

Please see [RAIN-2018-G04-R1](#) for details regarding changes to this GPI effective October 1, 2024.

Please see [RAIN-2018-G03-R2](#) for details regarding changes to this GPI effective September 28, 2021.

Amended Grants Policy Issuance (GPI) 16-01 EPA Subaward Policy October 1, 2024

Effective Date: This revision is effective October 1, 2024, and supersedes all previous versions of the Subaward Policy. The previous policy date was September 28, 2021.

1.0 Purpose

- (a) This policy establishes the requirements and procedures for Grants Management Offices and Program Offices in making determinations regarding subrecipient eligibility, overseeing pass-through entity monitoring and management of subawards, and authorizing fixed amount subawards under [2 CFR 200.331](#), [200.332](#), and [200.333](#) (“the applicable regulations”). This policy supersedes [EPA’s previous Subaward Policy contained in Part 2, Section 01 of EPA’s Assistance Administration Manual](#).
- (b) EPA personnel and pass-through entities need to understand the difference between subawards, and procurement contracts as referenced at [2 CFR 200.331](#), to carry out the EPA Subaward Policy.

Pass-through entities make subawards to other organizations to carry out a portion of the Federal award under terms that establish a financial assistance relationship to accomplish a public purpose that is authorized under a Federal program.

In contrast, contracts that serve the purpose of obtaining goods and services for use by a recipient or subrecipient, create a formal procurement relationship. Individual consultants and consulting firms are, with very rare exceptions, contractors. Additional guidance is available in [Section 7.0](#) and [Appendix A: Distinctions Between Subrecipients and Contractors](#) of this policy. The [Procurement Standards of 2 CFR Part 200](#) include competition requirements.

- (c) A pass-through entity may use the term ‘contract’ to characterize a subaward arrangement. Pass-through entities are responsible for making a case-by-case judgement to determine whether the entity receiving the Federal funds is either a subrecipient or contractor. EPA can require the pass-through entity to comply with additional guidance to make these determinations, as further explained at [2 CFR 200.331](#). Therefore, it is important to examine the substance of the agreement using the characteristics discussed in [2 CFR 200.331](#) and [Appendix A: Distinctions Between Subrecipients and Contractors](#) of this policy to determine if the transaction is a subaward or a procurement contract.

2.0 Applicability and Effective Date

EPA's Subaward Policy applies to financial assistance agreements and incremental or supplemental funding amendments awarded to pass-through entities on or after March 29, 2016. This revision is effective October 1, 2024, and supersedes all previous versions of the Subaward Policy.

The Subaward Policy does not apply to collaborative relationships or partnerships, including those documented in a written agreement, between recipients and third parties that do not involve the transfer of assistance funds or property purchased with assistance funds.

The Subaward Policy does not apply to financial assistance agreements for the capitalization of revolving loan funds (RLF). Requirements for RLF recipients and borrowers are addressed in more detail in [2 CFR Part 1500](#), national program guidance for EPA RLF programs or the terms and conditions (T&Cs) of RLF assistance agreements. The EPA may apply the Subaward Policy, or selected provisions of it, to other financial assistance agreements with the consent of the pass-through entity.

3.0 Definitions

For purposes of this Subaward Policy, the following terms are defined at [2 CFR 200.1](#).

Advance Payment

Contract

Contractor

Federal Award

Federal Financial Assistance

Financial Obligation

Fixed Amount Award

Indian Tribe

Institution of Higher Education (IHE) Defined at 20 USC 1001

Local Government

Modified Total Direct Costs

Non-Federal Entity Nonprofit Organization

Participant

Pass-through Entity

Recipient

State

Subaward

Subrecipient

Advance Payment means a payment that a Federal agency or pass-through entity makes by any appropriate payment mechanism and payment method before the recipient or subrecipient disburses the funds for program purposes. For the Subaward Policy, reference [2 CFR 200.208](#)

Specific conditions and [2 CFR 200.305\(b\)\(3\)](#) for situations in which reimbursement may be the appropriate payment method.

Contract means, for the purpose of Federal financial assistance, a legal instrument by which a recipient or subrecipient conducts procurement transactions under a Federal award. For additional information on subrecipient and contractor determinations, see [2 CFR 200.331](#) as supplemented by Appendix A of the EPA Subaward Policy. See also the definition of *Subaward* in this section as defined at [2 CFR 200.1](#). A contract does not include a Federal award or subaward.

Participant generally means an individual participating in or attending program activities under a Federal award. Participants and related participant support costs do not apply to the Subaward Policy. Subawards are different than participant support costs.

Pass-through entity means a recipient or subrecipient that provides a subaward to a subrecipient (including lower tier subrecipients) to carry out part of a Federal program. The authority of the pass-through entity under this part flows through the subaward agreement between the pass-through entity and subrecipient.

Recipient means an entity that receives a Federal award directly from a Federal agency to carry out an activity under a Federal program. The term recipient does not include subrecipients or individuals that are participants or beneficiaries of the award.

- “Recipient” also includes individuals who receive awards under EPA statutes authorizing direct Federal financial assistance to individuals other than fellowship recipients under [40 CFR Part 46](#).

Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to contribute to the goals and objectives of the project by carrying out part of a Federal award. It does not include payments to a contractor, beneficiary, or participant. A subaward may be provided through any form of legal agreement consistent with criteria in [2 CFR 200.331](#), including an agreement the pass-through entity considers a contract.

- Subawards do not include payments to contractors (including consultants) or to program beneficiaries such as trainees, interns, fellows and subsidy or rebate program participants. Subawards may for the purposes of [2 CFR 200.332](#) include loans, loan guarantees, interest subsidies and principal forgiveness, purchases of insurance or similar transactions entered with borrowers by recipients of RLF capitalization agreements with the exception of Clean Water and Drinking Water State Revolving Funds as provided in [2 CFR 1500.3\(b\)](#). Requirements for RLF pass-through entities and borrowers are described in national program guidance for EPA RLF programs or the terms and conditions of the RLF agreements rather than this Subaward Policy.

Subrecipient means an entity that receives a subaward from a pass-through entity to carry out part of a Federal award. The term subrecipient does not include a program beneficiary or

participant. A subrecipient may also be a recipient of other Federal awards directly from a Federal agency.

For this Subaward Policy “subrecipient” includes both Federal entities and recipients or subrecipients and individuals (who are not program beneficiaries) who are eligible for subawards to the extent consistent with the authorizing statutes and regulations at [2 CFR Part 180 Office of Management and Budget \(OMB\) Guidelines to Agencies on Government-wide Debarment and Suspension \(Nonprocurement\)](#) and [2 CFR Part 1532](#), EPA’s Nonprocurement Suspension and Debarment regulation.

4.0 Background

EPA’s Subaward Policy implements regulatory requirements and addresses recommendations from Office of Inspector General (OIG) audits of assistance agreements containing subawards.

- (a) The Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (Uniform Grant Guidance or UGG) codifies standards for distinguishing between subawards and contracts at [2 CFR 200.331](#) and this Subaward Policy provides additional guidance consistent with that regulation in Appendix A.
- (b) The OIG recommended that EPA enhance its oversight of pass-through entities to ensure that subawards are used in appropriate circumstances, costs are reasonable and that pass-through entities effectively monitor subrecipient performance. This Subaward Policy includes provisions that respond to the OIG’s recommendations.

5.0 General Principles

It is EPA policy that subawards under Agency assistance agreements be properly awarded, managed, and monitored in compliance with the applicable regulations and in a manner that promotes accountability while minimizing burdens on pass-through entities and EPA staff. The Agency will appropriately oversee pass-through entities on a pre-award and post-award basis. This includes ensuring that:

- (a) EPA does not have a direct legal relationship with subrecipients. EPA is responsible for monitoring the pass-through entity’s oversight of direct subrecipients unless an assessment of compliance risks indicates that a more direct EPA role in monitoring of subrecipients through specific conditions authorized by [2 CFR 200.208](#) is warranted.
- (b) Subrecipients are generally subject to the same Federal requirements as the pass-through entity.
- (c) EPA personnel identify pass-through entities during pre-award cost reviews or post-award requests to make subawards under [2 CFR 200.308](#) when there is a request for budget revisions requiring prior approval. EPA personnel follow EPA Policy requiring each subaward to be classified as “Other” in both the SF-424A and associated budget documents. More information is in [Section 8.0](#) of this Subaward Policy.

- (d) When requesting approval for budget revisions, the recipient must use the same format for budget information that was used in their application, except if the EPA has approved an alternative format. Alternative formats may include the use of electronic systems, email, or other agency-approved mechanisms that document the request.
- (e) Pass-through entities are responsible for classifying each agreement receiving Federal funds as a subrecipient or contractor using the guidance in [Appendix A](#) of the EPA Subaward Policy issued in accordance with [2 CFR 200.331](#).
- (f) Pass-through entities must verify in accordance with methods provided in [2 CFR 180.300](#), that the subrecipient is qualified and allowed to receive Federal funds. Pass-through entities clearly identify each subaward as a subrecipient and include the required information detailed at [2 CFR 200.332\(b\)](#).
- (g) The pass-through entity is required to “flow down” the requirements of the Federal award to subrecipients as outlined at [2 CFR 200.332\(b\)\(2\)](#) and [2 CFR 200.332\(b\)\(3\)](#). EPA provides a list of statutory, regulatory, and Executive Order requirements to assist recipients or “pass-through entities” who make subawards to identify potential Federal requirements that may apply to subrecipients on EPA funded projects at [Information on Requirements that Pass-Through Entities must “Flow Down” to Subrecipients](#).
- (h) Pass-through entities do not use subawards to transfer or delegate their responsibility for successful completion of their EPA assistance agreement.
- (i) Pass-through entities are responsible for effective monitoring of the overall performance of the subrecipient to ensure that the goals and objectives of the subaward are achieved. To do so the pass-through entity must follow the requirements as described further at [2 CFR 200.332\(e\)](#) including:
 - (1) Review financial and performance reports.
 - (2) Ensure corrective action on all significant developments that negatively affect the subaward.
 - (3) Issue a management decision for audit findings pertaining to the subaward as required by [2 CFR 200.521](#).
 - (4) Resolve audit findings specifically related to the subaward.
- (j) Subrecipients are required to permit the pass-through entity and auditors’ access to records and financial statements to fulfill the pass-through’s monitoring requirements in accordance with [2 CFR 200.332\(b\)\(5\)](#). EPA, the EPA Office of Inspector General, and the Government Accountability Office need to have access to subrecipient records pertinent to the EPA award as provided in [2 CFR 200.337](#).

- (k) Financial assistance awards to pass-through entities do not circumvent the requirements of [EPA Order 5700.5A1, Policy for Competition of Assistance Agreements](#) (02/06/2014) (“EPA’s Competition Policy”).
- (l) EPA personnel do not direct, recommend, or suggest that pass-through entities make subawards to particular organization(s) except to the extent allowed under [Section 10.0\(b\)](#) of this Subaward Policy.
- (m) Pass-through entity payments to subrecipients vary if the recipient is a State or if the recipient or subrecipient is other than a State. As provided in [2 CFR 200.305\(a\)](#) States are subject to Treasury-State Cash Management Improvement Act (CMIA) agreements and default procedures codified at [31 CFR part 205](#) and Treasury Financial Manual (TFM) 4A-2000, “Overall Disbursing Rules for All Federal Agencies For recipients other than a State, the subrecipient must be paid in advance unless circumstances described in [2 CFR 200.305\(b\)\(3\)](#) or [2 CFR 200.208](#) warrant paying the subrecipient on a reimbursement basis. Advance payments to a recipient or subrecipient must be limited to the amounts needed and be timed with actual, immediate cash requirements in carrying out the purpose of the approved program or project as detailed in [200.305](#) and [200.305\(b\)\(1\)](#).
- (n) Starting October 1, 2024, a recipient or subrecipient may keep up to \$500 per year of earned interest specifically to be used for administrative expenses. Any interest more than \$500 per year must be returned to Payment Management System (PMS). This is the case regardless of whether the recipient or subrecipient was paid through PMS, as detailed at [2 CFR 200.305\(b\)\(12\)](#).

6.0 National Term and Condition

EPA has established a [National Term and Condition for Subawards](#) for all assistance agreements, which is in [Appendix B](#) of this Policy.

7.0 Eligibility for Subawards

- (a) Generally, unless prohibited or limited by statute, a non-Federal entity or individual is eligible to receive a subaward even if it is not eligible to receive an assistance agreement from EPA directly if the subaward is consistent with applicable regulations, policies, and EPA guidance. Federally Funded Research and Development Centers are eligible subrecipients provided the substance of the transaction is consistent with the guidance at [2 CFR 200.331](#) and [Appendix A: Distinctions Between Subrecipients and Contractors](#).
- (b) As provided in [2 CFR Part 25, Appendix A](#), Federal agencies are subrecipients for the purposes of the System for Award Management and Universal Identifier Requirements when they receive “subawards” from pass-through entities. Federal agencies may also

be subrecipients for the purposes of 2 CFR Part 200 as indicated in the definition of *Subrecipient* in [2 CFR 200.1](#).

Nonetheless, Federal agencies must have statutory authority to provide services to recipients or subrecipients on a reimbursable basis or otherwise receive and use funds from recipients or subrecipients under subawards. Examples of statutes available to all Federal agencies for receipt and use of EPA financial assistance funds are the Intergovernmental Cooperation Act for services to State and local governments, the Federal Technology Transfer Act for Cooperative Research and Development and Agreements, and the Omnibus Territories Act for reimbursable services agreements with U.S. Territories.

- (c) For-profit organizations and individual consultants, with very few exceptions, are contractors rather than subrecipients under the standards in [2 CFR 200.331](#). Pass-through entities must select subrecipients and conduct subaward competitions, as appropriate, using a system that properly differentiates between subrecipients and procurement contractors consistent with the differentiating characteristics explained in [2 CFR 200.331](#) and EPA's supplemental guidance in [Appendix A of the EPA Subaward Policy](#). See [Appendix A: Distinctions Between Subrecipients and Contractors](#) for additional guidance.
- (d) Nonprofit organizations exempt from taxation under section [501\(c\)\(4\) of the Internal Revenue Code](#) that engage in lobbying activities are ineligible for EPA subawards based on the Agency's policy for interpreting the [Lobbying Disclosure Act, 2 U.S.C.1611](#).
- (e) EPA program office staff must ensure that pass-through entities are aware of limitations on subrecipient eligibility contained in statutes or regulations. EPA program offices may communicate applicable limitations to potential pass-through entities in announcements for competitive awards, program guidance for continuing environmental program grants or other noncompetitive awards, and programmatic terms and conditions.
- (f) In consultation with the Office of Grants and Debarment's National Policy, Training and Compliance Division (OGD NPTCD) and the Office of General Counsel (OGC) or Office of Regional Counsel (ORC), as appropriate, EPA program offices may establish policies limiting eligibility for subawards to the extent permitted by statute or regulation. EPA program offices must communicate applicable policies to potential pass-through entities in announcements for competitive awards, program guidance for continuing environmental program grants or other noncompetitive awards, and programmatic terms and conditions.

8.0 Internal Controls for EPA Oversight of Pass-Through Entity Compliance with the Applicable Regulations and EPA Subaward Policy

This section identifies policies and procedures designed to provide internal controls that promote pass-through entity compliance with applicable regulations and this Subaward Policy.

- (a) EPA policy is to require that pass-through entities include the aggregate amount for subawards in the “Other” budget category on their Standard Form (SF)-424A, “Budget Information for Non-Construction Programs” or equivalent forms for construction agreements unless the Office of Management and Budget revises the budget categories in the SF-424A to include one for subawards.
 - (1) Pass-through entities may erroneously place costs for subawards under the “Contractual” budget category based on practices at other agencies. As part of their pre-award cost reviews, the EPA Project Officers (PO) and Grant Specialists (GS) must review budget justifications and amounts recipients budget for “Contractual” to ensure that subaward costs are classified as “Other.”
 - (2) The amount of funding a pass-through entity estimates that it will use for subawards costs must be documented in a separate line item in the budget justification for the “Other” budget category or another provision of the work plan.
- (b) If necessary, POs should work with the pass-through entity to obtain approval for international subawards as provided in [Section 11.0 \(a\)](#) of this Subaward Policy.
- (c) During pre-award review, the EPA GS must check for compliance with the \$50,000 limitation in *Modified Total Direct Costs* as defined in [2 CFR 200.1](#) on including subaward costs in Modified Total Direct Cost for the purposes of distributing indirect costs.
- (d) EPA Award Officials are responsible for ensuring that all awards (including those in which the recipient has not identified subawards) contain the [National Term and Condition for Subawards](#). This Term and Condition is added to all agreements through the EPA General Terms and Conditions (T&Cs).

Additionally, EPA Award Officials may highlight this term and condition in the cover letter in the Notice of Award using either the following template or similar language:

If your work plan and budget include subawards of financial assistance (as defined in *Subawards* at [2 CFR 200.1](#) and [2 CFR 200.331](#)), please pay particular attention to EPA’s [National Term and Condition for Subawards](#) which is found in the programmatic terms and conditions for this award. By accepting this assistance agreement, your organization is certifying that it either has systems in place to comply with the regulatory or EPA policy requirements specified in the [National](#)

[Term and Condition for Subawards](#) or that it will refrain from making subawards with funding EPA provides under this agreement until the systems are designed and implemented. Also note that should your organization decide to make a subaward(s) that was not described in the work plan and budgeted for under this agreement you must obtain prior written approval from EPA's Award Official for the subaward as provided at [2 CFR 200.308](#).

- (e) EPA POs must include the [Model Programmatic Subaward Reporting Requirement](#) contained in [Appendix C](#), or a customized version of the model in the performance reporting terms and conditions for assistance agreements with pass-through entities. The reporting frequency must be the same as that for other performance reports.
 - (1) EPA POs may customize the [Model Programmatic Subaward Reporting Requirement](#) based on programmatic information needs provided they do not create a form for the collection of identical data from 10 or more pass-through entities. Doing so may trigger the Office of Management and Budget's Information Collection Request (ICR) regulations. EPA POs should consult with Office of General Counsel (OGC) or Office of Regional Counsel (ORC) as appropriate if there are questions regarding whether an ICR is required.
 - (2) In situations in which a recipient advises EPA after award that it intends to make subawards, the PO must request that the Award Official amend the assistance agreement to add the [Model Programmatic Subaward Reporting Requirement](#) or a customized subaward reporting term and condition when granting approval under [2 CFR 200.308](#) for the subawards.
- (f) POs must review pass-through entity performance reports describing subrecipient progress towards achieving program objectives. If the pass-through entity's performance reports raise questions regarding whether a subrecipient is making adequate progress, POs should ensure that the pass-through entity considers measures such as those set forth at [2 CFR 200.332\(e\)](#), [2 CFR 200.332\(f\)](#), [2 CFR 200.332\(g\)](#), [2 CFR 200.332\(h\)](#) or [2 CFR 200.332\(i\)](#).
- (g) POs are responsible for ensuring that, as appropriate, awards to pass-through entities include program-specific terms and conditions relating to subawards. Additionally, under cooperative agreements with pass-through entities, Program Offices may be substantially involved in subaward related activities under the terms and conditions of the agreement and POs may exercise EPA's approval rights under these Terms and Conditions. Consistent with EPA Order 5700.1, examples of EPA substantial involvement include, but are not limited to:
 - (1) EPA approval of or consultation on proposed subrecipients' eligibility provided the Agency does not direct, recommend, or suggest that the pass-through entity provide a subaward to a particular organization.

- (2) If not described in the approved work plan, EPA approval of competitive or noncompetitive procedures the pass-through entity will use to select subrecipients prior to the award of any subawards.
 - (3) EPA participation in panels for subaward competitions to the extent permitted in section 10.0 (b) of the Subaward Policy.
 - (4) EPA approval of the substantive terms of subawards subject to the requirement that EPA personnel not direct, recommend, or suggest that pass-through entities make subawards to specific entities.
- (h) In situations in which EPA determines that a pass-through entity has not adequately monitored subrecipient performance, POs may participate in the pass-through entities' subaward monitoring activities if a specific award condition is added to the award pursuant to [2 CFR 200.208](#) Specific Conditions.
- (i) As a component of post-award oversight, POs and GSs are responsible for inquiring whether pass-through entities have adequate systems in place for complying with:
- (1) [2 CFR 200.331 as implemented in Appendix A of the EPA Subaward Policy](#), the subrecipient eligibility provisions of EPA's [National Term and Condition for Subawards](#), and any program specific restrictions on subrecipient eligibility.
 - (2) [2 CFR 200.332, Requirements for pass-through entities](#), as described in EPA's [National Term and Condition for Subawards](#). A template for a subaward agreement that meets the requirements of [2 CFR 200.332\(a\)](#), and [2 CFR 200.332\(b\)](#) is available at [Appendix D](#) of this Subaward Policy and may be provided to the pass-through entity subject to the limitations in [Section 12](#) of this Subaward Policy.

The level of inquiry should be based on the PO's or GS's assessment of the pass-through entities' history of managing subaward programs as reflected in programmatic baseline and advanced monitoring reports, audit reports, and other information that has come to the PO's or GS's attention. Inquiries may be made as part of programmatic or administrative base line monitoring, advance monitoring, desk reviews, discussions of progress reports with pass-through entities, or otherwise, as appropriate. Program offices may, in consultation with EPA's Office of Grants and Debarment (OGD), the Office of General Counsel (OGC) and, if appropriate, Office of Regional Counsel (ORC) develop program specific guidance for pass-through entities and their subrecipients on compliance with this Subaward Policy. OGD may also issue Agency-wide supplemental guidance, as necessary.

9.0 Fixed Amount Subawards

- (a) Under [2 CFR 200.333](#), EPA may allow pass-through entities to award subawards up to \$500,000 on a fixed amount or “lump sum” basis such that the subrecipient does not account for actual costs.
- (b) Fixed amount subawards must meet the standards at [2 CFR 200.201\(b\)](#).
- (c) Fixed amount subawards require prior approval from EPA’s Office of Grants and Debarment (OGD), detailed at [2 CFR 200.201\(b\)\(6\)](#). Prior approval requirements for fixed amount subawards are at [2 CFR 200.308](#) and [2 CFR 200.333](#).
- (d) Fixed amount subawards are allowable with prior written approval from OGD. The recipient may provide subawards based on fixed amounts up to \$500,000. OGD is responsible for the process and standards. OGD may approve fixed amount subawards if the project scope has measurable goals and objectives and if accurate cost, historical, or unit pricing is available to establish a fixed budget based on a reasonable estimate of actual costs.
- (e) The recipient or subrecipient must certify in writing to EPA or the pass-through entity that the project was completed specifically as detailed at [2 CFR 200.201\(b\)\(4\)](#).
- (f) Cost principles in [Subpart E](#) that apply to fixed amount subawards are described at [2 CFR 200.101\(b\)\(4\)\(ii\)](#). Budgets for fixed subawards are negotiated with the subrecipient and the total amount of Federal funding is determined in accordance with the subrecipient’s proposal, available pricing data, and [Subpart E](#).
- (g) Financial reporting is not required for fixed amount subawards. Financial records and retention requirements are required. The recipient or subrecipient is responsible for recordkeeping and making records available during an audit. Further detail is at [2 CFR 200\(b\)\(1\)](#). Accountability must be based on performance and results which can be communicated in performance reports or through routine monitoring. There is no expected routine monitoring of the actual costs incurred by the subrecipient under the Federal award.
- (h) Examples of potential fixed amount subaward projects include:
 - (1) Conference support for units of government, Institutions of Higher Education (IHE) and nonprofit organizations including general “sponsorships” provided the recipient obtains in accordance with [2 CFR 200.201\(b\)\(1\)](#) written assurance that the conference organizer will refund the entire amount of the subaward if the conference does not take place.
 - (2) Studies or research projects that produce written reports funded on a milestone achievement or project completion basis provided the subrecipient is a unit of

government, an IHE, a nonprofit organization, or a student or post-doctoral fellow at an IHE.

- (3) Training classes funded on a milestone completion (e.g., preparation of curricula, rental of facility, course delivery, and submission of evaluation report) or a unit price basis upon project completion provided the subrecipient is a unit of government, an IHE or a nonprofit organization.
 - (4) Community meetings funded on a milestone completion (e.g., outreach, preparation of agenda, rental of facility, meeting, and submission of attendee roster/meeting summary) or on a unit price basis upon project completion provided the subrecipient is a unit of government, an IHE or a nonprofit organization.
 - (5) Monitoring, sampling, or other types of projects to assess environmental conditions that can be funded on a unit price basis.
- (i) EPA has determined that it is permissible for recipients to use micro-purchase procedures at [2 CFR 200.320\(a\)\(1\)](#) rather than subawards for efficiency reasons in certain situations. Micro-purchase amounts generally do not exceed \$10,000. Micro-purchase procedures may not be used to simply transfer funds from the recipient to another organization. Rather, the recipient or subrecipient receiving the micro-purchase contract must be compensated for carrying out activities necessary for the execution of the recipient's work plan as required by [2 CFR 200.403](#).
- (1) The cost for compensating the recipient or subrecipient receiving the micro-purchase order must meet the reasonableness requirement of [2 CFR 200.404](#). Invoices or other contractual documents describing the activities that will be carried out under the micro-purchase arrangement are necessary to meet the documentation requirements of [2 CFR 200.318\(i\)](#).

The policy of allowing recipients to use micro-purchase procedures in lieu of subawards does not apply when a statute or regulation requires a pass-through entity to use subawards.

10.0 Subaward Competitions

Unlike contracts subject to the Procurement Standards of [2 CFR Part 200](#), the applicable regulations do not require that pass-through entities select subrecipients competitively. EPA Program Offices, however, may require that pass-through entities conduct competitions for subawards unless otherwise prohibited by statute, regulation, or official EPA policy. Similarly, pass-through entities may choose to select subrecipients competitively provided this practice is consistent with applicable statutes, regulations, and the terms of their EPA financial assistance agreement.

(a) EPA Required Subaward Competitions

- (1) Under some EPA assistance programs, pass-through entities may be legally required to conduct subaward competitions. Program Offices and Regions must ensure pass-through entities conduct these competitions consistent with any applicable legal requirements and provisions of this Subaward Policy.
- (2) Under both competitive and non-competitive EPA assistance agreement awards, if Program Offices require the pass-through entity to conduct a competition for subawards, they must determine that the subaward competition is necessary for the effective and efficient implementation of the assistance program. This determination must be in writing and placed in the official program office assistance agreement file.
 - a. Non-Competitive EPA Assistance Agreements - When a Program Office requires the pass-through entity to conduct a subaward competition under a non-competitive EPA assistance agreement, the award must include a programmatic term and condition requiring the recipient to conduct the subaward competition consistent with the negotiated work plan and the provisions of this Subaward Policy.
 - b. Competitive EPA Assistance Agreements - When a Program Office requires the pass-through entity to conduct a subaward competition under a competitive EPA assistance agreement, the Agency's Notice of Funding Opportunity (NOFO) must include ranking factors for evaluating the applicants' proposed procedure for conducting the subaward competition. In addition, the award must include a programmatic term and condition requiring the pass-through entity to conduct the subaward competition consistent with the subaward competitive process described in the approved work plan and the provisions of this Subaward Policy.

(b) EPA Participation in Subaward Competitions

- (1) General. Pass-through entities are responsible for selecting their subrecipients and conducting their subaward competitions. In addition, EPA personnel may not direct pass-through entities to make subawards to particular organizations, suggest the use of specific subrecipients, interfere with the recipient's subaward selection decisions, or use subawards to circumvent EPA policies for competition of assistance agreements. For example, a Program Office may want to award a non-competitive grant to Organization A but is not authorized to do so because of restrictions under [EPA's Assistance Agreement Competition Policy](#). EPA may not circumvent these restrictions by awarding a non-competitive grant to Organization B with the understanding that Organization B will then subaward all the work to Organization A.

- (2) Participation as Technical Advisors. EPA personnel may serve as technical advisors to a pass-through entity's subaward evaluation panel as part of EPA's substantial involvement in a cooperative agreement if they do not unduly influence the panel or selection decisions and are free of any conflicts of interest, and actual or apparent violations ethical standards (e.g., Office of Government Ethics (OGE) Standards of Ethical Conduct for Employees of the Executive Branch), with respect to any competing subrecipients.
- (3) Participation on Evaluation Panels. For subaward competitions conducted by pass-through entities under cooperative agreements, EPA personnel may serve as members of the recipient's subaward evaluation panel provided:
 - a. The pass-through entity uses objective, transparent criteria to rank and select subrecipients.
 - b. EPA and other Federal agency personnel do not unduly influence the panel or selection decisions (e.g., federal employees must comprise substantially less than a majority of the panel).
 - c. EPA employees are free of conflicts of interest, or actual or apparent violations of ethical standards (e.g., OGE Standards of Ethical Conduct for Employees of the Executive Branch), with respect to any competing subrecipients.

11.0 Special Considerations for Specific Types of Subawards

- (a) In accordance with EPA Order 4540.1, EPA's Office of International and Tribal Affairs (OITA), must consent to proposed EPA financial assistance agreements, prior to award, where work will be performed by any recipient or subrecipient in whole or in part in a foreign country, or where work will be performed in the United States by a foreign government recipient and its subrecipient or an international organization recipient and its subrecipient. OITA must consent to any work by a subrecipient that meets these criteria either prior to award of the EPA assistance agreement to the pass-through entity or prior the pass-through entity's award of the subaward.
- (b) EPA's [National Subaward Term and Condition](#) requires Agency approval for subawards to individuals. Although individuals are eligible for subawards under this Subaward Policy based on several EPA statutes (e.g., section 103 of the Clean Air Act, section 104 of the Clean Water Act, section 8001 of the Solid Waste Disposal Act) EPA Program Offices and Grants Management Offices must ensure that subawards are not made to individuals who are considered program beneficiaries (e.g., interns, fellows, trainees, community members attending conferences). Program beneficiaries are excluded from the definition of *Subrecipient* at [2 CFR 200.1](#). Stipends and other payments to program beneficiaries and program participants are properly characterized as *Participant Support Costs* under [2 CFR 200.1](#) and [2 CFR 200.456](#) and included as line items in the

“Other” budget category or another appropriate budget category (e.g. Supplies for items purchases of items on behalf of program participants) as specified in the [EPA Guidance on Participant Support Costs](#).

- (c) EPA Program Offices and Grants Management Offices must carefully review situations in which a pass-through entity intends to make a subaward(s) for 100% of funds EPA will award under a financial assistance agreement. This is sometimes known as a fiscal agent or fiscal sponsor relationship. Refer to the [EPA Subaward Frequent Questions](#) for guidance on fiscal agent or fiscal sponsor situations. Competitive proposals with 100% pass through should be discussed with the Grant Competition Advocate’s staff. If not adequately addressed in the work plan, the PO should request that the pass-through entity explain, in writing:
- (1) The reasons for subawards for 100% of the funds out to another organization(s), and
 - (2) How the pass-through entity will provide adequate resources to manage the award, including providing required financial and progress reports to EPA, and for monitoring subrecipients as required by [2 CFR 200.332](#).

This information must be reviewed by the EPA Award Official or designee prior to awarding funds to the pass-through entity.

12.0 Template for Subaward Agreements

EPA Program Offices may provide the subaward template contained in [Appendix D](#) of the Subaward Policy to recipients of EPA financial assistance that are “*Pass-through entities*” as defined by [2 CFR 200.1](#) to assist them in complying with the “subaward content” requirements in [2 CFR 200.332](#). EPA does not mandate the use of this template. With Office of Grants and Debarment (OGD), Office of General Counsel (OGC), and if appropriate Office of Regional Counsel (ORC, approval, Program Offices may use program specific subaward templates that are consistent [2 CFR 200.332](#). Pass-through entities may also use their own form of subaward agreements provided the requirements of [2 CFR 200.332\(a\)](#), [2 CFR 200.332\(b\)](#), and [2 CFR 200.332\(c\)](#) are met.

13.0 Evaluation

EPA’s Office of Grants and Debarment will periodically review this policy.

14.0 Waivers/Exceptions

In response to a written request from the appropriate Senior Resource Official, or designee, the Director of the Office of Grants and Debarment (OGD), or designee, may approve waivers to this Subaward Policy on a case-by-case or class basis in circumstances of compelling urgency or unique programmatic consideration or where a waiver would be in the public interest provided the waiver is consistent with statutes, the applicable regulations, and Executive Orders.

The Director of OGD, or designee, may also make exceptions to any regulatory requirements mentioned in this policy on case-by-case basis as authorized by [2 CFR 200.102\(c\)](#) and [2 CFR 1500.4\(a\)](#).

Regulatory exceptions will be granted only in extraordinary circumstances and when consistent with statutes and Executive Orders, as further explained at [2 CFR 200.102\(c\)](#). Federal agencies may allow exceptions to requirements of this part on a case-by-case basis for individual Federal awards, recipients, or subrecipients, except when the exceptions are prohibited by law or other approval is expressly required by this part.

15.0 Roles and Responsibilities

A. Office of Grants and Debarment (OGD)

OGD is responsible for:

1. Posting the [National Subaward Term and Condition](#) described in [Section 6.0](#) of this policy.
2. Developing cost review guidance to facilitate implementation of [Section 8.0](#) of this policy.
3. Overseeing Agency compliance with this policy and providing necessary implementing guidance including approval of Program specific subaward guidance and subaward templates.
4. Consulting with Program Offices on their proposed policies to limit subaward eligibility under [Section 7.0\(e\)](#) of this policy.
5. Approving or disapproving fixed amount subawards under [Section 9.0](#).
6. Evaluating this policy under [Section 13.0](#).
7. Approving or disapproving waiver requests under [Section 14.0](#) of this policy and posting waiver decisions on the OGD Intranet page, as appropriate.
8. Developing training, responses to frequently asked questions, and, as necessary, Agency wide supplemental guidance on implementing this Subaward Policy.

B. Headquarters and Regional Program Offices

Program Offices are responsible for:

1. Adhering to the subaward eligibility provisions and consulting with OGD and OGC/ORC on program- specific eligibility restrictions as described in [Section 7.0](#) of this policy.
2. Complying with applicable pre-award and post-award oversight requirements described in [Sections 8.0, 10.0](#) and [11.0](#) of this policy including providing EPA approvals specified in substantial involvement terms and conditions for cooperative agreements.

3. Including (and modifying, if applicable) the [Model Programmatic Subaward Reporting Requirement](#) contained in [Appendix C](#), in the performance reporting terms and conditions for assistance agreements with pass-through entities as described in [Section 8.0](#).
4. Complying with subaward competition requirements as described in [Section 10.0](#) of this policy.
5. Obtaining OITA consent for subaward work in a foreign country or subaward work performed in the U.S. by a foreign government or a foreign government subrecipient as described in [Section 11.0\(a\)](#) of this policy.
6. Working with GMOs to ensure that subawards are not approved to individuals who are considered program beneficiaries as described in [Section 11.0\(b\)](#) of this policy.
7. Reviewing proposals for 100% pass-through sub-awards as described in [Sections 11.0\(c\)](#) of this policy.
8. Requesting OGD approval for fixed amount subawards.
9. Providing pass-through entities with the template for subaward agreement in [Appendix D](#) or an OGD approved program specific template when requested to do so by the pass-through entities.
10. Subject to OGD approval, developing as appropriate program specific guidance and subaward templates for pass-through entities and their subrecipients to promote compliance with this Subaward Policy.

C. Office of General Counsel (OGC)/Office of Regional Counsel (ORC)

OGC/ORC is responsible for providing legal advice to ensure compliance with applicable statutes, executive orders, ethical standards, and OMB/EPA regulations.

D. Grants Management Offices (GMOs)

GMOs are responsible for:

1. Including the [National Term and Condition for Subawards](#) described in [Section 6.0](#) and [Appendix B](#) of this policy in all assistance agreements, providing EPA approvals as specified in the Terms and Conditions (T&Cs), and providing the notification described at [Section 8.0\(d\)](#).
2. Complying with applicable pre-award and post-award requirements described in [Sections 8.0](#) and [11.0](#) of this policy.
3. Working with program offices to ensure that subawards are not approved to individuals who are considered program beneficiaries as described in [Section 11.0](#) of this policy.

4. Working with program offices to prevent improper 100% pass-through subawards as described in [Section 11.0](#) of this policy.

E. Office of International and Tribal Affairs (OITA)

OITA is responsible for acting on requests for EPA consent for subawards involving any work to be performed in a foreign country or any work to be performed in the U.S. by a foreign recipient or international organization as provided in [Section 11.0](#) of this policy.