be met in order for the CAR to maintain its eligible status. If the CAR fails to meet these obligations, EPA may disallow the costs incurred under this cooperative agreement for cleaning up the site under CERCLA § 104(k)(8)(C). The Landowner Liability Protection requirements include:

- a. Performing "all appropriate inquiries" into the previous ownership and uses of the property before acquiring the property.
- b. Not being potentially liable or affiliated with any other person who is potentially liable for response costs at the site through any direct or indirect familial relationship, any contractual, corporate, or financial relationship, or through the result of a reorganized business entity that was potentially liable.

While not necessary to obtain ILO protection, the CAR must still establish by a preponderance of the evidence that the act or omission that caused the release or threat of release of hazardous substances and any resulting damages were caused by a third party with whom the person does not have an employment, agency, or contractual relationship.

- c. Demonstrating that no disposal of hazardous substances occurred at the facility after acquisition by the landowner (does not specifically apply for the CPO protection).
- d. Taking "reasonable steps" with respect to hazardous substance releases by stopping any continuing releases, preventing any threatened future releases, and preventing or limiting human, environmental, or natural resource exposure to any previously released hazardous substance.
- e. Complying with any land use restrictions established or relied on in connection with the response action at the site and not impeding the effectiveness or integrity of institutional controls employed in connection with the response action.
- f. Providing full cooperation, assistance, and access to persons that are authorized to conduct response actions or natural

resource restoration at the site from which there has been a release or threatened release.

g. Complying with information requests and administrative subpoenas (does not specifically apply for the ILO protection).

h. Providing all legally required notices with respect to the discovery or release of any hazardous substances at the site (does not specifically apply for the ILO protection).

Notwithstanding the CAR's continuing obligations under this agreement, the CAR is subject to the applicable liability provisions of CERCLA governing its status as a BFPP, CPO, or ILO. CERCLA requires additional obligations to maintain the liability limitations for BFPP, CPO, and ILO; the relevant provisions for these obligations include §§ 101(35), 101(40), 107(b), 107(q) and 107(r).

CARs that are exempt from CERCLA liability or do not have to meet the requirements for asserting an affirmative defense to CERCLA liability must also comply with continuing obligation items c.-h.

### III. GENERAL COOPERATIVE AGREEMENT ADMINISTRATIVE REQUIREMENTS

#### A. Sufficient Progress

1. This condition supplements the requirements of the Termination and Sufficient Progress Conditions in the General Terms and Conditions.

The EPA Project Officer will assess whether the recipient is making sufficient progress in implementing its cooperative agreement 18 months and 36 months from the date of award. If EPA determines that the CAR has not made sufficient progress in implementing its cooperative agreement, the CAR, if directed to do so, must implement a corrective action plan concurred on by the EPA Project Officer and approved by the Grants Management Officer or Award Official. Alternatively, EPA may terminate this agreement under 2 CFR § 200.340 for material non-compliance with its terms, or with the consent of the CAR as provided at 2 CFR § 200.340, depending on the circumstances.

Sufficient progress at 18 months is indicated when:

at least 15% of funds have been drawn down and disbursed for eligible activities;

a Qualified Environmental Professional(s) has been procured;

assessment or cleanup activities have been initiated;

community engagement activities have been initiated; and/or

other documented activities have occurred that demonstrate to EPA's satisfaction that the CAR will successfully perform the cooperative agreement.

Sufficient progress at 36 months is indicated when:

at least 45% of funds have been drawn down and disbursed for eligible activities;

Phase II environmental site assessment and cleanup activities are ongoing at least one site; and/or

other documented activities have occurred that demonstrate to EPA's satisfaction that the CAR will successfully perform the cooperative agreement.

Other documented activities may include, but are not limited to, sites are prioritized or an inventory has been initiated, relevant state or tribal pre-cleanup requirements are being addressed, an appropriate remediation plan is in place for at least one eligible brownfield site, institutional control development has commenced, a feasible reuse strategy for one site has been developed, and/or an overall plan for revitalization has been developed.

## B. Substantial Involvement

1. The EPA Project Officer will be substantially involved in overseeing and monitoring this cooperative agreement. Substantial involvement, includes, but is not limited to:

- a. Close monitoring of the CAR's performance to verify compliance with the EPA-approved workplan and achievement of environmental results.
- b. Participation in periodic telephone conference calls to share ideas, project successes and challenges, etc., with EPA.
- c. Reviewing and commenting on quarterly and annual reports prepared under the cooperative agreement (the final decision on the content of reports rests with the recipient or subrecipients receiving pass-through awards).
- d. Verifying sites meet applicable site eligibility criteria (including property-specific funding determinations described in Section II.A.2. and II.A.3.) and when the CAR awards a subaward for site assessment. The CAR must obtain technical assistance from the EPA Project Officer, or his/her designee, on which sites qualify as a brownfield site and determine whether the statutory prohibitions found in CERCLA § 104(k)(5)(B)(i)-(iv) apply. (Note, the prohibition does not allow a subrecipient to use EPA cooperative agreement funds to assess a site for which the subrecipient is potentially liable under CERCLA § 107.)
- e. Reviewing and approving Quality Assurance Project Plans and related documents or verifying that appropriate Quality Assurance requirements have been met where quality assurance activities are being conducted pursuant to an EPA-approved Quality Assurance Management Plan.

Substantial involvement may also include, depending on the direction of the EPA Project Officer:

- f. Collaboration during the performance of the scope of work including participation in project activities, to the extent permissible under EPA policies. Examples of collaboration include:
  - i. Consultation between EPA staff and the CAR on effective methods of carrying out the scope of work provided the CAR makes the final decision on how to perform authorized activities.
  - ii. Advice from EPA staff on how to access publicly available information on EPA or other federal agency websites.
  - iii. With the consent of the CAR, EPA staff may provide technical advice to the CAR's contractors or subrecipients provided the CAR approves any expenditures of funds necessary to follow advice from EPA staff. (The CAR remains accountable for performing contract and subaward management as specified in 2 CFR § 200.318 and 2 CFR § 200.332 as well as the terms of the EPA cooperative agreement.)
  - iv. EPA staff participation in meetings, webinars, and similar events upon the request of the CAR or in connection with a co-sponsorship agreement.
- g. Reviewing and approving that the Analysis of Brownfield Cleanup Alternatives (ABCA), or equivalent state Brownfields program document, meets the Brownfields Program's requirements for an ABCA.
- h. Reviewing proposed procurements in accordance with 2 CFR § 200.325, as well as the substantive terms of proposed contracts or subawards as appropriate. This may include reviewing requests for proposals, invitations for bid, scopes of work and/or plans and specifications for contracts over \$250,000 prior to advertising for bids.
- i. Reviewing the qualifications of key personnel. (EPA does not have the authority to select employees or contractors, including consultants, employed by the CAR or subrecipients receiving pass-through awards.)
- j. Reviewing information in performance reports to ensure all costs incurred by the CAR and/or its contractor(s) if needed to ensure appropriate expenditure of grant funds.

EPA may waive any of the provisions in Section III.B.1., except for property-specific funding determinations. The EPA Project Officer will provide waivers to provisions a. – e. in Section III.B.1. in writing.

## 2. Effects of EPA's substantial involvement include:

- a. EPA's review of any project phase, document, or cost incurred under this cooperative agreement will not have any effect upon CERCLA § 128 *Eligible Response Site* determinations or rights, authorities, and actions under CERCLA or any federal statute.
- b. The CAR remains responsible for ensuring that all assessments and cleanups are protective of human health and the environment and comply with all applicable federal and state laws. If changes to the expected cleanup become necessary based on public comment or other reasons, the CAR must consult with the EPA Project Officer and the State.
- c. The CAR and its subrecipients remain responsible for ensuring costs are allowable under 2 CFR Part 200, Subpart E.

## C. Cooperative Agreement Recipient Roles and Responsibilities

1. Funds expended under this cooperative agreement must be used to complete at least one Phase II environmental site assessment, to conduct cleanup activities at one or more brownfield sites within the target area, and to produce one overall plan for revitalization of one or more sites in the target area (if a plan does not already exist), as specified in the workplan. The overall plan for revitalization must include a feasible reuse strategy for at least one site. If a CAR is not making sufficient progress and appears unlikely to complete these cooperative agreement requirements, EPA may terminate this agreement under 2 CFR § 200.340 for material non-compliance with its terms, or with the consent of the CAR as provided at 2 CFR § 200.340, depending on the circumstances, as referenced in Section III.A.

2. All additional sites selected for eligible activities throughout the period of performance (i.e., sites that were not identified in the workplan) must be located within the geographic boundary identified by the CAR in the workplan.

Criteria for selecting additional sites should consider the prioritization criteria identified in the FY24 application, the workplan, or developed during implementation of the workplan. Note, criteria developed during the implementation of the workplan should lead to the CAR addressing sites in areas with similar characteristics as the areas discussed in the FY24 application.

3. If the CAR's workplan includes eligible planning activities to prepare a brownfield site for reuse (see <https://www.epa.gov/brownfields/information-eligible-planning-activities> for eligible planning activities), the CAR must demonstrate meaningful community engagement in the reuse planning of brownfields assessed under the grant. Meaningful community engagement is demonstrated by actively including local nonprofit organizations, citizen leaders, or similar local groups/entities in brownfield reuse planning.

4. CARs, other than state entities, that procure a contractor(s) (including consultants) where the contract will be more than the micro-purchase threshold in 2 CFR § 200.320(a)(1) (\$10,000 for most CARs) must select the contractor(s) in compliance with the fair and open competition requirements in 2 CFR Part 200 and 2 CFR Part 1500. This requirement also applies to procurement processes that were completed before the award of this cooperative agreement. See the [Brownfields Grants: Guidance on Competitively Procuring a Contractor](#) for additional information.

CARs may procure multiple contractors to ensure the appropriate expertise is in place to perform work under the agreement (e.g., expertise to conduct site remediation activities vs. community engagement) and to allow the ability for work be performed concurrently at multiple sites within the defined and approved geographic boundary.

5. The CAR must acquire the services of a Qualified Environmental Professional(s) as defined in 40 CFR § 312.10, if it does not have such a professional on staff to coordinate, direct, and oversee the brownfield site assessment and cleanup activities at a given site.

6. Cybersecurity – The recipient agrees that when collecting and managing environmental data under this cooperative agreement, it will protect the data by following all applicable State or Tribal law cybersecurity requirements.

a. EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement are secure. For purposes of this section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition.

If the recipient's connections as defined above do not go through the Environmental Information Exchange Network or EPA's Central Data Exchange, the recipient agrees to contact the EPA Project Officer no later than 90 days after the date of this award and work with the designated Regional/ Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data.

b. The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in Cybersecurity Section a. above if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under 2 CFR § 200.332(d), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and EPA.

9. All geospatial data created must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at [www.fgdc.gov](http://www.fgdc.gov).

#### **D. Quarterly Performance Reports**

1. In accordance with EPA regulations 2 CFR Parts 200 and 1500 (specifically, § 200.329, *Monitoring and Reporting Program Performance*), the CAR agrees to submit quarterly performance reports to the EPA Project Officer within 30 days after each reporting period. Initially, quarterly performance reports will be submitted via email or via the optional Quarterly Reporting function tool within the Assessment, Cleanup and Redevelopment Exchange System (ACRES). However, once EPA has developed and incorporated the Quarterly Performance Reporting tool into ACRES, the CAR agrees to use this tool to input quarterly performance reports directly into ACRES within 30 days after each reporting period. (The EPA Project Officer will notify the CAR when use of this tool in ACRES is required). The reporting periods are October 1 – December 31 (1<sup>st</sup> quarter); January 1 – March 31 (2<sup>nd</sup> quarter); April 1 – June 30 (3<sup>rd</sup> quarter); and July 1 – September 30 (4<sup>th</sup> quarter). If a due date falls on a weekend or holiday, the report will be due on the next business day.

These reports shall cover work status, work progress, difficulties encountered, preliminary data results and a statement of activity anticipated during the subsequent reporting period, including a description of equipment, techniques, and materials to be used or evaluated. A discussion of expenditures and financial status for each workplan task, along with a comparison of the percentage of the project completed to the project schedule and an explanation of significant discrepancies from the EPA-approved workplan and budget shall be included in the report. The report shall also include any changes of key personnel concerned with the project that were approved by the EPA Grants Management Officer or Award Official. (Note, as provided at 2 CFR § 200.308, *Revision of budget and program*, the CAR must seek prior approval from the EPA Grants Management Officer or Award Official for a change in a key person.)

2. The CAR must submit performance reports on a quarterly basis in ACRES or to the EPA Project Officer. Quarterly performance reports must include:

- a. A summary that clearly differentiates between activities completed with EPA funds provided under the Brownfield Multipurpose cooperative agreement and related activities completed with other sources of leveraged funding.
- b. A summary and status of approved activities performed during the reporting quarter; a summary of the performance outputs/outcomes achieved during the reporting quarter; and a description of problems encountered during the reporting quarter that may affect the project schedule.
- c. A comparison of actual accomplishments to the anticipated outputs/outcomes specified in the EPA-approved workplan and reasons why anticipated outputs/outcomes were not met.
- d. An update on the project schedule and milestones, including an explanation of any discrepancies from the EPA-approved workplan.
- e. A list of the properties where assessment and cleanup activities (and planning activities, if applicable) were performed

and/or completed during the reporting quarter.

f. A budget summary table with the following information: current approved project budget; EPA funds drawn down during the reporting quarter; costs drawn down to date (cumulative expenditures); program income generated and used (if applicable) (i. e., program income received and disbursed during the reporting quarter and during the entire cooperative agreement, and the amount of program income remaining); and total remaining funds. The budget summary table must include costs that are charged to the “other” budget object class category (e.g., participant support costs, subawards, etc.).

The CAR shall include an explanation of any discrepancies in the budget from the EPA-approved workplan, cost overruns or high unit costs, and other pertinent information. The CAR shall include a statement on funding transfers<sup>[1]</sup> among direct budget categories or programs, functions and activities that occurred during the quarter and cumulatively during the period of performance.

Note: ACRES reporting requirements can change over time, based on expansion of EPA's information collection authority, and the CAR is responsible for complying with the latest ACRES reporting requirements at the time of each quarterly performance report. The EPA Project Officer will notify the CAR when ACRES reporting requirements, specific to Brownfields Multipurpose, change.

Note: Each property where assessment and cleanup activities were performed and/or completed must have its corresponding information updated in ACRES (or via the Property Profile Form with prior approval from the EPA Project Officer) prior to submitting the quarterly performance report (see Section III.E. below).

3. The CAR must maintain records that will enable it to report to EPA on the amount of funds disbursed by the CAR to assess and clean up the specific properties under this cooperative agreement.

4. In accordance with 2 CFR § 200.329(e)(1), the CAR agrees to inform the EPA Project Officer as soon as problems, delays, or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the EPA-approved workplan.

#### **E. Property Profile Submission**

1. The CAR must report on interim progress (e.g., assessments started, clean up started, reuse planning activities started) and any final accomplishments (e.g., assessments completed, clean up required, clean up completed, contaminants found, contaminants removed, institutional controls required, engineering controls required) by completing and submitting relevant portions of the electronic Property Profile Form using the Assessment, Cleanup and Redevelopment Exchange System (ACRES). The CAR must enter the data in ACRES as soon as the interim action or final accomplishment has occurred, or within 30 days after the end of each reporting quarter. The CAR must enter any new data into ACRES prior to submitting the quarterly performance report to the EPA Project Officer. The CAR must utilize the electronic version of the Property Profile Form in ACRES unless approval is obtained from the EPA Project Officer to use the hardcopy version of the Property Profile Form or its use is included in the approved workplan.

#### **F. Final Cooperative Agreement Performance Report with Environmental Results**

1. In accordance with EPA regulations 2 CFR Parts 200 and 1500 (specifically, § 200.329, *Monitoring and Reporting Program Performance* and 2 CFR § 200.344(a), *Closeout*), the CAR agrees to submit to the EPA Project Officer within 120 days after the expiration or termination of the approved project period a final performance report on the cooperative agreement via email; unless the EPA Project Officer agrees to accept a paper copy of the report. The final performance report shall document and summarize the elements listed in Section III.D.2., as appropriate, for activities that occurred over the entire project period.

### **IV. FINANCIAL ADMINISTRATION REQUIREMENTS**

#### **A. Eligible Uses of the Funds for the Cooperative Agreement Recipient**

1. To the extent allowable under the EPA-approved workplan, cooperative agreement funds may be used for eligible programmatic expenses to inventory, characterize, assess, and clean up sites; conduct site-specific planning, general brownfield-related planning activities around one or more brownfield sites in the target area; conduct outreach and community engagement; and for reasonable participant support costs associated with one community liaison identified in the selected

FY24 application. Eligible programmatic expenses include activities described in Section V. of these Terms and Conditions. In addition, eligible programmatic expenses may include:

- a. Determining whether assessment and cleanup activities at a particular site are authorized by CERCLA § 104(k).
- b. Ensuring that an assessment and cleanup complies with applicable requirements under federal and state laws, as required by CERCLA § 104(k).
- c. Limited Site characterization to confirm the effectiveness of the proposed cleanup design or the effectiveness of a cleanup once an action has been completed.
- d. Preparing and updating an Analysis of Brownfield Cleanup Alternatives (ABCA) which will include information about the site and contamination issues, cleanup standards, applicable laws, alternatives considered, and the proposed cleanup.
- e. Ensuring that public participation requirements are met. This includes preparing a Community Involvement Plan which will include reasonable notice, opportunity for public involvement and comment on the proposed cleanup, and response to comments.
- f. Establishing an Administrative Record for each site.
- g. Developing a Quality Assurance Project Plan (QAPP) as required by 2 CFR § 1500.12. The specific requirement for a QAPP is outlined in *Implementation of Quality Assurance Requirements for Organizations Receiving EPA Financial Assistance* available at <https://www.epa.gov/grants/implementation-quality-assurance-requirements-organizations-receiving-epa-financial>.
- h. Using a portion of the cooperative agreement funds to purchase environmental insurance for the characterization or assessment, or remediation of the site. [Funds shall not be used to purchase insurance intended to provide coverage for any of the ineligible uses under Section IV., *Ineligible Uses of the Funds for the Cooperative Agreement Recipient*.]
- i. Any other eligible programmatic costs, including direct costs incurred by the recipient in reporting to EPA; procuring and managing contracts; awarding, monitoring, and managing subawards to the extent required to comply with 2 CFR § 200.332 and the “Establishing and Managing Subawards” General Term and Condition; and carrying out community engagement pertaining to the assessment and cleanup activities.

**2. Local Governments Only** – If authorized in the EPA-approved workplan and budget narrative, up to 10% of the funds awarded by this agreement may be used by the CAR itself as a programmatic cost for Brownfield Program development and implementation of monitoring health conditions and institutional controls. The health monitoring activities must be associated with brownfield sites at which at least a Phase II environmental site assessment is conducted and is contaminated with hazardous substances. The CAR must maintain records on funds that will be used to carry out this task to ensure compliance with this requirement.

**3.** Under CERCLA § 104(k)(5)(E), CARs and subrecipients may use up to 5% of the sum of direct EPA funding for this cooperative agreement for administrative costs, including indirect costs under 2 CFR § 200.414. The limit on administrative costs for the CAR under this agreement is \$37,500. The total amount of indirect costs and any direct costs for cooperative agreement administration by the CAR paid for by EPA under the cooperative agreement shall not exceed this amount. Subrecipients may use up to 5% of the amount of Federal funds in their subawards for administrative costs. As required by 2 CFR § 200.403(d), the CAR and subrecipients must classify administrative costs as direct or indirect consistently and shall not classify the same types of costs in both categories. The term “administrative costs” does not include:

- a. Investigation and identification of the extent of contamination of a brownfield site;
- b. Design and performance of a response action; or
- c. Monitoring of a natural resource.

Eligible cooperative agreement and subaward administrative costs subject to the 5% limitation include direct costs for:

a. Costs incurred to comply with the following provisions of the *Uniform Administrative Requirements for Cost Principles and Audit Requirements for Federal Awards* at 2 CFR Parts 200 and 1500 other than those identified as programmatic.

- i. Record-keeping associated with equipment purchases required under 2 CFR § 200.313;
- ii. Preparing revisions and changes in the budgets, scopes of work, program plans and other activities required under 2 CFR § 200.308;
- iii. Maintaining and operating financial management systems required under 2 CFR § 200.302;
- iv. Preparing payment requests and handling payments under 2 CFR § 200.305;
- v. Financial reporting under 2 CFR § 200.328;
- vi. Non-federal audits required under 2 CFR Part 200, Subpart F; and
- vii. Closeout under 2 CFR § 200.344 with the exception of preparing the recipient's final performance report. Costs for preparing this report are programmatic and are not subject to the 5% limitation on direct administrative costs.

b. Pre-award costs for preparation of the proposal and application for this cooperative agreement (including the final workplan) or applications for subawards are not allowable as direct costs but may be included in the CAR's or subrecipient's indirect cost pool to the extent authorized by 2 CFR § 200.460.

## **B. Ineligible Uses of the Funds for the Cooperative Agreement Recipient**

1. Cooperative agreement funds shall not be used by the CAR for any of the following activities:

- a. Monitoring and data collection necessary to apply for, or comply with, environmental permits under other federal and state laws, unless such a permit is required as a component of the cleanup action;
- b. Construction, demolition, and site development activities that are not brownfield assessment activities or cleanup actions (e.g., marketing of property (activities or products created specifically to attract buyers or investors), construction of a new facility, or addressing public or private drinking water supplies that have deteriorated through ordinary use);
- c. General community visioning, area-wide zoning updates, design guideline development, master planning, green infrastructure, infrastructure service delivery, and city-wide or comprehensive planning/plan updates – these activities are all ineligible uses of grant funds if unrelated to advancing cleanup and reuse of brownfield sites within the target area. Note: for these types of activities to be an eligible use of grant funds, there must be a specific nexus between the activity and how it will help further cleanup and reuse of the priority brownfield site(s). This nexus must be clearly described in the workplan for the project;
- d. Job training activities unrelated to performing a specific assessment or cleanup at a site covered by the cooperative agreement;
- e. To pay for a penalty or fine;
- f. To pay a federal cost share requirement (e.g., a cost share required by another federal grant) unless there is specific statutory authority;
- g. To pay for a response cost at a brownfield site for which the CAR or subaward recipient is potentially liable under CERCLA § 107;
- h. To pay a cost of compliance with any federal law, excluding the cost of compliance with laws applicable to the assessment or cleanup; and



- i. Unallowable costs (e.g., lobbying and purchases of alcoholic beverages) under 2 CFR Part 200, Subpart E.
- 2. Cooperative agreement funds shall not be used for any of the following properties:
  - a. Facilities listed, or proposed for listing, on the National Priorities List (NPL);
  - b. Facilities subject to unilateral administrative orders, court orders, and administrative orders on consent or judicial consent decree issued to or entered by parties under CERCLA;
  - c. Facilities that are subject to the jurisdiction, custody or control of the United States government except for land held in trust by the United States government for an Indian tribe; or
  - d. A site excluded from the definition of a brownfield site for which EPA has not made a property-specific funding determination.

## V. MULTIPURPOSE REQUIREMENTS

### A. Authorized Activities

1. Prior to conducting or engaging in any on-site activity with the potential to impact historic properties (such as invasive sampling or cleanup), the CAR shall consult with the EPA Project Officer regarding potential applicability of the National Historic Preservation Act (NHPA) (16 USC § 470) and, if applicable, shall assist EPA in complying with any requirements of the NHPA and implementing regulations.
2. The CAR shall prepare an Analysis of Brownfield Cleanup Alternatives (ABCA), or equivalent state Brownfields program document, which will include information about the site and contamination issues (i.e., exposure pathways, identification of contaminant sources, etc.); cleanup standards; applicable laws; alternatives considered; and the proposed cleanup. The evaluation of alternatives must include effectiveness, ability to implement, and the cost of the response proposed. The evaluation of alternatives must also consider the resilience of the remedial options to address potential adverse impacts caused by extreme weather events and changing climate conditions (e.g., sea level rise, drought, increased frequency and intensity of flooding, etc.). The alternatives may additionally consider the degree to which they reduce greenhouse gas discharges, reduce energy use or employ alternative energy sources, reduce volume of wastewater generated/disposed of, reduce volume of materials taken to landfills, and recycle and re-use materials generated during the cleanup process to the maximum extent practicable. The evaluation will include an analysis of reasonable alternatives including no action. The cleanup method chosen must be based on this analysis and documented in a decision document upon completion of the public comment period. The CAR must consult with the relevant state program (or EPA if there is not a state program that covers the site) to determine if the selected cleanup requires formal modification based on public comments or new information.

### B. Quality Assurance (QA) Requirements

Authority: Quality Assurance applies to all assistance agreements involving environmental information as defined in [2 C.F.R. § 1500.12](#) Quality Assurance.

When environmental data are collected as part of the brownfield assessment and cleanup (e.g., cleanup verification sampling, post-cleanup confirmation sampling), the CAR shall comply with 2 CFR § 1500.12 requirements to develop and implement quality assurance practices sufficient to produce data adequate to meet project objectives and to minimize data loss. State law may impose additional QA requirements.

The recipient shall ensure that subawards involving environmental information issued under this agreement include appropriate quality requirements for the work. The recipient shall ensure sub-award recipients develop and implement a Quality Assurance (QA) planning document in accordance with this term and condition; and/or ensure sub-award recipients implement all applicable approved QA planning documents.

### 2. Quality Assurance Project Plan (QAPP)

a. Prior to beginning environmental information operations, the recipient must:

i. Develop a QAPP (The QAPP is the document that provides comprehensive details about the quality assurance, quality control, and technical activities that must be implemented to ensure that project objectives are met. Environmental programs include direct measurements or data generation, environmental modeling, compilation of data from literature or electronic media, and data supporting the design, construction, and operation of environmental technology.),

ii. Prepare QAPP in accordance with the current version of EPA's [Quality Assurance Project Plan \(QAPP\) Standard](#),

iii. Submit the document for EPA review, and

iv. Obtain EPA Quality Assurance Manager or designee (hereafter referred to as QAM) approval.

#### For Reference:

- [Quality Management Plan \(QMP\) Standard and EPA's Quality Assurance Project Plan \(QAPP\) Standard](#); contain quality specifications for EPA and non-EPA organizations and definitions applicable to these terms and conditions.
- [EPA QA/G-5: Guidance for Quality Assurance Project Plans](#).
- (QAM and/or PO may insert QA references that inform or assist the recipient here).
- [EPA's Quality Program](#) website has a [list of QA managers](#), and [Specifications for EPA and Non-EPA Organizations](#).
- The Office of Grants and Debarment [Implementation of Quality Assurance Requirements for Organizations Receiving EPA Financial Assistance](#).

**3. Competency of Organizations Generating Environmental Measurement Data:** In accordance with Agency Policy Directive Number FEM-2012-02, *Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements*, the CAR agrees, by entering into this agreement, that it has demonstrated competency prior to award, or alternatively, where a pre-award demonstration of competency is not practicable, the CAR agrees to demonstrate competency prior to carrying out any activities under the award involving the generation or use of environmental data. The CAR shall maintain competency for the duration of the project period of this agreement and this will be documented during the annual reporting process. A copy of the Policy is available online at <https://www.epa.gov/measurements-modeling/documents-about-measurement-competency-under-assistance-agreements> or a copy may also be requested by contacting the EPA Project Officer for this award.

#### C. Public Involvement and Community Outreach

1. All cleanup activities require a site-specific Community Involvement Plan. The plan must include providing reasonable notice to the community and opportunity for public involvement and comment on the proposed cleanup options under consideration for the site. All information, including responses to public comments and administrative records, may be made available to the public to the extent consistent with 2 CFR § 200.338 and applicable state, tribal, or local law.

#### D. Public Awareness

1. The CAR agrees to clearly reference EPA investments in the project during all phases of community outreach outlined in the EPA-approved workplan which may include the development of any post-project summary or success materials that highlight achievements to which this project contributed.

a. If any documents, fact sheets, and/or web materials are developed as part of this cooperative agreement, then they shall comply with the Acknowledgement Requirements for Non-ORD Assistance Agreements in the General Terms and Conditions of this agreement.

b. If a sign is developed as part of a project funded by this cooperative agreement, then the sign shall include either a statement (e.g., this project has been funded, wholly or in part, by EPA) and/or EPA's logo acknowledging that EPA is a

source of funding for the project. The EPA logo may be used on project signage when the sign can be placed in a visible location with a direct linkage to site activities. Use of the EPA logo must follow the sign specifications available at <https://www.epa.gov/grants/epa-logo-seal-specifications-signage-produced-epa-assistance-agreement-recipients>.

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u+00A0To obtain the appropriate EPA logo or seal graphic file, the CAR should send a request directly to the EPA Office of Public Affairs (OPA) and include the EPA Project Officer in the communication. Instructions for contacting OPA are available at <https://www.epa.gov/aboutepa/using-epa-seal-and-logo>.

c. EPA Logo: If the EPA logo is displayed along with logos from other participating entities on websites, outreach materials, or reports, it must not be prominently displayed to imply that any of the recipient or subrecipient's activities are being conducted by the EPA. Instead, the EPA logo must be accompanied with a statement indicating that the [Insert CAR or subrecipient NAME] received financial assistance from EPA for the project. The recipient will ensure compliance with the sign specifications provided by the OPA available at <https://www.epa.gov/stylebook/using-epa-seal-and-logo>. As provided in the sign specifications from OPA, the EPA logo is the preferred identifier for assistance agreement projects and use of the EPA seal requires prior approval from the EPA.

d. Procuring Signs: Consistent with section 6002 of RCRA, 42 U.S.C. 6962, and 2 CFR 200.323, recipients are encouraged to use recycled or recovered materials when procuring signs. Signage costs are considered an allowable cost under this assistance agreement provided that the costs associated with signage are reasonable.

2. The CAR agrees to notify the EPA Project Officer listed in this award document of public or media events publicizing the accomplishment of significant events related to construction and/or site reuse projects as a result of this agreement, and provide the opportunity for attendance and participation by federal representatives with at least ten (10) working days' notice.

3. To increase public awareness of projects serving communities where English is not the predominant language, CARs are encouraged to include in their outreach strategies communication in non-English languages. This includes translating the language on signs (excluding the EPA logo or seal) into the appropriate non-English language(s). Translation costs for this purpose are allowable, provided the costs are reasonable.

4. All public awareness activities conducted with EPA funding are subject to the provisions in the General Terms and Conditions on compliance with section 504 of the Americans with Disabilities Act.

## E. All Appropriate Inquiry

1. As required by CERCLA § 104(k)(2)(B)(ii) and CERCLA § 101(35)(B), the CAR shall ensure that a Phase I site characterization and assessment carried out under this agreement will be performed in accordance with EPA's all appropriate inquiries regulation (AAI). The CAR shall utilize the practices in ASTM standard E1527-21 "*Standard Practices for Environmental Site Assessment: Phase I Environmental Site Assessment Process*" (or the latest recognized ASTM standard at the time the assessment is performed), or EPA's All Appropriate Inquiries Final Rule (40 CFR Part 312). A suggested outline for an AAI final report is provided in "*All Appropriate Inquiries Rule: Reporting Requirements and Suggestions on Report Content*" (Publication Number: EPA 560-F-23-004 (or the latest available publication)). This does not preclude the use of cooperative agreement funds for additional site characterization and assessment activities that may be necessary to characterize the environmental impacts at the site or to comply with applicable state standards.

2. AAI final reports produced with funding from this agreement must comply with 40 CFR Part 312 and must, at a minimum, include the information below. All AAI reports submitted to the EPA Project Officer as deliverables under this agreement must be accompanied by a completed "*All Appropriate Inquiries: Reporting Requirements Checklist for Assessment and Multipurpose Grant Recipients*" (Publication Number: EPA 560-F-23-017 (or the latest available publication)) that the EPA Project Officer will provide to the recipient. The checklist is available to CARs on EPA's website at <https://www.epa.gov/brownfields/all-appropriate-inquiries-reporting-requirements-checklist-assessment-grant-recipients>. The completed checklist must include:

a. An *opinion* as to whether the inquiry has identified conditions indicative of releases or threatened releases of hazardous substances, and as applicable, pollutants and contaminants, petroleum or petroleum products, or controlled substances, on, at, in, or to the subject property.

b. An identification of "*significant*" *data gaps* (as defined in 40 CFR § 312.10), if any, in the information collected for the

inquiry. Significant data gaps include missing or unattainable information that affects the ability of the environmental professional to identify conditions indicative of releases or threatened releases of hazardous substances, and as applicable, pollutants and contaminants, petroleum or petroleum products, or controlled substances, on, at, in, or to the subject property. The documentation of significant data gaps must include information regarding the significance of these data gaps.

c. **Qualifications and signature** of the environmental professional(s). The environmental professional must place the following statements in the document and sign the document:

*"[I, We] declare that, to the best of [my, our] professional knowledge and belief, [I, we] meet the definition of Environmental Professional as defined in 40 CFR § 312.10 of this part."*

*"[I, We] have the specific qualifications based on education, training, and experience to assess a property of the nature, history, and setting of the subject property. [I, We] have developed and performed the all appropriate inquiries in conformance with the standards and practices set forth in 40 CFR Part 312."*

**Note: Please use either "I/my" or "We/our."**

d. In compliance with 40 CFR § 312.31(b), the environmental professional must include in the final report an **opinion regarding additional appropriate investigation**, if the environmental professional has such an opinion.

3. EPA may review checklists and AAI final reports for compliance with the AAI regulation documentation requirements at 40 CFR Part 312 (or comparable requirements for those using ASTM Standard 1527-21 or the latest recognized ASTM standard at the time the assessment is performed). Any deficiencies identified during an EPA review of these documents must be corrected by the recipient within 30 days of notification. Failure to correct any identified deficiencies may result in EPA disallowing the costs for the entire AAI report as authorized by 2 CFR § 200.339. If a recipient willfully fails to correct the deficiencies EPA may consider other available remedies under 2 CFR § 200.339 and 2 CFR § 200.340.

## **F. Administrative Record**

1. The CAR shall establish an Administrative Record that contains the documents that form the basis for the selection of a cleanup plan. Documents in the Administrative Record shall include the ABCA; site investigation reports; the cleanup plan; cleanup standards used; responses to public comments; and verification that shows that cleanup is complete. The CAR shall keep the Administrative Record available at a location convenient to the public and make it available for inspection. The Administrative Record must be retained for three (3) years after the termination of the cooperative agreement subject to any requirements for maintaining records of site cleanups ongoing at the time of termination.

## **G. Implementation of Cleanup Activities**

1. The CAR shall ensure the adequacy of each cleanup in protecting human health and the environment as it is implemented.
2. If the CAR is unable or unwilling to complete the cleanup, the CAR shall ensure that the site is secure. The CAR shall notify the appropriate state agency and EPA to ensure an orderly transition should additional activities become necessary.

## **H. Completion of Assessment and Cleanup Activities**

1. The CAR shall properly document the completion of all activities described in the EPA- approved workplan. This must be done through a final report or letter from a Qualified Environmental Professional, or other documentation provided by a State or Tribe that shows assessments and cleanups are complete. Documentation of the completed cleanups must be included as part of the Administrative Record.

## **I. Inclusion of Additional Terms and Conditions**

1. In accordance with 2 CFR § 200.334, the CAR shall maintain records pertaining to the cooperative agreement for a minimum of three (3) years following submission of the final financial report unless one or more of the conditions described in the regulation applies. The CAR shall provide access to records relating to assessments and cleanups supported with Multipurpose cooperative agreement funds to authorized representatives of the Federal government as required by 2 CFR §

200.337.

2. The CAR has an ongoing obligation to advise EPA if it assessed any penalties resulting from environmental noncompliance at sites subject to this agreement.

## **VI. PAYMENT AND CLOSEOUT**

For the purposes of these Terms and Conditions, the following definitions apply: “payment” is EPA’s transfer of funds to the CAR; “closeout” refers to the process EPA follows to ensure that all administrative actions and work required under the cooperative agreement have been completed.

### **A. Payment Schedule**

1. The CAR may request advance payment from EPA pursuant to 2 CFR § 200.305(b)(1) and the prompt disbursement requirements of the General Terms and Conditions of this agreement.

This requirement does not apply to states which are subject to 2 CFR § 200.305(a).

### **B. Schedule for Closeout**

1. Closeout will be conducted in accordance with 2 CFR § 200.344. EPA will close out the award when it determines that all applicable administrative actions and all required work under the cooperative agreement have been completed.

2. The CAR, within 120 days after the expiration or termination of the cooperative agreement, must submit all financial, performance, and other reports required as a condition of the cooperative agreement.

a. The CAR must submit the following documentation:

i. The Final Cooperative Agreement Performance Report as described in Section III.F. of these Terms and Conditions.

ii. Administrative and Financial Reports as described in the General Terms and Conditions of this agreement.

b. The CAR must ensure that all appropriate data have been entered into ACRES or all hardcopy Property Profile Forms are submitted to the EPA Project Officer.

c. As required by 2 CFR § 200.344, the CAR must immediately refund to EPA any balance of unobligated (unencumbered) advanced cash or accrued program income that is not authorized to be retained for use on other cooperative agreement

[\[1\]](#) For the purposes of EPA’s General Term and Condition “Transfer of Funds” the term “activities” includes assessment, planning, and cleanup. The CAR must obtain prior approval from the EPA Grants Management Officer or Award Official for cumulative transfers of funds in excess of 10% of the total budget among these activities.