

Community Change Technical Assistance Webinar Series

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Community Change Technical Assistance Webinar Series

Applicant Eligibility, Statutory Partnerships, and Collaborating Entities

Presented by EnDyna

Larry Weinstock, Abt Associates

February 6, 2024, 3pm Eastern

ENDYNA

Agenda

- 1 Welcome and Technical Assistance Overview
- 2 Applicant Eligibility
- 3 Statutory Partnerships
- 4 Collaborating Entities
- 5 Closing



Welcome to the Community Change Technical Assistance Webinar Series

Applicant Eligibility, Statutory Partnerships, and Collaborating Entities for Tracks I and II Proposals



The CCG Program Offers:

- ❑ Unprecedented Opportunity to reshape disadvantaged communities into vibrant, resilient, and prosperous areas.
- ❑ Historic Support: Significant funding dedicated to overcoming deep-rooted environmental issues and fostering sustainable solutions for immediate and long-term community benefits.
- ❑ Partnerships are designed to ensure that the funded projects are community-driven so they focus on empowering communities to tackle climate challenges, reduce pollution, and bolster community resilience. These projects drive the transformation of disadvantaged communities into climate resilient, thriving spaces.

Requirement for Statutory Partnerships

Between Two Entities



A partnership
between a
CBO



A federally
recognized
Tribe



A local
government



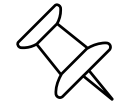
Institution
of higher
education



A CBO

Consistent with [CAA §138\(b\)\(3\)](#) and [Assistance Listing 66.616](#)


What is a Community-Based Organization (CBO)?





Legal definition at 2 CFR 200.1 also in the NOFO

- Simple definition:
 - A nonprofit organization
 - Any “profit” (income greater than expenses) must be used maintain, improve, or expand the operation of the organization.
 - That is operated to advance the public interest. That purpose could be scientific, educational, service, or charitable or other.
- Some nonprofit organizations cannot apply:
 - An organization registered as a Section 501c4 lobbying organization that actually lobbies is not eligible.
 - Note: Other tax exempt nonprofit organizations can do some lobbying but nonprofits cannot use any grant funds for lobbying activities covered by 2 CFR 200.450.
 - Foreign non-profits cannot qualify as a CBO for purposes of CCGs.


Evidence of Non-Profit Status

 Your application must include proof you are a non-profit. EPA will except either:

 Written determination by the Internal Revenue Service that the organization is exempt from Federal taxation under section 501 of the IRC., or...

 Written evidence from the state, territory, commonwealth, Tribe, or other governmental entity in the United States in which they are incorporated




NOTE:



As long as your nonprofit organization is not paying taxes on income you should have one of then above.

CBO Must Support and/or Represent a Community

In addition to being considered a nonprofit organization, An organization must support and / or represent a community and/or certain populations within a community through engagement, education, and other related services provided to individual community residents and community stakeholders



Community may be a particular geographic area and/or relationship among members with similar interests.



The CBO must have a geographic presence or connection in, or relationship with, the specified community that the projects are intended to benefit.



National or statewide CBOs must demonstrate the CBO's connection to the community that will benefit from the grants.



Local Government



The following units of government within a state, as defined by the regulations in 2 CFR 200.1, are eligible to enter a Statutory Partnership with a CBO



County



Borough



Municipality



City



Town



Township



Parish



Local public authority, including any public housing agency under the United States Housing Act of 1937.



Special district, determined by local law or authority. Some public utilities are characterized as special districts.



School district



Intrastate district



Council of governments, whether incorporated as a nonprofit corporation under State law; and



Any other agency or instrumentality of a multi-, regional, or intra-State or local government such as a public utility.

Federally Recognized Tribes



For the purposes of eligibility for entering into a Statutory Partnership with a CBO, EPA uses the definition of “Indian Tribe” in §302(r) of the Clean Air Act which provides that the term. Intertribal Consortia that meet the requirements of 40 CFR 35.504(a) and (c) may be able to qualify as CBOs.

“Tribe ...means any Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians”

While Alaskan Native Corporations or State-recognized Tribes are not considered Federally Recognized Tribes, if they meet the definition of a non-profit, they are considered CBOs.

Institutions of Higher Education



Legal definition at 2 CFR 200.1 also in the NOFO.



EPA encourages Minority Serving Institutions (like HBCUs) to participate in these grants.



Multi-campus universities are generally considered a single entity, regardless of how many campuses they have, so they can only apply for two grants.



- 01 | Colleges, Universities or Community Colleges
- 02 | Must be a public or private non-profit institution
- 03 | Is accredited by a nationally recognized accrediting agency that is recognized by the Secretary of Education
- 04 | Some exceptions apply if in doubt check the legal definition

Statutory Partnership Requirements



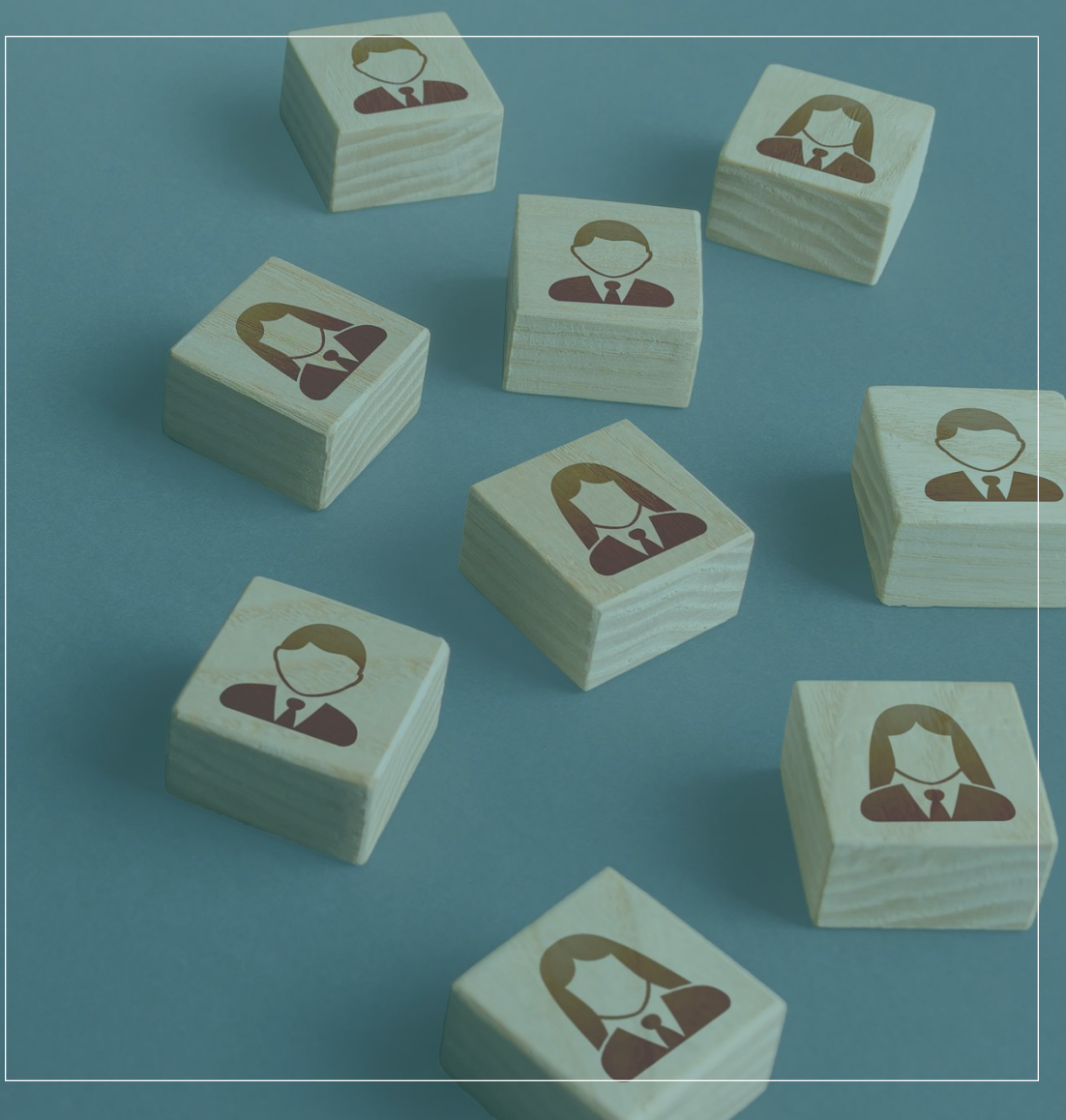
- You need a Statutory Partnerships to apply for a grant
 - A Statutory Partnership must have 2 and only 2 members
 - One is the Lead Applicant the other the Statutory Partner
 - The only entities that can be in a Statutory Partnership are
 - A CBO
 - A Federally Recognized Tribe
 - Local Government
 - Institute of Higher Learning
 - Two CBOs can create a Statutory Partnership
 - At least one of the two members of a Statutory Partnership must be a CBO
-

Partnership Agreement



- There must be a partnership agreement between the Lead Applicant and Statutory Partner
 - It must be a legally enforceable document in the jurisdiction where the partnership exists
 - It must clearly state who is the Lead Applicant and who is the Statutory Partner and what are the roles and responsibilities of each
 - How conflicts will be resolved.
 - Procedure for statutory partner replacement
 - EPA is not a party to the partnership agreement
- The Partnership Agreement must be included in the application

Lead Applicants



- Choose the Lead Applicant carefully. EPA will grade their:
 - Their past performance
 - Their management and financial systems
- Lead Applicant is accountable for project's:
 - Management
 - Performance
 - Oversight and Reporting
 - Accountable for compliance and legal issues
 - Use of grant funds:
 - Liable for proper expenditures

Collaborating Entities

- While every grant has a Statutory Partnership, additional organizations can be team members helping the Partnership achieve its goals. These team members are called Collaborating Entities.
- EPA strongly encourages Partnerships to have Collaborating Entities. You are unlikely to score well during the evaluation process without them.
- Collaborating entities receive subawards to implement and perform specific grant project activities identified in the application.
- Collaborating Entities can do a lot for your Partnership by providing additional people, funds, skills, knowledge or other additional resources such as free space to hold a public meeting.



- Collaborating Entities can be any organization that could be a in a Statutory Partnership.
- They can also be organizations that cannot be in a Statutory Partnership For example:
 - Foundations or other non-profits that do not meet the definition of a CBO
 - Trade association or local Chamber of Commerce
 - State government including State agencies
- It cannot be a for profit entity including contractors and individual consultants.
 - For profit entities may receive procurement contracts made in compliance with the competitive procurement requirements

Collaborative Governance Structure – Track I



- The roles and responsibilities of the various parties: Lead Applicant, Statutory Partner and Collaborating Entities will need to be agreed upon. This includes:
 - The roles and responsibilities of the Lead Applicant, Collaborating Entities, and community residents and / or community-selected representatives for implementing, managing, and overseeing the application's project activities
 - How decisions are made. It is critical that the CBOs in the Partnership have a role in decisions.
- This information will be included in the Community Engagement and Collaborative Governance Plan which we will discuss in more detail in webinar 6 (March 6)



Note that EPA is not guaranteeing that applicants who propose these types of projects will receive high scores in the evaluation process.

Statutory Partnership



- Possible Example
 - A county housing department is the lead applicant
 - A CBO representing tenants is the Statutory Partner
 - Collaborating Entities include:
 - County health department – with their knowledge of indoor air issues
 - Local CBO focused on renewable energy
 - Community college with job training program
 - Local chamber of commerce providing free meeting space for public meetings
 - Project:
 - Upgrade public housing by improving indoor air and adding weather proofing to reduce heating and cooling bills. The apartment buildings would have solar panels to provide tenants with some electricity to reduce electric bills. Work done by students and instructors of the community college's job training program

Please note: This example is for illustrative purposes only and EPA is not guaranteeing that applicants who propose this type of project will receive high scores in the evaluation process



Heat



Cool



Solar



Buildings

Subawards & Procurement



Jim Drummond

*EPA - Office of General Counsel
(OGC)*

What's in a Name?



- **Lead Applicant = Primary grantee**
 - Regulatory term = "Pass-through entity" (EPA does not award a grant to two entities)
- **Statutory Partner = Subrecipients**
 - Statutory Partner will get a subaward from the Lead Applicant
 - Every application **MUST** have a Statutory Partner
- **Collaborating Entities = Subrecipients**
 - Collaborating Entities will get a subaward from the Lead Applicant or Statutory Partner
 - Please see Section III.B of the NOFO on the importance of having Collaborating Entities in your application
 - The number that you have is up to you and should be focused on building strong, meaningful relationships to carry out grant activities
- **Subrecipient versus Contractor**
 - Contractors = For-profit firms (including consultants)
 - Contractors **CANNOT** receive a noncompetitive subaward

What are Subawards?



Subawards are a financial assistance relationship between you and an eligible subrecipient (or by a subrecipient to a lower tier subrecipient).

This does not include payments to a contractor.

Profit is NOT allowable.



See the [FAQ's](#) recently released on the [CCG website](#) for more information about Statutory Partnerships, Collaborating Entities, Subawards and Procurement

EPA Subaward Policy and related FAQs provide guidance for differentiating between subrecipients and contractors.

The National Term and Condition for Subawards can be found in Appendix B of the EPA Subaward Policy.

You must include a number of provisions in subaward agreements and implement systems to monitor and guide subrecipient performance. (Appendix D of Subaward Policy provides a model agreement).

Q: Must I name a Statutory Partner in my application?

- Yes! This is a threshold requirement.
- You must name your statutory partner and include a Partnership Agreement in your application.

Q: Must I name Collaborating Entities who will receive subawards in my application?

- Yes, if you have Collaborating Entities as part of your application.
- Please see Section III.B of the NOFO which emphasizes the need for Collaborating Entities to help implement the projects.
- See the Community Engagement and Collaborative Governance Plan requirements in I.G of the NOFO and Appendix G for additional requirements.

Q: Can I make changes to the collaborating entities listed in the application?

- Applications should include collaborating entities given the nature of these projects, as stated in Section III.B. Collaborating entities will impact the evaluation of applications.
- There are opportunities to make changes, or add collaborating entities, after an award in specific circumstances. Changing a collaborating entity will require EPA approval.
- For Track 1 applications, the Community Engagement and Collaborative Governance Plan requires a plan for how a Collaborating Entity would be replaced with a comparable entity.

Q: Do subrecipients need a Unique Entity Identifier (UEI)?

- **EVERY** subrecipient must have a Unique Entity Identifier (UEI) to register in the System for Award Management (SAM).
- Reminder: All applicants must have a UEI to maintain eligibility for assistance opportunities from the federal government.

Q: What is a UEI?

- It is a 12-character, alphanumeric value assigned to your organization.
- It validates your organization's legal business name and address.
- More information about getting a UEI is available from SAM.gov.

****Contractors are not legally subrecipients, so they do not need a UEI***

Subawards and Partnership Agreements



Q: Does EPA consider all entities that an applicant may call "partners" to be subrecipients and not subject to competition?

- **NO!**
- For-profit entities are not eligible to be subrecipients (Collaborating Entities)

Consultants CANNOT receive noncompetitive subawards
Other contractors CANNOT receive noncompetitive subawards

Calling them a "partner" does not change the rules

Q: When is a sole source contract justified?

- When the item is available only from a single source.
- When the public need for the requirement will not permit a delay resulting from competitive solicitations.
- When the Federal awarding agency or pass-through entity expressly authorizes non-competitive proposals.
- When, after solicitation of a number of sources, competition is determined inadequate.

Familiarity with a contractor or "unique qualifications" does not meet any of these standards.

**Read the Code of Federal Regulations, Title 2, section 200.329 (c)
(2CFR200.320(c)) for more information**

Q: Where can I find the rules for procuring contractors?

- With the exception of States, all recipients must comply with the Procurement Standards of 2 CFR Part 200.*

EPA has posted [Best Practice Guide for Procuring Services, Supplies, and Equipment Under the EPA Assistance Agreements](#) as guidance for contractors.

Q: What is the most basic rule about hiring a contractor?

- Open competition!

**The Office of Management and Budget has proposed an updated rule to apply this exception to Tribes. This rule is not final yet, but EPA will be tracking it closely.*

Q: May a consultant who prepared the application compete for EPA funded work?

- Yes!
- The consultant who prepared the application for the grant may **compete** for the EPA funded work as long as the arrangement with the consultant does not restrict competition, per 2 CFR 200.319.

Q: What are examples of violations which restrict competition?

- Using sample language, templates, drafts in a contract made by contractors competing for resulting contract.
- Imposing unreasonable competition requirements including overly narrow specifications that only one firm can meet or agreeing to a sole source contract in exchange for application preparation services.
- Making noncompetitive awards to consultants that are on retainer contracts.

Three Thresholds for Competition for Procurements



Q: Are all contracts treated the same?

- **No!**
- There are three thresholds for competition based on the contract size, or amount:
 - **Micro purchases**, generally up to **\$10,000** ([2 CFR 200.320\(a\)\(1\)](#))
 - **Small purchases** up to the simplified acquisition threshold, **\$250,000** ([2 CFR 200.320\(a\)\(2\)](#))
 - **Large purchases**, over **\$250,000** ([2 CFR 200.320\(b\)](#))

Find the rules for each level in the
[Code of Federal Regulations, title 2, section 200.320](#)

An illustration on the left side of the slide shows a small person in a white shirt and dark pants being held up by two large, stylized hands. The hands are yellow with black outlines, and the person is standing on the hands, looking up.

Conflicts of interest are prohibited
by [2 CFR 200.318\(c\)](#).

EPA recipients must comply with [EPA's Financial Assistance Conflict of Interest Policy](#) (COI Policy).

These requirements flow down to subrecipients.

Q: What is a conflict of interest?

Personal conflicts of interest:

“No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise **when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.** The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.”

Organizational Conflicts of Interest

“If the [recipient] has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest.

Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.”

The recording of today's presentation will be available on the Community Change Grant TA website: CommunityChangeTA.org

See the [FAQ's](#) EPA recently released on the [CCG website](#) for more information about procurement and subawards.

Email CCGP@epa.gov for questions about the NOFO

Email EJ_TechAssist@epa.gov for questions about individual projects or assistance

A large white water drop shape with a light blue outline, containing the text "Thank you!".

Thank you!

Community Change Technical Assistance (CCTA)

Webinar Series Schedule



All sessions at 3pm ET, Tuesdays

30 JAN

**Kickoff & Program
Overview**

TA Process, CCG Overview

6 FEB

Eligibility & Partnerships

Applicant Criteria,
Partnership Dynamics

13 FEB

**Defining Disadvantaged
Communities**

Community Mapping, EJ
Indicators

20 FEB

CCG NOFO Track I Overview

Project Strategies,
Community Needs

27 FEB

CCG NOFO Track II Overview

Policy, Capacity Building

5 MAR

**Community Engagement &
Governance**

Engagement Models,
Governance Strategies

12 MAR

**Federal Grants Requirements
& Compliance**

Compliance Requirements

19 MAR

Preparing a Grant Budget

Budgeting Techniques

TBD MAR/APR

Project Evaluation

Output, Impact Assessment

Q&A



Thank You.



- ❑ CommunityChangeTA.org is LIVE NOW
 - Visit CommunityChangeTA.org/webinars to view a recording of today's webinar, as well as register for upcoming webinars.
 - Today's recording will be posted within 24 hours of today's presentation.

- ❑ *EPA FAQs - Community Change Grants NOFO*
 - Visit the EPA's CCG Website <https://www.epa.gov/inflation-reduction-act/inflation-reduction-act-community-change-grants-program>

- Send your Community Change Technical Assistance questions to EJ_TechAssist@epa.gov or call [1-\(800\) 540-8123](tel:1-800-540-8123)

- ❑