



EPA REGION 1 RLF WORKSHOP

APRIL 6-7, 2017



Program Income &
Closeout Agreements



Topics – Program Income

- ◉ What is Program Income?
- ◉ How do I manage Program Income during the grant period?
- ◉ How does Program Income effect my loan/subaward pool?
- ◉ How does Program Income effect my Cost Share?
- ◉ How do I report Program Income?
- ◉ What about loans & subgrants made with Program Income?
- ◉ What happens to Program Income at grant closeout?



What is Program Income?

- ⦿ Program Income (PI) is defined as:
 - > “Gross income received by the recipient, directly generated by the cooperative agreement award or earned during the period of the award.”
- ⦿ Program Income is generated from:
 - > Loan repayments (including interest),
 - > Interest earned on accounts holding program income,
 - > Fees and loan-related charges, and
 - > Other eligible income from RLF operations.



How do I manage Program Income during the grant period?

- Program Income is governed by the same terms & conditions as your RLF Grant.
- You must put it in an **interest bearing** account.
- It must be **accounted separately** from federal funds for tracking & reporting purposes.
- It does not have to be spent before federal funds.
- It can be used for any eligible grant activity.



How does Program Income effect my loan/subaward pool?

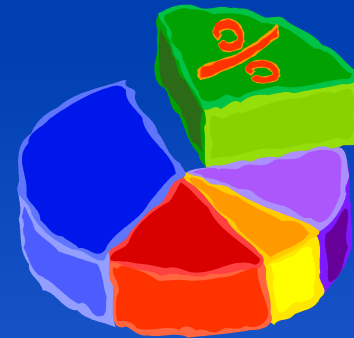
- Program income is **not subject** to the 50/50 loan/subaward split.
- It can be used for additional loans (preferred) or for additional subawards.
- Program income is no longer considered Hazardous Substances or Petroleum. You can use it for any type of eligible site/expense.





How does Program Income effect my Cost Share?

- Program income from interest on loans, fees and other eligible income can be used to meet the 20% cost share.
- Repayments of loan principal **can not** be used to meet the 20% cost share.





How do I report Program Income?

- Program income must be reported in the RLF Quarterly Progress Reports submitted to EPA each quarter.

Table 2: Summary of Program Income

Prior Program Income Balance	Program Income Generated This Quarter	Program Income Expended This Quarter	Current Program Income Balance
\$24,250	\$5,750	\$10,000	\$20,000



What about loans & subawards made with Program Income?

- Loans & subawards that use a combination of grant funds, and
 - > program income
 - > non-federal fundsare subject to the terms & conditions of your RLF grant.





What happens to Program Income at grant closeout?

- Once your grant period ends, you may keep any program income and use it according to your Closeout Agreement. This is called **retained** program income.
- The program income you receive after closeout is called **post closeout** program income.



Topics – Closeout Agreement

- What is a Closeout Agreement?
- When does a Closeout Agreement take effect?
- What are the T&Cs of a Closeout Agreement?





What is a Closeout Agreement?

- It contains the terms and conditions that you will follow to manage your **retained** and **post closeout** program income.
- **For 2016 RLF T&Cs:**
 - The Closeout Agreement T&Cs are included in the cooperative agreement T&Cs - **Section IV.E.1 – 16.**
- **For prior year RLF T&Cs:**
 - You will negotiate a Closeout Agreement with your Project Officer.
 - The Closeout Agreement is created by utilizing our Region 1 Closeout Agreement Template which is based on 2016 RLF T&Cs.



When does a Closeout Agreement take effect?

- **For 2016 RLF T&Cs:**

- The Closeout Agreement takes effect after the end of the period of performance of the cooperative agreement.

- **For prior year RLF T&Cs:**

- The closeout agreement takes effect when signed by your organization's authorized official & the EPA Award Official.



What are the T&Cs of a Closeout Agreement?

- The following are the Closeout Agreement T&Cs located in Section IV.E of the **2016 RLF T&Cs**.
- **If you have any active Closeout Agreements from your closed RLFs, you must follow the Closeout Agreement T&Cs contained in those agreement.**



What are the T&Cs of a Closeout Agreement?

1. Recipients shall use program income to continue to operate the revolving loan fund or some other brownfield purpose as outlined in the terms of this closeout agreement.
2. In accordance with [2 CFR 200.333\(e\)](#), the CAR shall maintain appropriate records to document compliance with the requirements of the close out agreement (i.e., records relating to the use of accrued and post-award program income). EPA may request access to these records to verify that accrued and post-closeout program income has been used in accordance with the terms and conditions of this closeout agreement.



What are the T&Cs of a Closeout Agreement?

3. EPA prefers the primary use of *retained (and post-closeout)* program income be for providing loans for Brownfields cleanups. In addition to Brownfields cleanup loans, program income may also be used to fund the following Brownfields activities:
 - a. Cleanup Subawards,
 - b. Phase I Environmental Site Assessments at Brownfields sites performed in accordance with EPA All Appropriate Inquiries Final Rule or ASTM E1527-13 (or the most current version),
 - c. Phase II Environmental Site Assessments and cleanup planning activities at Brownfields sites, and
 - d. Programmatic costs to manage and oversee the work being performed.



What are the T&Cs of a Closeout Agreement?

4. The CAR must ensure that any site specific use of program income takes place only on a property that is a Brownfields site as defined at CERCLA 101(39) in accordance with section IV.C.4, Ineligible uses of the Funds for the Cooperative Agreement Recipient, Borrower, and/or Subrecipients, unless otherwise noted as an eligible use of post closeout program income in the terms & conditions.





What are the T&Cs of a Closeout Agreement?

5. All assessment and cleanup work funded with program income must continue to be performed in accordance with state environmental rules and regulations and be protective of human health and the environment. If the CAR chooses not to have borrowers or subrecipients conduct assessments or cleanups through State or Tribal response program, then the CAR is required to consult with EPA to ensure the proposed assessment/cleanup is protective of human health and the environment.
6. Retained (*and post-closeout*) program income **shall not** be used for site inventory work.



What are the T&Cs of a Closeout Agreement?

7. When possible, RLF grantees should solicit input from local communities, especially potential environmental justice communities, communities with a health risk related to exposure to hazardous waste or other public health concerns, economically disadvantaged or remote areas, regarding the need for site specific assessments, loans and subawards.





What are the T&Cs of a Closeout Agreement?

8. Program income **may not** be used to assess or cleanup a site for which the CAR, the borrower, or the subrecipient is potentially liable under CERCLA 107 unless they qualify for a limitation or defense to liability under CERCLA. The CAR and borrower or subrecipient must make and retain a certification to that effect as part of the records for this closeout agreement. If asserting a limitation or defense to liability, the borrower or subrecipient must state the basis for that assertion.





What are the T&Cs of a Closeout Agreement?

8. When program income for petroleum contaminated brownfields sites, the CAR, borrower or subrecipient shall certify that they are not a viable responsible party or potentially liable for the petroleum contamination at the site and retain a certification to that effect as part of the records for this closeout agreement. The CAR may refer to the most recent issue of EPA's *Proposal Guidelines for Brownfields Assessment, Revolving Loan Fund and Cleanup Grants* for a discussion of these terms. The CAR may consult with EPA for assistance with this matter.



What are the T&Cs of a Closeout Agreement?

9. The CAR shall submit Annual Reports for the first **5 years** following the effective date of this closeout agreement. The annual report shall include the following information:
 - a. A cover page indicating the grant recipient's organization, grant number, annual report number (i.e., 1, 2 or 3), dates for the reporting period, persons/organizations preparing and submitting the report, and the date of the report submission.
 - b. A summary of the activities conducted during the reporting period, a list of reports and documents generated during the reporting period, and a budget summary table reflecting the expensed incurred and program income received.
 - c. Site data consistent with information requested in current Property Profile Forms as required by the section III E, Property Profile Submission, of the CA or a list of sites created and/or updated in the ACRES database.



What are the T&Cs of a Closeout Agreement?

10. The grant recipient must maintain adequate accounting records for how retained program income is managed and spent as well as all other appropriate records and documents related to the activities conducted using **retained** (*and post-closeout*) program income.





What are the T&Cs of a Closeout Agreement?

11. Termination of this closeout agreement occurs when all program income has been expended.
 - The CAR shall notify EPA's Award Official in writing when this occurs and certify that all funds have been expended in accordance with the terms and conditions of this closeout agreement.
 - The notification should provide the relevant grant information specified in Section 8.a.
 - The Agency has 90 days from receipt of this notification to submit any objections to the termination of this closeout agreement. If the Agency does not object within that time period, then this closeout agreement will terminate with no further action.



What are the T&Cs of a Closeout Agreement?

12. All records and documents must be retained for a period of **three (3) years** following termination of this closeout agreement.
13. EPA and the grant recipient must agree to any modifications to this closeout agreement. Agreed-upon modifications must be in writing. Oral or unilateral modifications shall not be effective or binding.
14. If the grant recipient expends retained program income in a manner inconsistent with this Closeout Agreement, the Agency may take actions authorized under 2 CFR Part 200.338, Remedies for Noncompliance.



What are the T&Cs of a Closeout Agreement?

15. If any provisions of this Closeout Agreement are invalidated by a court of law, the parties shall remain bound to comply with the provisions of this Closeout Agreement that have not been invalidated.
16. No other Federal requirements apply to the use of program income under the terms of this close out agreement.





Questions

