



KANSAS STATE
UNIVERSITY

Mind Your Ts & Cs! What to Know About Your Terms & Conditions

THANK YOU for joining us for this webinar. We will get started in a moment.

Technical Notes

If you experience technical difficulties with your connection:



Dial 785.532.0783



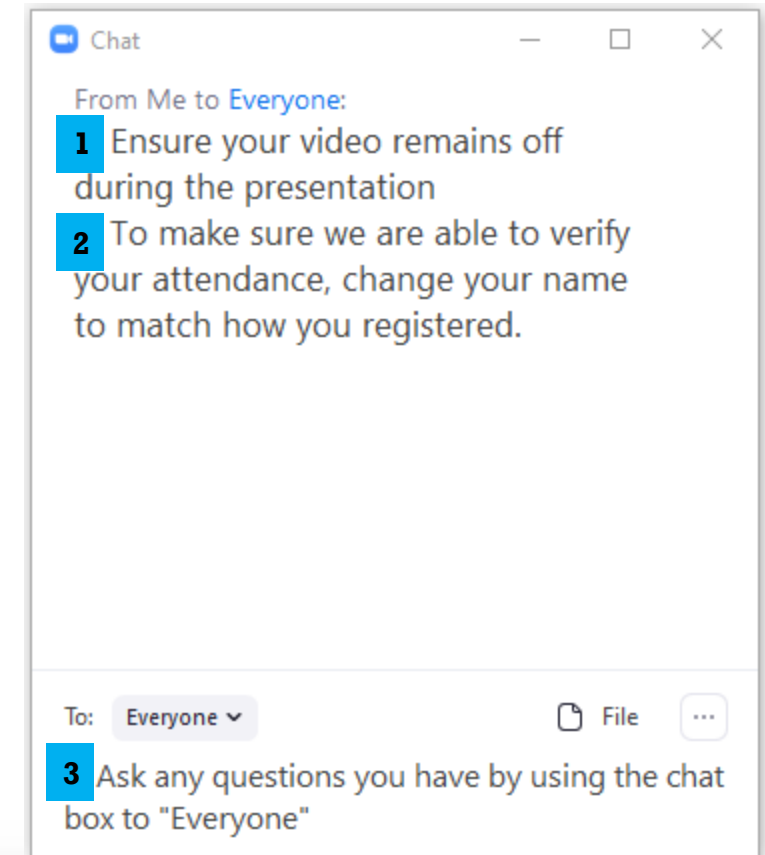
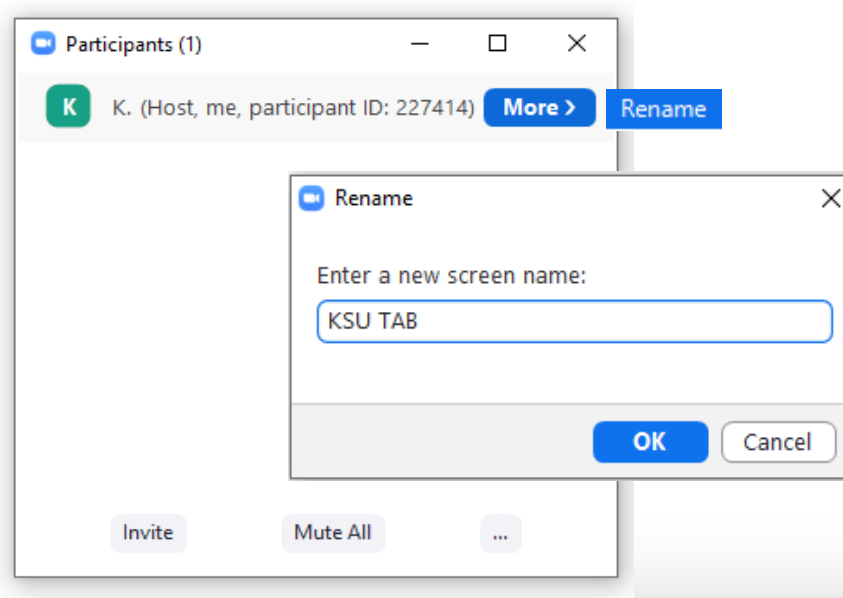
Email chsr@ksu.edu

Additionally, please note:



The presentation is being recorded and will be available on the website. The link has also been placed in the chat box.

Using Zoom – The Basics

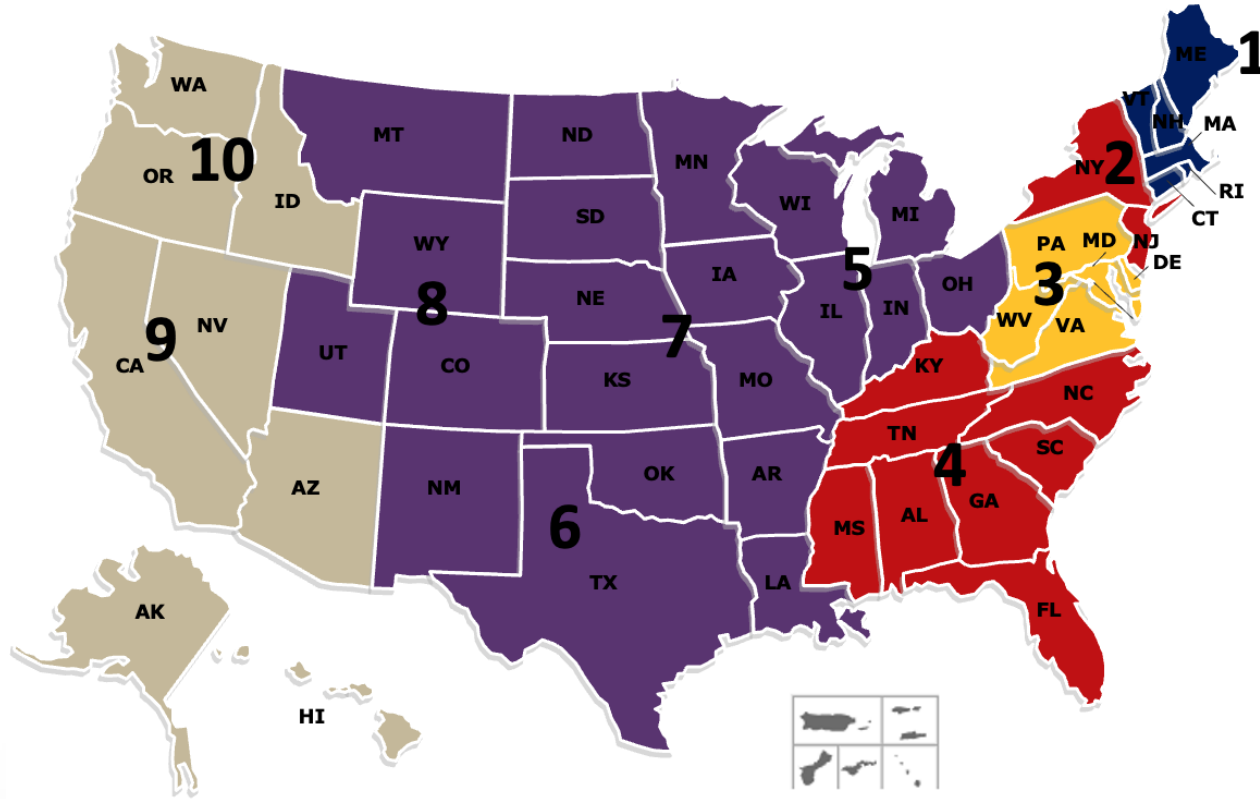


Technical Assistance to Brownfields (TAB)

- Nationally funding program by U.S. EPA
- Technical assistance for communities and tribes revitalizing communities through brownfields redevelopment
- Services provided are free and tailored to meet specific needs



Technical Assistance to Brownfields (TAB)



TAB Service Providers

University of Connecticut EPA Region 1

New Jersey Institute of Technology (NJIT)

EPA Regions 2 & 4

Mid-Atlantic TAB EPA Region 3

Kansas State University – EPA Regions 5, 6, 7 & 8

Center for Creative Land Recycling (CCLR)

EPA Regions 9 & 10

KSU – ITEP – ANTHC – Tribal TAB



Speaker



Carrie Staton

Director

Mid-Atlantic TAB

Terms & Conditions

| What are they?

EPA Grant Terms & Conditions



GENERAL TERMS &
CONDITIONS



GRANT-SPECIFIC
TERMS & CONDITIONS



PUBLIC AWARENESS
TERMS & CONDITIONS



DAVIS-BACON TERMS
& CONDITIONS

EPA Grant Terms & Conditions



- Slides and companion documents are no substitute for **reading your terms and conditions.**
- When in doubt, **call your Project Officer!**

General Terms & Conditions





**I HAVE A VERY IMPORTANT AND VERY
LONG STORY TO TELL YOU**



General Terms & Conditions

Basic information for all EPA grants

- Uniform Administrative Requirements
- Termination
- Reimbursement Policies & Procedures
- Selected Items of Cost
- Subawards
- Reporting & Post-Award Requirements
 - Indirect Cost Rate Agreements
 - Audit Requirements
 - Conflict of Interest
- Transfer of Funds
- Extension Information
- Utilization of Disadvantaged Business Enterprises
- Sufficient Progress
- Copyrighted Material & Data
- Acknowledgement Requirements
- Accessibility
- Light Refreshments and/or Meals
- Tangible Property
- Public Policy Requirements
- Build America, Buy America



General Terms & Conditions

Preface

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

EPA grants are subject to these standard federal regulations, including:

- 2 CFR Part 200
- 2 CFR Part 1500

Termination

EPA may terminate the award in part or entirety under certain conditions or circumstances, such as:

- Failure to comply with the terms and conditions
- With consent of the recipient when both agree on the conditions
- If a recipient sends a written notification of reasons for termination, effective date, and (if partial) the portion to be terminated
- According to the terms & conditions
- If an award no longer effectuates program goals or agency priorities

General Terms & Conditions

Financial Information

- Recipients must be enrolled in the Automated Standard Application Payments (ASAP) system to receive payment
- Drawdown
 - Can only be for the minimum amounts needed for immediate cash requirements
 - Cannot retain more than 5%/\$1,000 five days after drawdown
 - Outlines ways to address excess funds & extraordinary circumstances
- Selected Items of Cost
 - Restrictions related to Telecommunications & Video Surveillance Service Equipment
 - Consultant Cap
 - EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors shall be limited to the maximum daily rate for a Level IV of the Executive Schedule

General Terms & Conditions

Financial Information - Establishing & Managing Subawards

- Must comply with all provisions of 2 CFR Part 200 and the EPA Subaward Policy
- Use a system that properly differentiates between subrecipients and procurement contractors
- Verify that selected subrecipients are not excluded or disqualified in accordance with 2 CFR 180.300
- All subaward agreements in writing and in compliance (template provided)
- All subrecipients must have Unique Entity Identifier (UEI)
- Make subrecipients aware of all requirements such as Civil Rights statutes, reporting, consultant fee caps, management fees, and procurement standards
- Establish a system for evaluating fraud risk and risk of noncompliance
 - Process for determining when to implement specific conditions based on risk factors
- Establish a system for monitoring subrecipient performance
 - Ensure subrecipient provides a plan for and takes corrective action when necessary
- Establish and maintain accounting system that ensures compliance with 2 CFR 200.1 (Modified Direct Cost)
- Obtain prior written approval from EPA for:
 - Subawards to foreign or international organizations
 - Subaward activities not described in your work plan
 - Subawards to individuals if not already approved
 - Fixed-Amount Subawards
- Establish procedures for determining that subaward costs are allowable
- Verify that the subrecipient is audited, as applicable

General Terms & Conditions

Financial Information

- Management Fees are not allowable
- No funds may be used to pay for travel or other costs for Federal employees
- All foreign travel must be approved by Office of International and Tribal Affairs
- Any foreign travel comply with the Fly America Act
- Grant funds cannot be used to support or oppose union organizing



General Terms & Conditions

Reporting Subawards & Executive Compensation

- First Tier Subawards
 - Each action that obligates \$30,000 or more
 - No later than the end of the month following the month in which subaward was made
- Total Compensation of Recipient Executives
 - Five most highly compensated executives if:
 - Awards is more than \$30,000
 - 80% or more of annual gross revenues and \$25,000,000 or more in annual gross revenues from federal awards/contracts
 - Public does not have access to information about executive compensation through periodic reports
 - No later than the end of the month following the month the award was made and annually thereafter
- Total Compensation of Subrecipient Executives
 - Five most highly compensated executives if:
 - Awards is more than \$30,000
 - 80% or more of annual gross revenues and \$25,000,000 or more in annual gross revenues from federal awards/contracts
 - Public does not have access to information about executive compensation through periodic reports
 - No later than the end of the month following the month the subaward was made
- **Exemption:** If in the previous tax year, the recipient had gross income, from all sources, under \$300,000

General Terms & Conditions

Integrity and Performance Matters

- If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal agencies is more than \$10,000,000, you must report in SAM.gov on proceedings as outlined below.
- Proceedings:
 - In connection with the award
 - Reached final disposition during the most recent five-year period **and** is one of the following:
 - Criminal proceeding resulting in conviction;
 - Civil proceeding with finding of fault and liability and payment of \$5,000 or more;
 - Administrative proceeding with finding of fault and payment of \$5,000 or damages in excess of \$100,000
 - Any other proceeding if it could have led to one of these outcomes, had a different disposition arrived at by consent or compromise with an acknowledgement of fault, and this requirement doesn't conflict with applicable laws and regulations.



General Terms & Conditions

Additional Reporting & Post-Award

- Federal Financial Reporting
 - SF-425 – at least annually
- Indirect Cost Rate Agreements
 - Generally do not apply for EPA Brownfields grants due to statutory limitations
- Audit Requirements
 - Single Audit if more than \$1M in funds each fiscal year
 - Submit within 9 months of the end of your fiscal year or 30 days after receiving audit report
- Closeout Requirements
 - Additional details in grant-specific and other award documents
- Suspension and Debarment
 - Requires compliance with all relevant federal regulations regarding transactions with others
- Corporations with Delinquent Tax Liability or Felony Conviction
 - Prohibited from entering into contract, MOU, etc.
- Conflict of Interest
 - Must have policy for disclosing COI that may affect the award.



General Terms & Conditions

Additional Reporting & Post-Award

- Transfer of Funds
 - Requires prior approval if the cumulative amount of transfers among direct budget categories exceeds 10% of total budget
 - Requires notification for transfers that do not exceed 10% of total budget
 - **When in doubt, ask your Project Officer**
- Post-Award Changes in Work Plan Commitments
 - Consult Project Officer before making change
 - If change is deemed significant, cannot make change without prior written approval by EPA Award Official or Grants Management Officer.
 - Generally do not apply for EPA Brownfields grants due to statutory limitations
- Disadvantaged Business Enterprises



General Terms & Conditions

Programmatic General Terms & Conditions

- Sufficient Progress
 - Defined in the workplan and programmatic terms & conditions
- Electronic and Information Technology Accessibility
 - Must provide reasonable accommodations and meet the diverse needs of users without barriers or diminished function or quality
- Light Refreshments and/or Meals
 - Unless the event is in your workplan, you must get prior approval from EPA to use grant funds

Acknowledgement Requirements

“This project has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement (number) to (recipient). The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does the Environmental Protection Agency endorse trade names or recommend the use of commercial products mentioned in this document, as well as any images, video, text, or other content created by generative artificial intelligence tools, nor does any such content necessarily reflect the views and policies of the Environmental Protection Agency.”

General Terms & Conditions

Programmatic General Terms & Conditions – Rare in MARC Grants

- Copyrighted Material & Data
- Patents & Inventions
- Human Subjects
- Animal Subjects
- Tangible Personal Property
- Dual Use Research of Concern
- Research Misconduct
- Scientific Integrity Terms & Conditions
- Procurement of Synthetic Nucleic Acids & Benchtop Nucleic Acid Synthesis Equipment



General Terms & Conditions

Public Policy Requirements

- Civil Rights Obligations
 - Title VI of the Civil Rights Act of 1964
 - Section 504 of the Rehabilitation Act of 1973
 - Age Discrimination Act of 1975
 - Title IX of Education Amendments of 1972 (education program or activity only)
- Regulatory Requirements
- Limited English Proficiency
 - Provide services consistent with applicable statutes, regulations, and Executive Orders
- Drug-Free Workplace
- Hotel-Motel Fire Safety (for meeting space)
- Lobbying Restrictions
 - No grant funds may be used for lobbying
 - Contracts must contain anti-lobbying provision
- Recycled Paper
- Resource Conservation and Recovery Act
 - Preference in procurement programs to purchase of specific products containing recycled materials
- Trafficking in Persons
- Build America, Buy America
 - Iron and Steel produced in United States
 - All manufactured products used in the project are produced in the United States
 - All construction materials are manufactured in the United States
- Certifications and Consequences of Fraud
- Reporting Waste, Fraud and Abuse
- Whistleblower Protections
- Access to Records
- Federal Anti-Discrimination Laws

Question Break!



Pop Quiz!

General Terms & Conditions

Can you submit a drawdown request for an estimated amount "just in case"?

Yes - Things happen!

No - You must provide more detail



Pop Quiz!

General Terms & Conditions

Can you submit a drawdown request for an estimated amount "just in case"?

Yes - Things happen!

No - You must provide more detail

Drawdowns can only be for the minimum amounts needed for immediate cash requirements and CARs cannot retain more than 5%/\$1,000 five days after drawdown

Pop Quiz!

General Terms & Conditions

Which federal laws must all recipients comply with?

Title VI of the Civil Rights Act of 1964

Section 504 of the Rehabilitation Act of
1973

Age Discrimination Act of 1975

All of the Above



Pop Quiz!

General Terms & Conditions

Which federal laws must all recipients comply with?

Title VI of the Civil Rights Act of 1964

Section 504 of the Rehabilitation Act of
1973

Age Discrimination Act of 1975

All of the Above



Educational programs or
activities must also comply
with Title IX of Education
Amendments of 1972.

Pop Quiz!

General Terms & Conditions

What should you do if you're not sure how to interpret the Terms & Conditions or whether something is allowable?

Go ahead and do it - ask for forgiveness, not permission!

Just ignore it - out of sight, out of mind.

Ask your Project Officer



Pop Quiz!

General Terms & Conditions

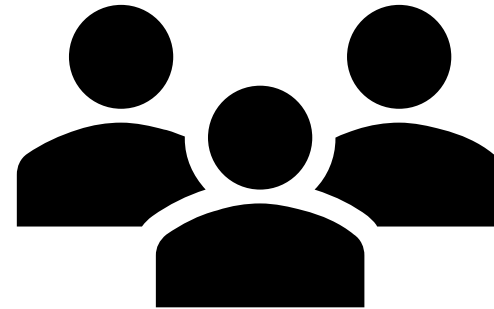
What should you do if you're not sure how to interpret the Terms & Conditions or whether something is allowable?

Go ahead and do it - ask for forgiveness, not permission!

Just ignore it - out of sight, out of mind.

Ask your Project Officer

Your Project Officer is a key member of your team. They want you to succeed, and they're there to answer your questions.



MARC Terms & Conditions



General Federal Requirements

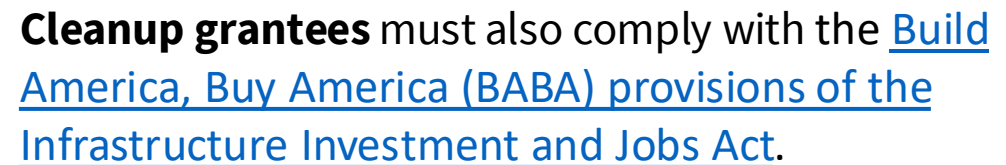
All Grant Types



- **General federal requirements**
- **Provisions for conditionally-approved work plans**
- **All work must be done in compliance with CERCLA § 104(k), as well as all other applicable federal and state laws and regulations**
- **These requirements also apply to any subaward recipients or non-federal sources of funds**

All Grant Types

- DBE requirements;
- OSHA Worker Health & Safety Standard;
- Uniform Relocation Act;
- National Historic Preservation Act;
- Endangered Species Act;
- Section 404 of the Clean Water Act;
- Contract Work Hours and Safety Standards Act;
- the Anti-Kickback Act;
- Section 504 of the Rehabilitation Act of 1973
- Civil Rights Obligations;
- Davis-Bacon Related Act requirements.



Cleanup grantees must also comply with the [Build America, Buy America \(BABA\) provisions of the Infrastructure Investment and Jobs Act.](#)

Site Eligibility Requirements

Community-Wide & Coalition Assessment Grants

- Must be located in geographic boundary
- Must confirm eligibility of each site with Project Officer **prior to beginning work**
- For sites contaminated with petroleum you must provide additional documentation **prior to incurring costs**

Cleanup Grants

- Site must be solely owned and CAR must maintain ownership while funds are disbursed
- CAR must demonstrate it meets requirements of Landowner Liability Protections and maintain any relevant obligations during the project period
- Funds must be used to cleanup the site in the work plan and without substantial changes to the described cleanup method

Multi-Purpose Grants

- Must confirm eligibility of each site with Project Officer **prior to beginning work**
- For sites contaminated with petroleum you must provide additional documentation **prior to incurring costs**
- Site must be solely owned and CAR must maintain ownership while funds are disbursed
- CAR must demonstrate it meets requirements of Landowner Liability Protections and maintain any relevant obligations during the project period
- Funds must be used to cleanup the site in the work plan and without substantial changes to the described cleanup method

Sufficient Progress

All CARs must demonstrate progress. POs will assess this formally 18 and 30 months into the project period (36 for multipurpose).

18 MONTHS

Community-Wide Assessment Grants

- at least 25% of funds have been drawn down and disbursed for eligible activities;
- a Qualified Environmental Professional(s) (QEP) has been procured;
- sites are prioritized or an inventory has been initiated (unless site prioritization or an inventory was completed prior to award);
- 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.

Coalition Assessment Grants

- at least 25% of funds have been drawn down and disbursed for eligible activities;
- a Memorandum of Agreement is in place;
- a Qualified Environmental Professional(s) (QEP) has been procured;
- sites are prioritized or an inventory has been initiated (unless site prioritization or an inventory was completed prior to award);
- 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.

Cleanup Grants

- an appropriate remediation plan is in place, institutional control development (if necessary) has commenced;
- initial community engagement activities have taken place;
- relevant state or tribal pre-cleanup requirements are being addressed;
- a Qualified Environmental Professional has been procured; and a solicitation for remediation services has been issued.

Multipurpose

- at least 15% of funds have been drawn down and disbursed for eligible activities;
- a Qualified Environmental Professional 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.

18 MONTHS

Sufficient Progress

All CARs must demonstrate progress. POs will assess this formally 18 and 30 months into the project period (36 for Multipurpose).

Community-Wide Assessment Grants

- at least 45% of funds have been drawn down and disbursed for eligible activities;
- assessments on at least two sites 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.

Coalition Assessment Grants

- at least 45% of funds have been drawn down and disbursed for eligible activities;
- assessments on at least three sites 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.

Cleanup Grants

- at least 50% of the site-specific activities have been completed and funds have been requested by and disbursed to the CAR;
- a Quality Assurance Project Plan has been approved by EPA; and
- other documented activities have occurred that demonstrate to EPA's satisfaction that the CAR will successfully perform the cooperative agreement.

Multi-Purpose Grants

- 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.

30 MONTHS

36 MONTHS

Substantial Involvement

All Grant Types

EPA Project Officers are closely involved in your project and will likely communicate with you regularly throughout implementation as they oversee and monitor your cooperative agreement. Keeping your Project Officer informed and involved in your project can help to address issues in a timely manner should they arise, and can help your Project Officer be a resource to your work.



Some regions may be involved in reviewing **Quality Assurance Project Plans** and other related documents. Check with your Project Officer to confirm expectations on these items before they are completed.

Roles & Responsibilities

Community-Wide Grants

- Ensuring site eligibility
- Ensuring compliance with statutory limitations
- Demonstrating meaningful community engagement
- Following all procurement and subaward guidelines
- Acquiring the services of a QEP
- Meeting cybersecurity guidelines for collected data
- Meeting geospatial data standards
- Documenting any leveraged funding described in the workplan.

Coalition Assessment (Lead)

- Serving as lead and POC of the Coalition
- Following all guidelines for structure and fund distribution correctly
- Ensuring site eligibility
- Ensuring compliance with statutory limitations on individual funding is not exceeded
- Demonstrating meaningful community engagement
- Following all procurement and subaward guidelines
- Acquiring the services of a QEP
- Meeting cybersecurity guidelines for collected data
- Meeting geospatial data standards
- Documenting any leveraged funding described in the workplan

Cleanup Grants

- Following all procurement and subaward guidelines
- Acquiring the services of a QEP
- Meeting cybersecurity guidelines for collected data
- Meeting geospatial data standards
- Documenting any leveraged funding described in the workplan

Multi-Purpose Grants

- Completing at least one Phase II site assessment
- Conducting cleanup activities at one or more brownfield sites
- Producing one overall plan for revitalization of one or more sites in the target area
- Ensuring site eligibility
- Demonstrating meaningful community engagement
- Following all procurement and subaward guidelines
- Acquiring the services of a QEP
- Meeting cybersecurity guidelines for collected data
- Meeting geospatial data standards
- Documenting any leveraged funding described in the workplan

Quarterly Performance Reports

All Grant Types

- Due within 30 days after each reporting period:
 - October 1 – December 31
 - January 1 – March 31
 - April 1 – June 30
 - July 1 – September 30
- Submitted via email or in ACRES
- Should include:
 - work status,
 - work progress,
 - difficulties encountered,
 - preliminary data results,
 - statement of activity anticipated during the subsequent reporting period,
 - discussion of expenditures and financial status for each workplan task,
 - 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.



Other Reporting & Financial Info

All Grant Types



Property Profile Submission

- Information on progress, accomplishments, and activities on particular sites
- Submitted in ACRES

Final Performance Report with Environmental Reports

- Due 120 days after end date of project
- Includes summary information comparable to quarterly reports but for the full project period
- Submitted directly to Project Officer

Financial Administration Requirements

- Pay close attention to eligible and ineligible uses of funds in the Terms & Conditions
- Interest-Bearing Accounts and Program Income – uncommon in MARC grants but should still be relevant

Analysis of Brownfields Cleanup Alternatives

Cleanup & Multipurpose Grants

Cleanup and Multipurpose CARs must prepare an Analysis of Brownfields Cleanup Alternatives for any site being cleaned up.



Public Awareness

All Grant Types

- Clearly reference EPA investment in all community outreach
- Any materials created must comply with the Acknowledgement Requirements from the General Terms & Conditions (see earlier slide)
- Signs funded with the CA should include an acknowledgement statement or the EPA logo
- Notify your PO of any public or media events publicizing accomplishments of the work and invite them with at least 10 working days' notice
- Consider language needs of your community



Payment & Cost

All Grant Types

CARs may request advance payment in compliance with 2 CFR 200 and the General Terms and Conditions, including paying subrecipients in advance.



Closeout must be conducted in accordance with 2 CFR § 200.344.

All-Appropriate Inquiries

Assessment & Multipurpose

- All Phase 1 Site Assessments must be conducted in accordance with EPA's all appropriate inquiries regulation, including:
 - An opinion about whether conditions indicative of releases or threatened releases have been shown at the subject property
 - Identification of any significant data gaps
 - Qualifications and signature of the QEP
 - An opinion regarding additional appropriate investigation



Public Involvement & Administrative Record

Cleanup & Multipurpose Grants



- Cleanup CARs must develop site-specific Community Involvement Plans, giving notice to the community and opportunity for public involvement
- Cleanup CARs must maintain an Administrative Record, including:
 - Analysis of Brownfields Cleanup Alternatives
 - Site investigation reports
 - Cleanup plan
 - Cleanup standards used
 - Responses to public comments
 - Verification that shows cleanup is complete
- Administrative Record must be at a convenient location and available for inspection; it must be retained for three years after the end of the cooperative agreement.

Questions?



We Want to Hear Your Feedback

Please provide feedback on today's event:

1. Click this link
https://kstate.qualtrics.com/jfe/form/SV_enXDeoJOVctCAUC
2. Click the link provided in the chat box
3. Scan this QR image from your smartphone



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Let's Connect!

Scan to get in touch with a TAB member or to join our mailing list



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Thank You

For joining us for this webinar. Please get in touch if you have any questions or comments: kp3@ksu.edu

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