

**Additional FAQs from Webinars
February 16 & 23, 2012**

Q. Is a grantee allowed to contract with or issue a subgrant to a federal agency to carry out workplan tasks?

A. First, note that the grantee must determine whether a contract or subgrant is the appropriate funding mechanism (See Section IV.H of the RFIP). EPA's Subaward Policy also describes the differences between a subgrant (also known as a subaward) and a contract and can be found at:

<http://www.epa.gov/ogd/guide/subaward-policy-part-2.pdf> and
<http://www.epa.gov/ogd/guide/subawardsappendix-b.pdf>

Subgrants- Grant recipients may award subgrants to federal agencies as long as those federal agencies are authorized to receive subgrants under applicable federal laws. Subgrants do not have to be competed, but grant recipients have the option of awarding them on a competitive basis if they wish.

Contracts- Grantees may award contracts to federal agencies as long as those federal agencies are authorized to receive such contracts under applicable federal laws. Please note that generally speaking, local government grant recipients and non-profit grant recipients should not sole-source contracts, even contracts awarded to federal agencies. State government recipients generally follow their own procurement rules—such rules may or may not allow them to issue sole-source contracts.

Q. May recipients apply local geographical preferences (also known as “local hire” preferences) for contracts procured using EPA grant funds?

A. The answer depends on whether or not the grant recipient is a state government, local government or non-profit organization.

- **State government recipients** generally follow their own procurement rules. If the State rules allow geographic preferences they may utilize this option. However, States must comply with other EPA procurement rules including the Disadvantaged Business Enterprises (DBE) Rule (see http://www.epa.gov/osbp/dbe_faq.htm).
- **Local government recipients** may not include geographical preferences in the evaluation of bids or proposals (see EPA grant regulation 40 CFR §31.36 (c) (2)). This applies to both EPA grant funds and match dollars.
- **Non-profit organization recipients** are not prohibited from utilizing geographical preference in their EPA funded contracts, but they must comply with other procurement rules including the DBE rule.

Note—EPA grantees/subgrantees may not hire contractors who have been debarred or suspended.

Q. What are EPA’s bonding requirements for contractors?

A. EPA’s bonding requirements can be found at [40 CFR §31.36\(h\)](#). These requirements apply to local government grant recipients, not to State government or non-profit grant recipients. States and non-profits follow their own procurement rules with respect to bonding. 40 CFR §31.36(h) states:

(h) *Bonding requirements.* For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold (\$100,000), the awarding agency (EPA) may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

1. *A bid guarantee from each bidder equivalent to five percent of the bid price.* The “bid guarantee” shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
2. *A performance bond on the part of the contractor for 100 percent of the contract price.* A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
3. *A payment bond on the part of the contractor for 100 percent of the contract price.* A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

Q. Could a SFBWQIF grant be used as seed money to start a revolving loan fund for water quality improvement projects?

A. Developing a revolving loan fund is not an eligible activity under this grant program.

Q. What are indirect or overhead costs?

A. Indirect costs represent the expenses of doing business that are not readily identified with a particular grant, contract, project function or activity, but are necessary for the general operation of the organization and the conduct of activities it performs (source: <http://www2.ed.gov/about/offices/list/ocfo/intro.html>). In order to charge interest costs to the grant, the applicant must have an up-to-date approved indirect cost rate agreement with its cognizant agency (the federal agency the applicant receives the most funding from). EPA does recognize indirect cost agreements negotiated with other federal agencies.

Q. Does the applicant have to be located in the nine county Bay Area?

A. No, the applicant does not have to be located in the nine county Bay Area. However, the project must be carried out in within the nine county Bay Area defined in the RFIP.

Q. Are preaward costs eligible?

A. In certain circumstances, costs incurred within 90 days prior to the grant award may be eligible for reimbursement. However, this does not include any costs associated with responding to this solicitation or in finalizing the application package. If costs are incurred before the award, they are incurred at the applicant's own risk.